



New South Wales

Local Government Amendment (Confiscation of Alcohol) Act 2010 No 125

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New South Wales

Local Government Amendment (Confiscation of Alcohol) Act 2010 No 125

Act No 125, 2010

An Act to amend the *Local Government Act 1993* to provide for the confiscation of alcohol in alcohol prohibited areas. [Assented to 7 December 2010]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Local Government Amendment (Confiscation of Alcohol) Act 2010*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Local Government Act 1993 No 30

[1] Chapter 16 Offences

Omit the 4th dot point from the introduction.

[2] Chapter 16, introduction

Insert at the end of the introduction:

This Chapter also contains provisions relating to the creation and enforcement of alcohol prohibited areas (relating to drinking in public places generally—see section 632A) and alcohol-free zones (relating to street drinking—see Part 4). These provisions do not create offences in relation to drinking in public places or streets but instead provide for confiscation and tip out powers.

[3] Section 632 Acting contrary to notices erected by councils

Omit “that is a public road (or part of a public road) or car park” from section 632 (2A) (a).

Insert instead “, including any public road or car park, and accordingly a sign under section 632A or 644C is not a notice under this section”.

[4] Section 632 (2A), note

Omit the note. Insert instead:

Note. A council may establish alcohol prohibited areas under section 632A (relating to public places such as parks and beaches) and alcohol-free zones under Part 4 of this Chapter (relating to street drinking).

[5] Section 632A Confiscation of alcohol in certain public and other places

Omit section 632A (4). Insert instead:

- (4) A council may declare any public place (or any part of a public place) in the council’s area to be an *alcohol prohibited area* for the purposes of this section. However, an alcohol prohibited area cannot be established in relation to a public place that is a public road (or part of a public road) or car park.

Note. Alcohol-free zones can be established under Part 4 of this Chapter in relation to public roads or car parks.

- (5) For the purposes of subsection (4), a *public place* includes any land comprising open space on public housing land. However, an alcohol prohibited area can only be established in relation to any such land if:

- (a) the open space is adjacent to an existing alcohol prohibited area (other than an alcohol prohibited area situated on public housing land) or alcohol-free zone, and
 - (b) the open space is a common area (other than a common area within the curtilage of any building) that is available to the public housing tenants, and
 - (c) people can readily gain access to the open space from the adjacent alcohol prohibited area or alcohol-free zone, and
 - (d) the New South Wales Land and Housing Corporation has approved of the open space being established as an alcohol prohibited area.
- (6) An alcohol prohibited area operates, in accordance with the terms of the declaration establishing the area, during such times or events as are specified in the declaration.
- (7) An alcohol prohibited area operates only so long as there are erected at the outer limits of the area, and at suitable intervals within the area, conspicuous signs:
 - (a) stating that the drinking of alcohol is prohibited in the area, and
 - (b) specifying the times or events, as specified in the declaration by which the area was established, during which it is to operate.
- (8) An alcohol prohibited area cannot be established without the approval of the Local Area Commander of Police for the area in which the proposed alcohol prohibited area is situated.
- (9) If a council is required by the guidelines in force under section 646 to provide the Anti-Discrimination Board with a copy of the council's proposal to establish an alcohol-free zone, the council cannot establish an alcohol prohibited area unless the council has complied with the consultation requirements set out in those guidelines.
- (10) For the purposes of subsection (9), the guidelines in force under section 646 apply, with such modifications as are necessary, in relation to a proposed alcohol prohibited area in the same way as they apply in relation to a proposed alcohol-free zone.
- (11) An alcohol prohibited area is taken to have been established for the public place to which an existing alcohol prohibition notice applies. An ***existing alcohol prohibition notice*** is a notice erected under section 632, and in force immediately before the commencement of the *Local Government Amendment*

(Confiscation of Alcohol) Act 2010, prohibiting the drinking of alcohol in a public place.

(12) In this section:

enforcement officer means an employee of a council authorised in writing by the Commissioner of Police to be an enforcement officer for the purposes of this section.

public housing land means any land on which public housing within the meaning of the *Housing Act 2001* is situated.

[6] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts

Insert at the end of clause 1 (1):

Local Government Amendment (Confiscation of Alcohol) Act 2010

[Agreement in principle speech made in Legislative Assembly on 26 November 2010
Second reading speech made in Legislative Council on 2 December 2010]

BY AUTHORITY