

## Refusing entry to premises – s 165A *Liquor Act 1992* (Qld)

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The prosecution must prove that:

1. The defendant entered, or attempted<sup>1</sup> to enter;
2. Premises to which he or she had been refused entry by an authorised person under subsection (1).

An authorised person for premises to which a licence or permit relates may refuse to allow a person to enter the premises if:

- a) The person is unduly intoxicated; or
- b) The person is disorderly;<sup>2</sup> or
- c) The person is a minor, other than an exempt minor; or
- d) The authorised person suspects on reasonable grounds the person is a minor and the person fails to:
  - i. Produce acceptable evidence that the person is not a minor; or
  - ii. Show that, if admitted to the premises, the person will be an exempt minor; or
- e) Part 5, Division 5, applies to the premises and it would be a breach of the condition imposed under section 142AB if the person were allowed to enter the premises.

A person is taken to be unduly intoxicated if:<sup>3</sup>

- a) The person's speech, balance, coordination or behaviour is noticeably affected;<sup>4</sup> and

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<sup>1</sup> See s 4 [Criminal Code Act 1899 \(Qld\)](#) (Attempts to commit offences).

<sup>2</sup> See *Courtney v Peacock* [2008] QDC 87 at [5] (Nase DCJ): “Disorderly behaviour normally requires conduct which is intended or likely to interfere with or annoy others to a point where the criminal law is appropriately engaged”. At [12] it was found that the determination was “one of the judgment of the Magistrate”. See also *Andrews v Rockley* [2008] QDC 104 at [18] (Rackemann DCJ).

<sup>3</sup> s 9A [Liquor Act 1992 \(Qld\)](#).

<sup>4</sup> s 9A(a) [Liquor Act 1992 \(Qld\)](#).

- b) There are reasonable grounds for believing the affected speech, balance, coordination or behaviour is the result of consumption of liquor, drugs or another intoxicating substance.<sup>5</sup>

“Minor” means an individual who is under 18.<sup>6</sup>

“Exempt minor” means a minor on premises to which a licence or permit relates if:

- a) The minor is a resident on the premises; or
- b) The minor is on the premises to:
- i. Perform duties as an employee of the owner, or occupier, of the premises or a part of the premises; or
  - ii. Perform duties in the conduct of a lawful business; or
  - iii. Perform duties while receiving training for employment or work experience;
- c) The minor is attending a function being held on the premises; or
- d) The premises are premises to which a community club licence, community other licence or restricted liquor permit relates and minor’s presence does not contravene the club’s rules or a condition of the licence or permit; or
- e) The minor is on the premises for a purpose, and in the circumstances, approved by the commission or stated in a condition of the licence or permit; or
- f) The minor:
- i. Is eating a meal on the premises; or
  - ii. Is accompanied by a responsible adult who is responsibly supervising the minor.<sup>7</sup>

“Authorised person”, for premises to which a licence or permit relates, means:<sup>8</sup>

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<sup>5</sup> s 9A(b) [Liquor Act 1992 \(Qld\)](#).

<sup>6</sup> See schedule 1 [Acts Interpretation Act 1954 \(Qld\)](#).

<sup>7</sup> See s 155(5) [Liquor Act 1992 \(Qld\)](#): A minor is not an exempt minor merely because the minor is eating a meal on the premises or accompanied by a responsible adult if: (a) the minor is on premises after 5pm; and (b) the licence for the premises is a nightclub licence.

<sup>8</sup> s 165A(5) [Liquor Act 1992 \(Qld\)](#).

- a) The licensee or permittee; or
- b) An employee<sup>9</sup> or agent of the licensee or permittee.

“Licensee” means the holder of a licence, and includes a person prescribed to be subject to this Act as if the person were a licensee.<sup>10</sup>

“Licence” includes a licence granted or provisionally granted, and a staged development approval issued under this Act.<sup>11</sup>

“Permittee” means the holder of a permit, and includes a person prescribed to be subject to this Act as if the person were a permittee.<sup>12</sup>

“Permit” means a permit granted under this Act.<sup>13</sup>

OR

1. The defendant resisted;
2. An authorised person;
3. Who was preventing the defendant from entering the premises under subsection (3).

An authorised person may use necessary and reasonable force to prevent the person from entering premises.<sup>14</sup>

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<sup>9</sup> “Employee” is not defined in the [Liquor Act 1992 \(Qld\)](#), however see s 5 [Industrial Relations Act 1999 \(Qld\)](#) which extends to casual and full time employees in a licensed premises as well as persons working under labour hire contracts which might affect security personnel and hospitality staff and one-off events.

<sup>10</sup> s 4 [Liquor Act 1992 \(Qld\)](#).

<sup>11</sup> s 4 [Liquor Act 1992 \(Qld\)](#).

<sup>12</sup> s 4 [Liquor Act 1992 \(Qld\)](#).

<sup>13</sup> s 4 [Liquor Act 1992 \(Qld\)](#).

<sup>14</sup> s 165A(3) [Liquor Act 1992 \(Qld\)](#). See *Auret v Casino Austria International (Cairns) Pty Ltd* [2003] QDC 418 (Bradley DCJ) in relation to “reasonable and necessary force”.