

LIQUOR (FURTHER AMENDMENT) ACT 1987 No. 176

NEW SOUTH WALES



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LIQUOR (FURTHER AMENDMENT) ACT 1987 No. 176

NEW SOUTH WALES



Act No. 176, 1987

An Act to amend the Liquor Act 1982 with respect to caterers' licences, amusement devices and powers of entry; and for other purposes. [Assented to 4 December 1987]

*Liquor (Further Amendment) 1987***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Liquor (Further Amendment) Act 1987.

Amendment of Act No. 147, 1982

2. The Liquor Act 1982 is amended as set out in Schedules 1 and 2.

Transitional provisions

3. Schedule 3 has effect.

**SCHEDULE 1—AMENDMENTS RELATING TO CATERERS’
LICENCES**

(Sec. 2)

(1) Section 4 (Definitions)—

Section 4 (1)—

After the definition of “brewer”, insert:

“caterer’s licence” means a licence that, subject to this Act and the conditions of the licence, authorises the licensee to sell liquor at a function, occasion or event held on—

- (a) the licensed premises; or
- (b) any other premises on which the licensee provides catering services,

but only for consumption on those premises;

“catering services” means services for the preparation and supply of edible refreshments for consumption at functions, occasions and events;

(2) Section 18 (Court may grant licences)—**(a) Section 18 (2) (b)—**

Omit “or”.

(b) Section 18 (2) (c), (d)—

At the end of section 18 (2) (c), insert:

; or

(d) a caterer’s licence, being a licence that, subject to this Act and the conditions of the licence, authorises the licensee to sell liquor at a function, occasion or event held on—

- (i) the licensed premises; or
- (ii) any other premises on which the licensee provides catering services,

but only for consumption on those premises.

SCHEDULE 1—AMENDMENTS RELATING TO CATERERS’
LICENCES—*continued*

- (3) Section 20 (**Conditions of licences**)—
Section 20 (3)—
Omit “or 23”, insert instead “, 23 or 23A”.
- (4) Section 23A—
After section 23, insert:
Caterer’s licence—miscellaneous conditions
23A. (1) Liquor shall not be sold or supplied pursuant to a caterer’s licence except at, or as ancillary to, a function, occasion or event for which the licensee provides catering services.
(2) If liquor is to be sold or supplied pursuant to a caterer’s licence, the liquor shall be supplied and consumed with, or as ancillary to, the consumption of edible refreshments supplied by the licensee.
- (5) Section 35B—
After section 35A, insert:
Caterer’s licence—trading hours
35B. Liquor may be sold or supplied pursuant to a caterer’s licence at a function, occasion or event—
(a) from—
(i) 30 minutes before the commencement of the function, occasion or event; or
(ii) 6.00 a.m.,
whichever is the later; and
(b) until—
(i) 1 hour after the conclusion of the function, occasion or event; or
(ii) if the function, occasion or event continues past midnight on any day—3 a.m. on the next succeeding day,
whichever is the earlier.
- (6) Section 36 (**Restriction on certain applications**)—
(a) Section 36 (5A)—
After section 36 (5), insert:
(5A) Application may not be made for a caterer’s licence in respect of a vessel or an aircraft.
(b) Section 36 (7)—

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**SCHEDULE 1—AMENDMENTS RELATING TO CATERERS’
LICENCES—*continued***

After “restaurant”, insert “, or a caterer’s licence,”.

(7) Section 54B—

After section 54A, insert:

Grant of caterer’s licence

54B. An application for a caterer’s licence shall not be granted unless—

- (a) the court is satisfied that adequate staff, fittings, furniture, equipment and accommodation are, or will be, available on the premises to which the application relates for the supply of edible refreshments at one and the same time for at least 50 persons, or such lesser number of persons as the court may in special circumstances determine; and
- (b) within the premises to which the application relates there are, for both sexes, sanitary facilities of at least the prescribed standard and any additional sanitary facilities that the court thinks should, in the circumstances of the case, be provided.

(8) Section 56 (Fee for grant of licence etc.)—

Section 56 (1) (m1)—

After section 56 (1) (m), insert:

(m1) in the case of a caterer’s licence—\$1,000;

(9) Section 81 (Licence fee—authorised deductions)—

Section 81 (d)—

After “restaurant”, insert “or in the case of a caterer’s licence”.

