



New South Wales

National Competition Policy Liquor Amendments (Commonwealth Financial Penalties) Act 2004 No 53

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New South Wales

National Competition Policy Liquor Amendments (Commonwealth Financial Penalties) Act 2004 No 53

Act No 53, 2004

An Act to amend the *Liquor Act 1982* in connection with Commonwealth financial penalties arising from National Competition Policy reviews. [Assented to 6 July 2004]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *National Competition Policy Liquor Amendments (Commonwealth Financial Penalties) Act 2004*.

2 Commencement

This Act commences on 1 August 2004, unless sooner commenced by proclamation.

3 Amendment of Liquor Act 1982 No 147

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

Schedule 1 Amendments

(Section 3)

[1] Section 19A Duration of licences

Insert “56B, 56C or” after “section” in section 19A (3).

[2] Section 36 Restrictions on liquor licence applications

Omit section 36 (6).

[3] Section 45 Grounds of objection

Omit “(2), (2AA),” from section 45 (1) (c).

[4] Section 45 (2)

Omit the subsection.

[5] Section 45 (4)

Omit “, (2)”.

[6] Section 45 (4) (c)

Omit the paragraph.

[7] Section 47 Grant of application is discretionary in certain cases

Omit “, (2)” from section 47 (1).

[8] Section 49C Grant of off-licence (retail)

Omit “convenience store or service station” from section 49C (2).

Insert instead “general store”.

[9] Section 49C (2A)

Insert after section 49C (2):

- (2A) An application for, or to remove, an off-licence to sell liquor by retail that relates to a service station may not be granted in any circumstances.

[10] Section 49C (3)

Omit the subsection. Insert instead:

(3) In this section:

general store means a convenience store, mixed business shop, corner shop or milk bar that has a retail floor area of not more than 240 square metres and that is used for the purpose of selling, exposing or offering for sale by retail principally groceries, smallgoods or associated small items.

service station means a building or place used primarily for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products.

[11] Section 56 Fee for grant of licence

Omit “the fee fixed by the Board for the licence” from section 56 (1) (a).

Insert instead “the fee prescribed by the regulations or determined in accordance with the regulations”.

[12] Section 56 (1) (b)

Omit “such fee as is fixed by the Board for the licence”.

Insert instead “the fee prescribed by the regulations or determined in accordance with the regulations”.

[13] Section 56 (2)

Omit the subsection.

[14] Section 56 (4)

Omit “(except paragraphs (a) and (b)) or (3) prescribe”.

Insert instead “, prescribe”.

[15] Section 56C

Insert after section 56B:

56C Annual fee for hotelier’s licence or off-licence (retail)

(1) A fee prescribed by, or determined in accordance with, the regulations is payable in respect of a hotelier’s licence or an off-licence to sell liquor by retail.

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- (2) The fee must be paid within the period of 21 days after 31 July in each calendar year for which the licence is in force. The licence is cancelled if the fee is not paid within that 21-day period.
 - (3) The regulations may provide for exemptions with respect to the payment of fees under this section.
 - (4) An application may be made to the court for the reinstatement of a hotelier's licence, or an off-licence to sell liquor by retail, that has been cancelled by the operation of this section. An application for reinstatement of a licence may only be made within 2 months after the cancellation of the licence.
 - (5) The court may order reinstatement of the licence but only if satisfied that there is a reasonable explanation for the failure to pay the fee that resulted in cancellation of the licence.
 - (6) The reinstatement of a licence does not take effect until the unpaid fee is paid.

[16] Section 57 Removal of hotelier's licence or off-licence (retail)

Omit section 57 (4).

[17] Part 3, Division 6A

Insert after Division 6:

Division 6A Social impact assessment process

62B Application of Division

- (1) This Division applies to an application (referred to in this Division as a *relevant application*) for the grant or removal of:
 - (a) a hotelier's licence, or
 - (b) an off-licence to sell liquor by retail.
- (2) A reference in this Division to the premises to which a relevant application relates is, in the case of the removal of the licence concerned, a reference to the premises to which, if the application were granted, the licence would be removed.

