



New South Wales

Liquor Legislation Amendment Act 2008 No 101

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Liquor Legislation Amendment Act 2008 No 101

Act No 101, 2008

An Act to amend the *Liquor Act 2007* to restrict the trading hours of licensed premises; to amend the *Local Government Act 1993* in relation to alcohol-free zones; and for other purposes. [Assented to 3 December 2008]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Liquor Legislation Amendment Act 2008*.

2 Commencement

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

3 Amendment of Liquor Act 2007 No 90

The *Liquor Act 2007* is amended as set out in Schedule 1.

4 Amendment of Local Government Act 1993 No 30

The *Local Government Act 1993* is amended as set out in Schedule 2.

5 Amendment of other Acts

The Acts specified in Schedule 3 are amended as set out in that Schedule.

6 Repeal of Act

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendment of Liquor Act 2007

(Section 3)

[1] Section 11A

Insert after section 11:

11A Special licence condition—6-hour closure period for licensed premises

- (1) This section applies in relation to:
 - (a) any licence granted on or after 30 October 2008, and
 - (b) any licence in force before that date, but only if an extended trading authorisation granted on or after that date is in force in relation to the licensed premises concerned.
- (2) A licence to which this section applies is subject to the condition that liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours (as determined in accordance with this section) during each consecutive period of 24 hours (*the 6-hour closure period*).
- (3) Except as provided by subsection (4), the 6-hour closure period for any particular licensed premises is the period that is approved for the time being by the Authority.
- (4) In the case of a licence:
 - (a) granted on or after 30 October 2008 but before the date on which this section (as inserted by the *Liquor Legislation Amendment Act 2008*) commenced, or
 - (b) granted by the Local Court (as provided by clause 25 of Schedule 1) at any time after the date on which this section commenced,the 6-hour closure period for the licensed premises is, subject to subsection (5), the period from 4 am to 10 am.
- (5) The Authority may at any time, on application by the licensee or by the Director or the Commissioner of Police, or on its own initiative, approve of licensed premises having a different 6-hour closure period than:
 - (a) the period as last approved by the Authority, or
 - (b) the period specified in subsection (4).
- (6) Any such application by the licensee must be accompanied by the fee prescribed by the regulations.

- (7) To avoid doubt, during the 6-hour closure period for any licensed premises:
 - (a) the licensed premises are not authorised to stay open for the retail sale of liquor on the premises, and
 - (b) the licensee is not authorised to sell liquor by retail for consumption away from the licensed premises.
- (8) This section has effect despite any other provision of this Act (in particular, those provisions relating to the standard trading period for licensed premises).
- (9) This section does not, however, apply to the sale or supply of liquor to a resident of licensed premises if the liquor is sold or supplied for consumption in the room in which the resident is residing or staying.
- (10) The regulations may also create exceptions to this section.

[2] Section 115 Declaration of restricted alcohol area

Omit “In that case, a person cannot, in respect of the same act or omission, be convicted of an offence under that Act and an offence created by the regulations for the purposes of this Division.” from section 115 (3).

[3] Schedule 1 Savings and transitional provisions

Insert at the end of clause 1 (1):

Liquor Legislation Amendment Act 2008

Schedule 2 Amendment of Local Government Act 1993

(Section 4)

[1] Section 642

Omit the section. Insert instead:

642 Confiscation of alcohol in alcohol-free zones

- (1) A police officer or an enforcement officer may seize any alcohol (and the bottle, can, receptacle or package in which it is contained) that is in the immediate possession of a person in an alcohol-free zone if:
 - (a) the person is drinking alcohol in the alcohol-free zone, or
 - (b) the officer has reasonable cause to believe that the person is about to drink, or has recently been drinking, alcohol in the alcohol-free zone.
- (2) Any alcohol or thing seized under this section is, by virtue of the seizure, forfeited:
 - (a) if seized by a police officer—to the State, or
 - (b) if seized by an enforcement officer—to the council that employs the officer.
- (3) Any alcohol seized under this section may:
 - (a) be disposed of immediately by tipping it out of the bottle, can, receptacle or package in which it is contained, or
 - (b) be otherwise disposed of in accordance with directions given by the Commissioner of Police or the council (as the case requires).
- (4) In this section:

enforcement officer means an employee of a council authorised in writing by the Commissioner of Police to be an enforcement officer for the purposes of this section.

[2] Sections 643, 647 and 649

Omit the sections.

[3] Sections 644 (5) and 644B (4)

Omit “3 years” wherever occurring. Insert instead “4 years”.

[4] Section 679 Penalty notices for certain offences

Omit “642,” from section 679 (1).

[5] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts

Insert at the end of clause 1 (1):

Liquor Legislation Amendment Act 2008, to the extent that it amends this Act

[6] Dictionary

Omit “and in which the drinking of alcohol is accordingly prohibited in the circumstances and to the extent provided by section 642” from the definition of *alcohol-free zone*.

[7] Dictionary, definition of “enforcement officer”

Omit the definition.

Schedule 3 Amendment of other Acts

(Section 5)

3.1 Fines Act 1996 No 99

Schedule 1 Statutory provisions under which penalty notices issued

Omit “, 647” from the matter relating to the *Local Government Act 1993*.

3.2 Road Transport (Driver Licensing) Act 1998 No 99

[1] Section 20 Driver licensing system

Insert after section 20 (2) (m):

- (m1) make provision for or with respect to extending the period for which a person is required to hold a provisional licence if the person:
 - (i) is convicted or found guilty of an offence under section 129 (Minor must not use false evidence of age) of the *Liquor Act 2007*, or
 - (ii) is issued with a penalty notice under section 150 of the *Liquor Act 2007* in respect of an alleged offence under section 129 of that Act, and

[2] Section 20 (5)

Insert after section 20 (4):

- (5) Any regulation made under subsection (2) (m1) has effect despite anything to the contrary in section 150 (5) of the *Liquor Act 2007*.

[Agreement in principle speech made in Legislative Assembly on 13 November 2008

Second reading speech made in Legislative Council on 26 November 2008]

BY AUTHORITY