



New South Wales

Music Festivals Bill 2019

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows—

- (a) to provide that the Independent Liquor and Gaming Authority (*ILGA*) may direct music festival organisers for high-risk festivals to prepare a safety management plan for the proposed festivals for approval by ILGA,
- (b) to make it an offence for music festival organisers for high-risk festivals to hold the festival unless there is an approved safety management plan for the festival,
- (c) to impose other obligations on music festival organisers for high-risk festivals, including to provide briefings for health service providers, to keep records relating to incidents that occur at festivals or in their vicinity and to make the approved safety management plan available to police officers and other persons if requested to do so,
- (d) to provide for the enforcement of the proposed Act,
- (e) to provide for other related matters.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 makes it clear that notes included in the proposed Act do not form part of the proposed Act.

Part 2 Obligations on music festival organisers

Clause 5 provides that if, in ILGA's opinion, a music festival is a high-risk festival, ILGA may direct the music festival organiser to prepare and give ILGA a safety management plan for the festival. Matters ILGA may have regard to in forming an opinion that a music festival is a high-risk festival include, but are not limited to—

- (a) advice from the Health Secretary or the Commissioner of Police, or
- (b) whether a death has occurred in the State on a previous occasion at the music festival, or
- (c) whether a death or admission to an intensive care unit as a result of alcohol or drug use, crowd behaviour or improper safety management has occurred at a music festival for which the music festival organiser was the organiser in the previous 3 years, or
- (d) any submission made to ILGA by the music festival organiser.

ILGA may approve the safety management plan, with or without changes, or refuse to approve the plan.

Clause 6 provides for the contents of a safety management plan, including information about the health services and harm reduction areas and initiatives for the festival.

Clause 7 makes it an offence for a music festival organiser for a high-risk festival to hold the festival without an approved safety management plan for the music festival, or to fail to ensure the festival is delivered in accordance with the approved safety management plan. The maximum penalty is 100 penalty units or imprisonment for 12 months, or both.

Clause 8 makes it an offence for a music festival organiser for a high-risk festival to fail to keep a copy of the approved safety management plan on the premises on which the festival is being held or to fail to make a copy available to a police officer, inspector, health officer or emergency services officer if requested. The maximum penalty is 100 penalty units.

Clause 9 provides that a music festival organiser for a high-risk festival may request a change to the approved safety management plan. The proposed change does not take effect until it is approved by ILGA.

Clause 10 requires a music festival organiser for a high-risk festival to hold a briefing for persons providing health services at the festival if requested to do so. Failure to conduct the briefing in the way required is an offence for which the maximum penalty is 100 penalty units.

Clause 11 requires a music festival organiser for a high-risk festival to keep an incident register that records details of particular incidents that occur at or in the vicinity of the festival, including an incident that results in death or a requirement for medical assistance or involves violence or anti-social behaviour. Failure to keep the register appropriately or to allow a police officer, inspector or health officer to inspect it is an offence for which the maximum penalty is 100 penalty units.

Part 3 Enforcement

Clause 12 enables the proposed Act to be considered gaming and liquor legislation for the purposes of the *Gaming and Liquor Administration Act 2007* so that inspectors under that Act may be appointed for the purposes of the proposed Act and for other enforcement purposes.

Part 4 Miscellaneous

Clause 13 enables the Governor to make regulations for the purposes of the proposed Act.

Part 5 Transitional provision

Clause 14 inserts a transitional provision to apply proposed Part 2 to certain music festival organisers.



New South Wales

Music Festivals Bill 2019

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New South Wales

Music Festivals Bill 2019

No. , 2019

A Bill for

An Act to promote a safer environment at music festivals by requiring organisers of high-risk festivals to comply with approved safety management plans; and for related purposes.

