



New South Wales

Casino Control Amendment (Application of Dine-or-Drink Provisions) Regulation 1998

under the

Casino Control Act 1992

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Casino Control Act 1992*.

J. RICHARD FACE M.P.,

Minister for Gaming and Racing.

Explanatory note

The object of this Regulation is to amend Schedule 4 to the *Casino Control Regulation 1995* (which lists the provisions of the *Liquor Act 1982* that are applied to the casino and shows how those provisions are to be modified in their application to the casino) to mirror certain amendments made to the *Liquor Act 1982* by the *Liquor Amendment (Restaurants and Nightclubs) Act 1998*.

The amendments provide for the endorsement of a dine-or-drink authority on licences relating to restaurants in the casino. The authority enables up to 30 per cent of seated positions at tables in a restaurant to be used for the consumption of liquor otherwise than in conjunction with a meal. Liquor provided to a person at a restaurant does not have to be consumed while seated at a table, so long as a seat at a table is available for the person.

The amendments also provide for certain related matters including conditions to which an authority is subject and notices that are required to be displayed at a restaurant with an authority.

This Regulation is made under the *Casino Control Act 1992*, including sections 89 and 170 (the general regulation-making power).

Casino Control Amendment (Application of Dine-or-Drink Provisions) Regulation 1998

1 Name of Regulation

This Regulation is the *Casino Control Amendment (Application of Dine-or-Drink Provisions) Regulation 1998*.

2 Commencement

This Regulation commences on 16 November 1998.

3 Amendment of Casino Control Regulation 1995

The *Casino Control Regulation 1995* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Schedule 4, Part B Additional provisions applying to casino premises not operated by casino operator

Insert in appropriate order:

23, 23AD, 23AE, 53,

[2] Schedule 4, Part C, The applied provisions as modified

Insert in alphabetical order in section 4 (1):

dine-or-drink authority means an authority referred to in section 23AD.

restaurant restricted period. in relation to licensed premises to which a dine-or-drink authority relates. means a period, commencing no earlier than 10 pm on a day and ending no later than 6 am on the following day, during which the licensee is authorised to sell or supply liquor at the premises whether or not with or as ancillary to a meal.

seated eating position means a seated eating position within the meaning of section 23AD.

[3] Schedule 4, Part C, section 4 (1)

Omit “, not in sandwich form.” from the definition of *meal*.

[4] Schedule 4, Part C, section 4 (1)

Omit the definition of *restaurant*. Insert instead:

restaurant means premises that are licensed to sell liquor with or as ancillary to a meal for consumption at a table on the premises (including such premises the licence relating to which is subsequently endorsed with a dine-or-drink authority), but does not include premises that are licensed to be used as a nightclub.

[5] Schedule 4, Part C, sections 23, 23AD and 23AE

Insert after section 21 in Division 2:

23 Primary purpose of licensed premises relating to a restaurant

Where the premises to which a licence relates are a restaurant, the primary purpose of the licensed premises is, for the purposes of this Act, to be a restaurant. and accordingly the premises must at all times be operated consistently with this primary purpose, whether or not the licence is endorsed with a dine-or-drink authority.

23AD Restaurant licence-dine-or-drink authority

- (1) The Authority may grant an application for a licence relating to a restaurant to be endorsed with an authority (referred to in this Act as a *dine-or-drink authority*) relating to the sale, supply and consumption of liquor at the restaurant.
- (2) A dine-or-drink authority authorises liquor to be sold or supplied in the restaurant for consumption. otherwise than with or as ancillary to a meal consumed at a table in the restaurant, at no more than 30 per cent of the seated eating positions available in the restaurant at any time.
- (3) The authorisation conferred by a dine-or-drink authority is subject to such conditions as are imposed by this Act and to such conditions as are imposed by the Authority at the time of grant of the application for the authority.
- (4) The Authority may, on the application of the licensee or the Director or the Commissioner of Police:
 - (a) revoke a dine-or-drink authority. or
 - (b) impose any further condition to which the authority is to be subject, or
 - (c) revoke or vary any condition imposed by the Authority under this section (and whether or not previously varied under this section).