SCHEDULE 2—MISCELLANEOUS AMENDMENTS

(Sec. 2)

(1) Section 4 (Definitions)—

Section 4 (1)—

Omit the definition of “person authorised to sell liquor”, insert instead:

“person authorised to sell liquor” means—

- (a) a licensee;
- (b) a registered club;
- (c) a person who is authorised, by the law of another State or a Territory of the Commonwealth, to sell liquor; or

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- (d) a person who is prescribed, or who belongs to a class of persons that is prescribed, for the purposes of this paragraph;
- (2) Section 20 (**Conditions of licences**)—
- (a) Section 20 (2) (d)—
After “court”, insert “or Board”.
- (b) Section 20 (2A), (2B)—
Omit “court” wherever occurring, insert instead “Board”.
- (c) Section 20 (5)—
After “court”, insert “or the Board, as the case may be,”.
- (3) Section 20A (**Ownership and acquisition of approved amusement devices**)—
Omit “court” wherever occurring, insert instead “Board”.
- (4) Section 21A (**Hotelier’s licence—conditions relating to approved amusement devices**)—
- (a) Section 21A (1) (a)—
Omit “court”, insert instead “Board”.
- (b) Section 21A (3)—
Omit “court”, insert instead “Board”.
- (c) Section 21A (6) (a)—
Omit “liquor”, insert instead “money or liquor, whichever the person may choose”.
- (d) Section 21A (6) (b)—
Before “shall” where firstly occurring, insert “if it consists of liquor—”.
- (e) Section 21A (6) (c)—
After “such” wherever occurring, insert “amount or”.
- (f) Section 21A (6) (d)—
Before “shall”, insert “if it consists of liquor—”.
- (g) Section 21A (6) (d)—
Omit “money or”.
- (5) Section 37A (**Investigation of certain devices**)—
- (a) Section 37A (6) (a), (b)—
Omit the paragraphs, insert instead:
- (a) declare the device to be an approved amusement device;
or

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- (b) refuse to make such a declaration,
as it thinks fit.
- (b) Section 37A (12)—
Omit the subsection.
- (6) Section 38 (**Affidavit as to interested persons**)—
- (a) Section 38 (1)—
Omit “an application for an amusement device seller’s licence,”.
- (b) Section 38 (1)—
Omit “42, or”, insert instead “42 or”.
- (7) Section 53 (**Grant of on-licence (restaurant)**)—
Section 53 (1) (b)—
Omit “the premises to which the application relates have”, insert
instead “within the premises to which the application relates there
are”.
- (8) Section 56 (**Fee for grant of licence etc.**)—
- (a) Section 56 (5)—
Omit “the court”.
- (b) Section 56 (5) (a)—
Before “varies”, insert “the court”.
- (c) Section 56 (5) (b)—
Before “imposes”, insert “the Board”.
- (9) Section 80 (**Periodic licence fee**)—
Section 80 (3) (b)—
Before “employees”, insert “persons referred to in paragraph (d)
of the definition of ‘person authorised to sell liquor’ in section 4
(1) or to”.
- (10) Sections 110A, 110B—
After section 110, insert:
**Powers of special inspectors and others—approved amusement
devices**
- 110A. (1) An authorised person may, at any reasonable hour
of the day or night, enter any part of any licensed premises.
- (2) Where an authorised person enters licensed premises in
accordance with this section, the authorised person may—
- (a) inspect, take account of, check, test, and make notes
relating to, approved amusement devices;

SCHEDULE 2—MISCELLANEOUS AMENDMENTS—*continued*

- (b) require a person having access to records relating to relevant matters to produce the records for examination;
- (c) make copies of, or take extracts from, records relating to relevant matters;
- (d) ask the licensee or person in charge of the licensed premises to answer questions relating to relevant matters; or
- (e) for the purposes of further examination, take possession of, and remove, an approved amusement device or a record relating to relevant matters.

(3) An approved amusement device removed under subsection (2) shall be returned if the Board so directs on the application of the owner of the device made not earlier than 14 days after its removal.

(4) If a licensee reasonably claims that a record removed under subsection (2) is necessary for the proper conduct of the licensed premises, the record shall not be retained beyond the end of the day that next succeeds the day of its removal unless the licensee is first provided with a certified copy of the record.

(5) If a certified copy of the record is provided, it is for all purposes of equal validity to the original.

(6) An authorised person who enters premises in accordance with this section may take possession of, and remove, an approved amusement device (and money in the device) that the authorised person suspects on reasonable grounds is in the possession of a person in contravention of this Act.

(7) If an approved amusement device removed under subsection (6) is not returned within 14 days (together with money that was in it when it was removed), the provisions of section 151A (4) and (5) apply in relation to the device (and money in the device) in the same way as they apply in relation to a device (and money) seized under a search warrant.