The Legislature of New South Wales enacts— 1

Part 1 Preliminary 2

1 Name of Act 3

This Act is the *Music Festivals Act 2019*. 4

2 Commencement 5

This Act commences on the date of assent to this Act. 6

3 Definitions 7

In this Act— 8

ambulance forward commander means a member of staff of the Ambulance Service of NSW of or above the rank of ambulance forward commander. 9 10

approved safety management plan, for a music festival, means a safety management plan approved by ILGA, under section 6(3), for the music festival. 11 12

concert means a music-focused event that uses a single stage, is proposed to be held over a period of less than 5 hours and has not more than 2 headlining performers and not more than 4 performers in total, including supporting performers. 13 14 15

health officer means the following— 16

(a) a member of staff of the Ministry of Health, 17

(b) a member of staff of the NSW Health Service, 18

(c) an ambulance forward commander, 19

(d) a person engaged by a music festival organiser to provide health services at a high-risk festival. 20 21

Health Secretary means the Secretary of the Ministry of Health. 22

high-risk festival means a music festival that, under section 5, ILGA decides would be more appropriately delivered with an approved safety management plan. 23 24

ILGA means the Independent Liquor and Gaming Authority constituted under the *Gaming and Liquor Administration Act 2007*. 25 26

inspector means an inspector appointed under section 20 of the *Gaming and Liquor Administration Act 2007* for the purposes of this Act. 27 28

intensive care unit means a unit for the observation, care and treatment of patients with life threatening or potentially life threatening illnesses, injuries or complications, from which recovery is possible, that is specially staffed and equipped for that purpose. 29 30 31 32

music festival means an event, other than a concert, that— 33

(a) is music-focused or dance-focused, and 34

(b) has performances by a series of persons or groups that are engaged to play or perform to live or pre-recorded music, or to provide another form of musical or live entertainment, and 35 36 37

(c) is held within a defined area, and 38

(d) is attended by 2,000 or more people, and 39

(e) is a ticketed event. 40

music festival organiser, for a music festival, means the person responsible for delivering the music festival. 41 42

NSW Health music festival guidelines means guidelines issued by the Health Secretary about music festivals, as in force from time to time. 43 44

performer includes a group, band or act. 1

Note. The *Interpretation Act 1987* contains definitions and other provisions that affect the 2
interpretation and application of this Act. 3

4 Notes 4

Notes included in this Act do not form part of this Act. 5

Part 2	Obligations on music festival organisers	1
Division 1	Safety management plans	2
5	Requirement for high-risk festival to prepare safety management plan	3
(1)	If, in ILGA’s opinion, a music festival is a high-risk festival, ILGA may direct the music festival organiser to prepare a safety management plan for the festival.	4 5
(2)	Without limiting the matters ILGA may consider in forming an opinion that a music festival is a high-risk festival, ILGA may have regard to the following matters—	6 7
(a)	any advice from the Health Secretary or the Commissioner of Police,	8
(b)	whether a death has occurred in the State on a previous occasion at the music festival or in connection with the music festival in the last 3 years,	9 10
(c)	whether a prescribed event occurred at a music festival, or an event related to a music festival, for which the music festival organiser was the organiser, in the 3 years immediately preceding the date on which the proposed music festival is to start,	11 12 13 14
(d)	any submission made to ILGA by the music festival organiser about the reasons the proposed music festival is not a high-risk festival.	15 16
(3)	The direction under subsection (1) must be—	17
(a)	given in writing, and	18
(b)	accompanied by a copy of the NSW Health music festival guidelines.	19
(4)	In this section—	20
	<i>prescribed event</i> means the death of a person, or admission to an intensive care unit, that is reasonably suspected to be—	21 22
(a)	because of alcohol or drug use, or	23
(b)	caused by crowd behaviour or improper safety management.	24
6	Contents of safety management plans	25
(1)	The safety management plan for a high-risk festival must include the following—	26
(a)	a site plan for the premises on which the music festival is to be held, showing entry points, exit points, areas of the premises and the proposed uses of each area, including the areas for the festival that will be used for the following purposes (each a <i>harm reduction area</i>)—	27 28 29 30
(i)	an area for providing access to medical assistance and supplies,	31
(ii)	an area for providing supervised relaxation spaces for patrons,	32
(b)	information about the areas for the entry to and exit from the premises for a police vehicle or an emergency vehicle,	33 34
(c)	information about evacuation points for the premises,	35
(d)	information about the entry and exit points for patrons to access the premises, including information about any fencing, structures or other boundaries that will define the area of the premises to limit people from entering or exiting the premises,	36 37 38 39
(e)	information about signage intended to indicate the location of health services and water stations on the premises,	40 41
(f)	information about proposed health services and harm reduction initiatives that will be provided for the festival,	42 43

