



New South Wales

Liquor and Registered Clubs Legislation Further Amendment Act 2001 No 88

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Liquor Act 1982 No 147	2
4 Amendment of Registered Clubs Act 1976 No 31	2
 Schedules	
1 Amendment of Liquor Act 1982	3
2 Amendment of Registered Clubs Act 1976	7



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Liquor and Registered Clubs Legislation Further Amendment Act 2001 No 88

Act No 88, 2001

An Act to amend the *Liquor Act 1982* in respect of the sale and supply of liquor in nursing homes and hospitals, the sale of liquor on vessels, the promotion of liquor to minors and caterer's licences; to amend the *Registered Clubs Act 1976* in relation to the promotion of liquor to minors; and for other purposes. [Assented to 4 December 2001]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Liquor and Registered Clubs Legislation Further Amendment Act 2001*.

2 Commencement

- (1) Except as provided by subsections (2)–(4), this Act commences on the date of assent.
- (2) Schedule 1 [1], [2] and [5] and Schedule 2 [2] commence on a day or days to be appointed by proclamation.
- (3) Schedule 1 [6] commences on the date of commencement of Schedule 1 [12] to the *Liquor and Registered Clubs Legislation Amendment Act 2001*.
- (4) Schedule 1 [10] commences, or is taken to have commenced, on 25 November 2001.

3 Amendment of Liquor Act 1982 No 147

The *Liquor Act 1982* is amended as set out in Schedule 1.

4 Amendment of Registered Clubs Act 1976 No 31

The *Registered Clubs Act 1976* is amended as set out in Schedule 2.

Schedule 1 Amendment of Liquor Act 1982

(Section 3)

[1] Section 4 Definitions

Omit “section 6 (c)–(f)” from paragraph (c1) of the definition of *person authorised to sell liquor* in section 4 (1).

Insert instead “section 6 (1) (c)–(f) or (2)”.

[2] Section 6 Application of Act

Insert at the end of section 6:

(2) Nothing in this Act applies to or in respect of the sale or supply of liquor:

(a) to a person who is not a minor and who is a resident of a nursing home within the meaning of the *Nursing Homes Act 1988*, if the liquor is sold or supplied by a person in charge of, or a person acting with the authority of a person in charge of, the nursing home, or

(b) to a person who is not a minor and:
(i) who is an in-patient of a public hospital within the meaning of the *Health Services Act 1997*, or
(ii) who is a patient of a private hospital within the meaning of the *Private Hospitals and Day Procedure Centres Act 1988*, or
(iii) who is an in-patient of any other medical facility of a class prescribed by the regulations,

if the liquor is sold or supplied by a person in charge of, or a person acting with the authority of a person in charge of, the hospital or facility.

[3] Section 35 On-licence (vessel or aircraft)—trading hours

Insert “unless the berth is at a wharf prescribed by the regulations and no persons other than passengers and crew are being allowed on board,” after “passage, “ in section 35 (2) (a).

[4] Section 35 (4)

Insert after section 35 (3):

- (4) A regulation is not to be made under subsection (2) (a) unless the Minister administering the *Environmental Planning and Assessment Act 1979* has concurred in the making of the regulation. The validity of a regulation under that subsection is not affected by a failure to comply with this subsection.

[5] Section 117J

Insert after section 117I:

117J Director may prohibit undesirable promotion of liquor

- (1) The Director may, by order in writing served on a licensee, prohibit the licensee from carrying on or being involved in an activity involving the promotion of liquor described in the order if the Director considers:
 - (a) that the promotion is likely to have a special appeal to minors:
 - (i) because of the use of designs, motifs or characters in the promotion that are, or are likely to be, attractive to minors, or
 - (ii) for any other reason, and
 - (b) that it is desirable in the public interest to prohibit the carrying on of or involvement in the activity.
- (2) Before making an order under this section, the Director must have regard to any relevant guidelines concerning the making of orders or the promotion of liquor approved by the Minister for the purposes of this section.
- (3) A licensee who, without reasonable excuse, fails to comply with an order under this section is guilty of an offence.