62C Social impact assessment required before relevant application may be granted

- (1) The court must not grant a relevant application unless:
 - (a) a social impact assessment has been provided to the Board in connection with the application, and
 - (b) the Board has approved the social impact assessment.
- (2) A social impact assessment must comply with this Division and the regulations.
- (3) A social impact assessment provided to the Board must be accompanied by such fee as may be prescribed by the regulations.
- (4) A social impact assessment may be provided before the relevant application to which it relates is made.

62D Requirements in relation to social impact assessments

The regulations may make provision for or with respect to the following:

- (a) the requirements that must be satisfied in connection with a social impact assessment,
- (b) the matters to be assessed or addressed by a social impact assessment,
- (c) the information to be provided by a social impact assessment.

62E Advertising of social impact assessment

- (1) If a social impact assessment is provided to the Board in connection with a relevant application, the applicant must:
 - (a) place a copy of the social impact assessment on public exhibition at the premises to which the application relates, and
 - (b) publish an advertisement in relation to the social impact assessment:
 - (i) in a newspaper circulating throughout the State, and
 - (ii) in a local newspaper circulating in the local government area in which the premises are situated, and

- (c) provide a copy of the social impact assessment to the Director and the local council for that area at or before the time the advertisement is published.
- (2) If the premises to which the relevant application relates are not yet erected or occupied by the applicant, subsection (1) (a) is complied with if the social impact assessment is dealt with as provided by the regulations.
- (3) The advertisement under subsection (1) (b) must:
 - (a) be in the form approved by the Board, and
 - (b) state that a copy of the social impact assessment will be available for public inspection at the place specified in the advertisement, and
 - (c) invite written submissions on the matter to be made to the Board within 30 days after the publication of the advertisement.
- (4) The social impact assessment is not to be determined by the Board until after the expiration of that 30-day period.
- (5) In determining the social impact assessment, the Board must take into account any written submission made on the matter within that 30-day period.
- (6) The regulations may exclude any specified class of social impact assessments from the operation of this section.

62F Approval of social impact assessment

- (1) The Board may approve a social impact assessment that is provided in connection with a relevant application only if the Board is satisfied that:
 - (a) the social impact assessment complies with this Division and the regulations, and
 - (b) the overall social impact of the application being granted by the court will not be detrimental to the local community or to the broader community.
- (2) If, in determining a social impact assessment, the Board incurs any costs that are not covered by the fee referred to in section 62C (3), the applicant is liable to meet those costs. The Board may refuse to determine the social impact assessment until any such costs are paid or provision, to the Board's satisfaction, has been made for their payment.

- (3) The Minister may issue written guidelines to the Board in relation to the following matters:
 - (a) the factors that are to be taken into account by the Board in determining a social impact assessment,
 - (b) the criteria for determining the local community and the broader community for the purposes of subsection (1) (b),
 - (c) the manner in which the Board is to exercise its functions in relation to a social impact assessment,
 - (d) the appropriate form for a social impact assessment.
- (4) In exercising any of its functions in relation to a social impact assessment, the Board is subject to the guidelines issued by the Minister under subsection (3).
- (5) Sections 40 and 41 of the *Interpretation Act 1987* apply to the guidelines in the same way as those sections apply to statutory rules.

[18] Schedule 1 Savings and transitional provisions

Insert at the end of clause 1 (1):

*National Competition Policy Liquor Amendments
(Commonwealth Financial Penalties) Act 2004*

[19] Schedule 1, Part 21

Insert after Part 20:

**Part 21 National Competition Policy Liquor
Amendments (Commonwealth Financial
Penalties) Act 2004**

94 Pending applications

- (1) The amendments made to this Act by Schedule 1 [2]–[7], [11]–[14], [16] and [17] to the *National Competition Policy Liquor Amendments (Commonwealth Financial Penalties) Act 2004* do not apply:
 - (a) to an application pending under this Act on the commencement of those amendments, or

- (b) to an application under section 60 for a final grant of an application conditionally granted under section 40 before the commencement of those amendments.
- (2) Subject to the regulations, the amendments made to this Act by Schedule 1 [8]–[10] to the *National Competition Policy Liquor Amendments (Commonwealth Financial Penalties) Act 2004* extend to an application pending under this Act on the commencement of those amendments.

[Second reading speech made in—
Legislative Assembly on 4 May 2004
Legislative Council on 5 May 2004]

BY AUTHORITY