(g)	information about how the health services and harm reduction initiatives to be provided at the festival are consistent with the NSW Health music festival guidelines,	1 2 3
(h)	information about persons providing health services at the festival and the qualifications and work experience of those persons,	4 5
(i)	information about proposed strategies to deal with the preservation of a crime scene on the premises,	6 7
(j)	any other information—	8
	(i) ILGA considers appropriate for the premises or the music festival, or	9
	(ii) required by the NSW Health music festival guidelines.	10
(2)	The music festival organiser must give ILGA the safety management plan for the high-risk festival for approval—	11 12
	(a) at least 90 days before the festival is to be held, or	13
	(b) within the shorter period decided by ILGA.	14
(3)	ILGA must decide to—	15
	(a) approve the safety management plan, with or without changes, but only if ILGA is satisfied that the risks associated with the high-risk festival and the premises are suitably addressed by the plan, or	16 17 18
	(b) refuse to approve the plan.	19
7	Offence for failure to have and comply with approved safety management plan	20
	A music festival organiser for a high-risk festival—	21
	(a) must not hold the festival unless there is an approved safety management plan for the festival, and	22 23
	(b) must ensure the way in which the festival is delivered complies with the approved safety management plan.	24 25
	Maximum penalty—100 penalty units or imprisonment for 12 months, or both.	26
8	Requirement to keep approved safety management plan	27
(1)	A music festival organiser for a high-risk festival must—	28
	(a) keep a copy of the approved safety management plan on the premises on which the high-risk festival is being held, and	29 30
	(b) ensure a copy of the plan is made available to a police officer, inspector, health officer or emergency services officer if requested.	31 32
	Maximum penalty—100 penalty units.	33
(2)	In this section—	34
	<i>emergency services officer</i> means an officer of Fire and Rescue NSW or a member of a rural fire brigade.	35 36
9	Change to approved safety management plan	37
(1)	A music festival organiser for a high-risk festival may give ILGA written notice of a proposed change to the approved safety management plan.	38 39
(2)	ILGA must advise the music festival organiser whether ILGA approves or rejects the proposed change.	40 41
(3)	The proposed change to the approved safety management plan does not take effect until it is approved by ILGA.	42 43