- (8) A licensee shall, if required by a special inspector so to do—
- (a) withdraw from operation an approved amusement device that, in the opinion of the inspector, is not operating properly;
 - (b) refrain from making available for operation an approved amusement device withdrawn under paragraph (a) until, in the opinion of the inspector or some other special inspector, it is operating properly;
 - (c) refrain from making an approved amusement device

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available for operation except in accordance with such controls as are specified by the inspector in relation to the device;

- (d) deliver to the Board, in writing in the English language and within such time as is specified by the inspector, such particulars relating to an approved amusement device kept by the licensee as are so specified; or
- (e) refrain from making available for operation an approved amusement device indicated by the inspector until it has been fitted with a device approved by the Board for the purposes of the secure keeping and operation of the device.

Penalty: 20 penalty units.

(9) In this section—

“authorised person” means—

- (a) a special inspector;
- (b) a licensing inspector;
- (c) a member of the police force of or above the rank of sergeant or in charge of a police station; or
- (d) a person prescribed by the regulations as an authorised person for the purposes of this section;

“relevant matter” means a matter relating to the manufacture, supply, sale, servicing, possession, keeping or operation of an approved amusement device.

Court may require production of records and giving of evidence

110B. (1) On the complaint of a special inspector, a licensing inspector or the Principal Registrar that a person has failed to comply with a requirement under section 110A to produce records of a licensee, a licensing or other Magistrate may issue a summons requiring the licensee to produce to the court the records to which the complaint relates.

(2) On the complaint of a special inspector, a licensing inspector or the Principal Registrar that a person has failed to comply with a requirement under section 110A to answer a question, a licensing or other Magistrate may issue a summons requiring the person to appear before the court and give evidence in relation to the matter of the complaint.

(3) A person shall not fail to comply with the requirements of a summons issued under this section.

Penalty: 20 penalty units.

 SCHEDULE 2—MISCELLANEOUS AMENDMENTS—*continued*

(4) A person summoned on a complaint under this section may, on the hearing of the complaint, be represented and be heard.

(11) Section 138B (**Manufacture etc. of approved amusement devices**)—

(a) Section 138B (3)—

Omit “applying to this subsection”.

(b) Section 138B (4)–(6)—

After section 138B (3), insert:

(4) The holder of an amusement device dealer’s licence shall not, except with the approval of the Board, manufacture or assemble an approved amusement device from components taken from some other approved amusement device that has been manufactured or assembled by the holder of some other amusement device dealer’s licence.

Penalty: 50 penalty units or imprisonment for 12 months or both.

(5) Such an approval shall not be given unless the logic board for the other approved amusement device has been delivered to the Board.

(6) The logic board for the other approved amusement device shall, upon being delivered to the Board, become the property of the Crown.

(12) Section 138D (**Servicing, repair etc. of approved amusement devices**)—

Section 138D (3)—

After section 138D (2), insert:

(3) This section does not authorise the servicing, repair or maintenance of an approved amusement device by means of the use of components taken from some other approved amusement device except where an approval under section 138B (4) has been obtained in relation to that other device.

(13) Section 152A (**Forfeiture of approved amusement devices etc.**)—

Section 152A (1)—

After “device” where lastly occurring, insert “and any money found in the approved amusement device”.

*Liquor (Further Amendment) 1987***SCHEDULE 3—TRANSITIONAL PROVISIONS**

(Sec. 3)

Licence fees not payable in respect of certain sales

1. (1) In assessing the amount of the licence fee payable under the Liquor Act 1982, as amended by this Act, in respect of—

- (a) an off-licence to sell liquor to persons authorised to sell liquor; or
- (b) an off-licence for a brewer,

for the licensing period relating to the assessment period during which this Act commences, the sale price of all liquor that was, before the relevant date, sold pursuant to the licence to persons referred to in paragraph (d) of the definition of “person authorised to sell liquor” in section 4 (1) of the Liquor Act 1982, as amended by this Act, shall be disregarded.

(2) In this clause, “the relevant date” means the date on which a regulation prescribing a person or class of persons for the purposes of the definition of “person authorised to sell liquor” in section 4 (1) of the Liquor Act 1982, as amended by this Act, is first made under that Act, as so amended.

Conditions imposed by the court become conditions imposed by the Board

2. Any condition imposed on a licence by the court, being a condition—

- (a) that was in force immediately before the commencement of this Act; and
- (b) that would, were it to be imposed on the licence on or after the commencement of this Act, be imposed by the Board,

shall, for the purposes of section 20 (5) of the Liquor Act 1982, as amended by this Act, be deemed to have been imposed by the Board.