Maximum penalty: 50 penalty units.

[6] Section 128 Sale of liquor through internet or by other communication media

Omit section 128 (3) (b) and (6) (b) (as proposed to be inserted by Schedule 1 [12] to the *Liquor and Registered Clubs Legislation Amendment Act 2001*).

[7] Section 139 False or misleading statements

Insert “, or submitted or otherwise given to the Minister” after “registrar” in section 139 (2).

[8] Schedule 1 Savings and transitional provisions

Insert at the end of clause 1 (1):

Liquor and Registered Clubs Legislation Further Amendment Act 2001

[9] Schedule 1, clause 55 (3) (a)

Omit the paragraph.

[10] Schedule 1, clause 78

Omit “for 2 years after that commencement”.

Insert instead “until 25 November 2004”.

[11] Schedule 1

Insert in Schedule 1 (with appropriate Part and clause numbers):

Part Liquor and Registered Clubs Legislation Further Amendment Act 2001

Provision consequent on the decision of the High Court in *Ha v New South Wales*

- (1) This clause applies to a licence that was, immediately before 5 August 1997, suspended under section 83 (7) (as in force immediately before its repeal) because a reassessed licence fee had not been paid in full.

- (2) A licence to which this clause applies is, on and from 5 August 1997, taken not to have been suspended by reason of failure to pay a reassessed licence fee in full.

Validation of dine-or-drink authority

Despite section 56 (9) (a) (iv):

- (a) a dine-or-drink authority is taken not to have been automatically cancelled on the first anniversary of its grant if any part of the fee for the authority remained unpaid at that time, and
- (b) if full payment of the fee is made at some time after the first anniversary of its grant and before the commencement of this clause, a dine-or-drink authority is taken to have been in force between the anniversary and the time that payment was made.

Schedule 2 Amendment of Registered Clubs Act 1976

(Section 4)

[1] Section 55 False or misleading statements

Insert “, or submitted or otherwise given to the Minister” after “registrar” in section 55 (2).

[2] Section 57D

Insert after section 57C:

57D Director may prohibit undesirable promotion of liquor

- (1) The Director may, by order in writing served on a registered club, prohibit the registered club from carrying on or being involved in an activity involving the promotion of liquor described in the order if the Director considers:
 - (a) that the promotion is likely to have a special appeal to minors:
 - (i) because of the use of designs, motifs or characters in the promotion that are, or are likely to be, attractive to minors, or
 - (ii) for any other reason, and
 - (b) that it is desirable in the public interest to prohibit the carrying on of or involvement in the activity.
- (2) Before making an order under this section, the Director must have regard to any relevant guidelines concerning the making of orders or the promotion of liquor approved by the Minister for the purposes of this section.
- (3) A registered club that, without reasonable excuse, fails to comply with an order under this section is guilty of an offence.

Maximum penalty: 50 penalty units.

[3] Schedule 2 Transitional provisions

Insert at the end of clause 1A (1):

*Liquor and Registered Clubs Legislation Further Amendment
Act 2001*

[4] Schedule 2, clause 73 (3) (a)

Omit the paragraph.

[5] Schedule 2

Insert in Schedule 2 (with appropriate Part and clause numbers):

**Part Liquor and Registered Clubs Legislation
Further Amendment Act 2001**

**Provision consequent on the decision of the High Court in *Ha v
New South Wales***

- (1) This clause applies to a certificate of registration that was, immediately before 5 August 1997, suspended under section 15 (8) (as in force immediately before its repeal) because a registration fee had not been paid in full.
- (2) A certificate of registration to which this clause applies is, on and from 5 August 1997, taken not to have been suspended by reason of failure to pay a registration fee in full.

[Minister's second reading speech made in—
Legislative Assembly on 6 November 2001
Legislative Council on 27 November 2001]

BY AUTHORITY