Division 2	Other obligations	1
10	Requirement to hold briefings for health service providers	2
(1)	A music festival organiser for a high-risk festival must hold a briefing, in accordance with this section, with a person engaged by the organiser to provide health services at the festival if representatives of a prescribed entity request the briefing. Maximum penalty—100 penalty units.	3 4 5 6
(2)	The briefings may be held at the following intervals—	7
(a)	at least 48 hours before the start of the high-risk festival,	8
(b)	on the premises on which the festival is being held on the day the festival is due to start,	9 10
(c)	within 21 days after the end of the festival.	11
(3)	The music festival organiser must, at least 7 days before the briefing, notify each prescribed entity of the date, time and location of the briefing.	12 13
(4)	A representative of a prescribed entity may attend the briefing.	14
(5)	In this section—	15
	<i>prescribed entity</i> means the following—	16
(a)	ILGA,	17
(b)	NSW Police Force,	18
(c)	Fire and Rescue NSW,	19
(d)	NSW Rural Fire Service,	20
(e)	the Ministry of Health,	21
(f)	the council of the local government area in which the premises on which the high-risk festival is to be held are situated.	22 23
11	Incident register to be kept	24
(1)	A music festival organiser for a high-risk festival must keep an incident register—	25
(a)	in a form approved by ILGA, and	26
(b)	in accordance with this section.	27
	Maximum penalty—100 penalty units.	28
(2)	The incident register must record details of the following incidents that occur during the period beginning when the high-risk festival starts operating until 1 hour after the festival stops operating—	29 30 31
(a)	an incident that results in the death of a patron of the festival,	32
(b)	an incident that results in a patron of the festival requiring medical assistance as a result of intoxication,	33 34
(c)	an incident involving violence or anti-social behaviour occurring on the premises on which the festival is being held,	35 36
(d)	an incident of which the music festival organiser is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,	37 38 39 40
(e)	an incident, on the premises, of which the music festival organiser is aware, that involves the possession or use of a substance that the organiser reasonably suspects as being a prohibited plant or a prohibited drug, other than an incident	41 42 43

- that has been disclosed to a person engaged by the organiser to provide health services at the festival or to a health practitioner, 1
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- (f) an incident that results in a person being turned out of the premises, 3
- (g) if the safety management plan prohibits minors on the premises or part of the premises—a minor being located on the premises or the part of the premises prohibited to minors. 4
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- (3) The incident register must also record details of action taken in response to a recorded incident. 7
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- (4) The music festival organiser must— 9
- (a) make the incident register available for inspection by a police officer, inspector or health officer if requested to do so, and 10
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- (b) allow a police officer, inspector or health officer to take copies of the incident register or to remove the incident register from the premises, and 12
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- (c) ensure that the information recorded in an incident register is kept for at least 3 years from the day the record was made. 14
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- Maximum penalty—100 penalty units. 16
- (5) In this section— 17
- health practitioner** has the same meaning as in the *Health Practitioner Regulation National Law (NSW)*. 18
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Part 3 Enforcement

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| 12 Enforcement of Act—gaming and liquor inspectors | 2 |
| (1) For the enforcement of this Act, this Act is taken to be gaming and liquor legislation for the purposes of the <i>Gaming and Liquor Administration Act 2007</i> . | 3
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| (2) Without limiting subsection (1), for the purposes of that subsection— | 5 |
| (a) inspectors may be appointed under section 20 of the <i>Gaming and Liquor Administration Act 2007</i> for the purposes of this Act as if this Act were gaming and liquor legislation, and | 6
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| (b) an inspector appointed under section 20 of the <i>Gaming and Liquor Administration Act 2007</i> may exercise powers under that Act as if this Act were gaming and liquor legislation, and | 9
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| (c) proceedings for an offence against this Act may be taken under section 45 of the <i>Gaming and Liquor Administration Act 2007</i> , and | 12
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| (d) section 46 of the <i>Gaming and Liquor Administration Act 2007</i> applies as if an offence under section 8 of this Act were a penalty notice offence under that Act for which the amount payable under a penalty notice is 10 penalty units. | 14
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Part 4 Miscellaneous

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13 Regulations

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The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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Part 5 Transitional provision

14 Transitional provision for certain music festival organiser

- (1) This section applies to a music festival organiser if—
- (a) the organiser is responsible for delivering a music festival to be held on or after the commencement of this Act, and
 - (b) ILGA had, before that commencement, advised the music festival organiser under clause 35A of the liquor regulations that ILGA was of the opinion the sale or supply of liquor would more appropriately be provided under a music festival licence.
- (2) Part 2 applies to the music festival organiser as if the music festival organiser had been given a direction by ILGA under section 5(1).
- (3) In this section—
- liquor regulations*** means the regulations under the *Liquor Act 2007*, as in force before 26 September 2019.
- music festival licence*** means a music festival licence within the meaning of the liquor regulations.

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