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- (5) A dine-or-drink authority is in force only while all the conditions to which it is subject are being complied with.
- (6) Conditions may (without limitation) do any or all of the following:
- (a) reduce the percentage referred to in subsection (2),
 - (b) specify the maximum number of seated eating positions that are to be available for the consumption of liquor as referred to in that subsection,
 - (c) prohibit advertising of the restaurant that is inconsistent with the primary purpose of the premises, as referred to in section 23,
 - (d) prohibit entertainment in the restaurant that is inconsistent with that primary purpose (including, for example, entertainment in the nature of pool tables or amusement devices).
- (7) The Authority may, on the application of the licensee or the Director or the Commissioner of Police, revoke or vary any conditions of the kind referred to in subsection (6) (a) or (b), other than conditions imposed by this Act.
- (8) **Condition—maximum number of patrons**
- It is a condition of a dine-or-drink authority that the maximum number of patrons permitted on licensed premises to which the authority relates is not to exceed the number of available seated eating positions on those premises.
- (9) **Condition—records of food and liquor sales**
- It is a condition of a dine-or-drink authority that:
- (a) the licensee maintains proper and accurate records that show the total monthly liquor sales and the total monthly food sales for the restaurant to which the authority relates, and
 - (b) such records are made available for inspection on request by an inspector or police officer at any reasonable time.
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(10) Condition—advertising of restaurant

It is a condition of a dine-or-drink authority that the licensee is not to advertise the restaurant to which the authority relates in a manner that is inconsistent with the primary purpose of the licensed premises, as referred to in section 23 of this Act (including, for example, advertising the restaurant only as a drinking bar or as other such premises that have as their primary purpose the sale of liquor).

(11) Condition—increase in seated eating positions

It is a condition of a dine-or-drink authority authorising 100 or fewer seated eating positions that the number of seated eating positions at the restaurant to which the authority relates may exceed 100 only if:

- (a) the increase in seated eating positions is approved by the Authority, and
- (b) the difference between:
 - (i) the prescribed fee paid for the dine-or-drink authority under section 56 (2) of this Act. and
 - (ii) the prescribed fee applicable to a dine-or-drink authority authorising over 100 seated eating positions.

has been paid.

(12) Condition—display of notice advising public of dine-or-drink authority

It is a condition of a dine-or-drink authority that:

- (a) a notice is to be displayed, at or near the main public entrance to the restaurant to which the Authority relates, that clearly indicates that the restaurant is a dine-or-drink venue, and that clearly states the percentage of seated eating positions available for diners under the authority (for example, "Dine-or-drink—This licensed restaurant serves diners and drinkers, with 70%) of seats reserved for diners."), and

- (b) the wording in the notice is legible and prominent.
and
 - (c) the notice is displayed in such a manner that it would be reasonable to expect that a person entering the restaurant would reasonably be expected to be alerted to the contents of the notice.
- (13) In this section, a reference to a seated eating position is a reference to a seated position at a table, being a position at which a meal can reasonably and comfortably be consumed.
- (14) In this section, a *licensee* means the holder of a licence relating to a restaurant, being a licence that is endorsed with a dine-or-drink authority.

23AE Restaurant licence—consumption of liquor away from table

- (1) Nothing in this Act is to be construed as preventing a person in a restaurant to which a licence relates from consuming liquor away from a table in the restaurant, or from standing while consuming liquor, so long as there is a seat for the person at a table.
- (2) Subsection (1) has effect subject to any conditions to which the licence is subject.

