

Liquor Commission of Western Australia
(Liquor Control Act 1988)

- Complainant:** The Commissioner of Police
(represented by Mr Peter Slater and Mr Symon Bagley)
- Respondent:** Edward Horace Withnell
(represented by Ms Vesna Amidzic of Amidzic Lawyers)
- Commission:** Mr J Freemantle (Chair)
Mr G Joyce
Mr E Watling
- Matter:** Applications made under section 152B of the *Liquor Control Act 1988* for prohibition orders under sections 152E(2)(a), 152(E)(2)(b) and 152F of the *Liquor Control Act 1988* - referred to the Liquor Commission ("the Commission") by the Director of Liquor Licensing pursuant to section 24 of the *Liquor Control Act 1988*.
- Date of Hearing:** 1 October 2009 (all parties)
2 October 2009 (in private pursuant to section 30 of the Act) and continued on 8 October 2009.
- Others Present:** Mr Edward Horace Withnell (all parties hearing)
- Observers:** First Class Constable Justice Stern
(all parties hearing)

First Class Constable Tibor Meszaros
(all parties hearing)
- Date of Determination:** 2 November 2009
- Legislation:** *Liquor Control Act 1988* (particularly sections 24, 30, 152B, 152E and 152F)

Determination:

- 1) The application pursuant to section 152B(a) of the *Liquor Control Act 1988* is hereby granted and Mr Edward Horace Withnell is prohibited from being employed by a licensee at any licensed premises.
- 2) The application pursuant to Section 152B(b) of the *Liquor Control Act 1988* is varied and Mr Edward Horace Withnell is hereby prohibited from entering the following licensed premises of the class specified in the *Liquor Control Act 1988*.
 - (a) All Nightclub licences, however described, issued under section 42 of the *Liquor Control Act 1988*.
 - (b) All Hotel licences, however described, issued under section 41 of the *Liquor Control Act 1988* which hold an extended hours extended trading permit.
 - (c) All Club or Club Restricted licences, however described, issued under section 48 of the *Liquor Control Act 1988*.
 - (d) All Restaurant licences however described, issued under section 50 of the *Liquor Control Act 1988*.
 - (e) All Special Facilities licences, however described issued under section 46 of the *Liquor Control Act 1988* except the Special Facilities Licences of the sub classes, Works Canteen, Theatre and Cinema, Transport, Vocational education and training institution, Food hall, Catering, Bed and Breakfast facility, Room Service restaurant and Auctions.
- 3) That pursuant to section 152F of the *Liquor Control Act 1988*, the prohibition orders shall have effect from the date of this determination for a period of 5 years.

Background:

- 1) On 2 April 2009, the Commissioner of Police lodged applications under section 152B of the

Liquor Control Act 1988 with the Director of Liquor Licensing seeking following orders:

- Order prohibiting Edward Horace Withnell from being employed by a licensee at any licensed premises for a period of 5 years from the date of the Order pursuant to section 152E(2)(a) and 152F of the *Liquor Control Act 1988*.
- Order prohibiting Edward Horace Withnell from entering any licensed premises for a period of 5 years from the date of Order pursuant to section 152E(2)(b) and 152F of the *Liquor Control Act 1988*.

On 14 April 2009, the Director of Liquor Licensing referred the matter to the Commission under section 24 of the *Liquor Control Act 1988*.

- 2) On 29 June 2009, a preliminary hearing was conducted where various orders were made and these are set out in the Determination handed down on 3 July 2009 (LC 12/2009).

Reasons:

The Commission is satisfied that it is in the public interest to make these orders in respect of the applications lodged under section 152B of the *Liquor Control Act 1988*.

The Commission relied on confidential police information.

By virtue of the provisions under section 30(3)(b) of the *Liquor Control Act 1988* and in order to preserve the integrity and intent of section 30(2) in particular and section 30 of the said Act, generally, no further reasons are given.



Mr Jim Freemantle
CHAIRMAN