[6] Schedule 4, Part C, section 53

Insert after section 48:

53 Grounds on which dine-or-drink authority may be granted

An application for the endorsement of a licence relating to a restaurant with a dine-or-drink authority is not to be granted unless the Authority is satisfied that:

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- (a) the granting of the application would not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the licensed premises to which the application relates, and
- (b) practices are or will be in place and will remain in place at the licensed premises that ensure as far as reasonably practicable that liquor is sold, supplied and served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and
- (c) the licensed premises will at all relevant times be operated consistently with the primary purpose of the premises, as referred to in section 23, and
- (d) the licensed premises have the appropriate facilities for a restaurant, including facilities to support that primary purpose and facilities for the sale, supply and consumption of liquor, and
- (e) practices are or will be in place and will remain in place at the licensed premises that ensure that no more than 30 per cent of the seated eating positions available in the restaurant will be allocated to persons not dining at the premises.

[7] Schedule 4, Part C, section 56, heading

Insert "and associated matters" after "licence".

[8] Schedule 4, Part C, section 56 (2)

Insert at the end of section 56:

- (2) The following provisions have effect with respect to dine-or-drink authorities:
 - (a) If the Authority grants a dine-or-drink authority, the authority does not take effect until:
 - (i) the prescribed fee has been paid, and
 - (ii) the authority has been endorsed on the licence concerned by the Authority.

- (b) The prescribed fee is:
 - (i) where the licensed premises have over 100 seated eating positions—\$15,000, or
 - (ii) where the licensed premises have 100 or fewer seated eating positions—\$10,000.

[9] Schedule 4, Part C, section 68 (1) (m)

Omit "or" where last occurring.

[10] Schedule 4, Part C, section 68 (1) (o)

Insert at the end of section 68 (1) (n):

, or

- (o) in the case of a licence relating to a restaurant—that the licensed premises concerned have been used for a purpose that is not consistent with their primary purpose of being a restaurant. as referred to in section 23.

[11] Schedule 4, Part C, section 116A (4)

Insert after section 116A (3):

- (4) A minor who for any purpose enters or remains on licensed premises to which a dine-or-drink authority relates during a restaurant restricted period is guilty of an offence against this Act unless the minor does so in the company and immediate presence of a responsible adult.

Maximum penalty: 10 penalty units.

[12] Schedule 4, Part C, section 116B (1) (d)

Insert at the end of 116B (1) (c):

, or

- (d) enters licensed premises to which a dine-or-drink authority relates during a restaurant restricted period but is not in the company and immediate presence of a responsible adult.

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[13] Schedule 4, Part C, section 116B (2) (d)

Insert at the end of section 116B (2) (c):

,or

- (d) is on licensed premises to which a dine-or-drink authority relates during a restaurant restricted period but is not in the company and immediate presence of a responsible adult.

[14] Schedule 4, Part C, section 116B (3)

Insert “, or the licensed premises to which the dine-or-drink authority relates” after “concerned” wherever occurring.

[15] Schedule 4, Part C, section 116C (3A)–(3C)

Insert after section 116C (3):

- (3A) A holder of a licence endorsed with a dine-or-drink authority for licensed premises trading during a restaurant restricted period is guilty of an offence against this Act unless there is continuously displayed during the restaurant restricted period a notice in accordance with subsection (3B).

Maximum penalty: 20 penalty units.

- (3B) A notice referred to in subsection (3A):

- (a) must be displayed at or near the main public entrance to the restaurant and in such a manner that it would be reasonable to expect that a person entering the premises of the restaurant would reasonably be expected to be alerted to the contents of the notice, and
- (b) must be in the following form, using wording that is legible and prominent:

Liquor Act 1982

If you are under 18 you are by law not permitted to enter (or be in) this restaurant at any time between 10 pm and 6 am unless you are in the company and immediate presence of a responsible adult.

- (3C) Despite subsection (3B) (b), the wording required to appear in a notice under subsection (3A) may appear (as a separate and distinct statement) in a notice required under section 23AD (12), provided that the requirements under this Act in relation to each notice are otherwise complied with.

[16] Schedule 4, Part C, section 116C (5)

Omit "or (IA)". Insert instead ", (IA) or (3A)".

[17] Schedule 4, Part C, section 116D

Insert "including licensed premises to which a dine-or-drink authority relates" after "premises" where first occurring.