



New South Wales

# Liquor Amendment Act 2014 No 3

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New South Wales

## Liquor Amendment Act 2014 No 3

Act No 3, 2014

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An Act to amend the *Liquor Act 2007* and the *Liquor Regulation 2008* to enable certain areas to be declared to be prescribed precincts in which licensed premises are subject to regulatory conditions; to enable periodic licence fees to be levied; and for other purposes. [Assented to 5 February 2014]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Liquor Amendment Act 2014*.

**2 Commencement**

- (1) This Act commences on the date of assent to this Act, except as provided by subsection (2).
- (2) So much of Schedule 1 [28] as inserts sections 116G and 116H into the *Liquor Act 2007* commences on a day to be appointed by proclamation.

## Schedule 1 Amendment of Liquor Act 2007 No 90

### [1] Section 4 Definitions

Omit paragraph (c) from the definition of *manager* in section 4 (1).

Insert instead:

- (c) in the case of a high risk venue within the meaning of section 116AA or 116B—a person appointed by the licensee, in accordance with licence conditions imposed by the regulations under section 116A or 116I, respectively, to be present in the venue in accordance with those conditions.

### [2] Section 4 (1)

Insert in alphabetical order:

*prescribed precinct*—see section 116C.

### [3] Section 12 Standard trading period for certain licensed premises

Omit paragraph (d) from the note to section 12 (1).

### [4] Section 12 (1B) and (1C)

Insert after section 12 (1A):

- (1B) Despite subsection (1) (a), the *standard trading period* for premises to which this subsection applies ends at 10 pm.
- (1C) Subsection (1B) applies to the following premises or part of premises:
  - (a) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is the sale or supply of liquor for consumption away from the licensed premises—the licensed premises,
  - (b) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is not the sale or supply of liquor for consumption away from the licensed premises—the part of the premises that is a liquor sales area (within the meaning of section 30) of the licensed premises,
  - (c) if a hotel licence, club licence, on-premises licence or producer/wholesaler licence authorises the licensee to sell liquor for consumption away from the licensed premises—any part of the licensed premises to the extent that it is used for that purpose.

### [5] Section 14 Authorisation conferred by hotel licence

Insert after section 14 (4):

- (4A) An extended trading authorisation must not authorise the sale after 10 pm on any day of liquor for consumption away from the licensed premises.

### [6] Section 18 Authorisation conferred by club licence

Insert after section 18 (3):

- (3A) An extended trading authorisation must not authorise the sale after 10 pm on any day of liquor for consumption away from the licensed premises.

**[7] Section 26 Authorisation to sell liquor for consumption away from licensed premises in special circumstances**

Insert after section 26 (3):

- (3A) An authorisation under this section must not authorise the sale after 10 pm on any day of liquor for consumption away from the licensed premises.

**[8] Section 29 Authorisation conferred by packaged liquor licence**

Omit “midnight” from section 29 (1) (b). Insert instead “10 pm”.

**[9] Section 29 (3A)**

Insert after section 29 (3):

- (3A) An extended trading authorisation must not authorise the sale after 10 pm on any day of liquor for consumption away from the licensed premises.

**[10] Section 47A Definitions**

Omit the definition of *freeze period* from section 47A (1). Insert instead:

*freeze period* means:

- (a) for the Kings Cross precinct or a precinct described in Schedule 5—the period:
- (i) commencing on 1 October 2009, and
  - (ii) ending on the day that is 2 years after the date of assent to the *Liquor Amendment Act 2014*, and
- (b) for a prescribed precinct or part of a prescribed precinct—the period starting on the date prescribed by the regulations and ending on the date so prescribed.

**[11] Section 47A (1), definition of “freeze precinct”**

Insert “, a prescribed precinct” after “Kings Cross precinct”.

**[12] Section 47AB**

Insert after section 47AA:

**47AB Premises excluded by regulations**

This Division does not apply to or in respect of specified subject premises, or classes of subject premises, prescribed by the regulations that are situated in a prescribed precinct.

**[13] Section 47I Restrictions on granting development consent in relation to subject premises**

Omit the definition of *relevant introduction date* from section 47I (9). Insert instead:

*relevant introduction date* means the following:

- (a) except as provided by paragraph (b)—the date on which the Bill for the *Liquor Amendment (Temporary Licence Freeze) Act 2009* was introduced into the Legislative Assembly,
- (b) in relation to an application for development consent with respect to subject premises in a prescribed precinct or part of a prescribed precinct—the date on which the Bill for the *Liquor Amendment Act 2014* was introduced into the Legislative Assembly.

**[14] Section 49 Extended trading authorisation**

Omit section 49 (4) (b).

**[15] Section 54 Director-General may impose, vary or revoke licence conditions**

Insert after section 54 (1):

- (1AA) The Director-General may, on application by the licensee, impose conditions of the kind imposed on a licence under section 116A or 116I in respect of a licence relating to premises in the Kings Cross precinct or a prescribed precinct, respectively. Subsection (3) does not apply to such an application.

**[16] Section 54 (2) (b) (iii)**

Insert at the end of section 54 (2) (b) (ii):

or

- (iii) relating to licensed premises situated wholly or partly in the Kings Cross precinct or a prescribed precinct,

**[17] Section 54 (2A) and (2B)**

Insert after section 54 (2):

- (2A) An application by a licensee under subsection (1AA) or (2) must:
- (a) be made in the form and manner approved by the Director-General, and
  - (b) be accompanied by the fee prescribed by the regulations, and
  - (c) be accompanied by such information and particulars as may be prescribed by the regulations, and
  - (d) if required by the regulations to be advertised—be advertised in accordance with the regulations, and
  - (e) comply with such other requirements as may be imposed by the Director-General or prescribed by the regulations.
- (2B) The regulations may provide for the waiver, remittance or postponed payment of the whole or any part of a fee payable under subsection (2A) (b).

**[18] Part 4, Division 2A**

Insert after Division 2 of Part 4:

**Division 2A Periodic licence fees**

**58A Periodic licence fee**

- (1) A periodic licence fee is payable to the Director-General for a licence while the licence is in force or under suspension and is so payable on each due date prescribed by the regulations for the purposes of this section.
- (2) Regulations may be made prescribing the periodic licence fees payable under this section and for and with respect to:
  - (a) times for payment of the fees (including payment of different elements of the fees at different times), and
  - (b) penalties for late payment of the fees, and
  - (c) the circumstances in which the fee, or a proportion of such a fee, may be re-assessed, waived or refunded, and
  - (d) information to be provided to the Director-General for the purpose of calculating the fee.

- (3) The regulations may provide that a periodic licence fee (or an element of a periodic licence fee) is to be determined by reference to matters including, but not limited to the following:
  - (a) the location of the relevant licensed premises,
  - (b) the trading hours of the licensed premises,
  - (c) the patron capacity of the licensed premises,
  - (d) offences committed at or in relation to the licensed premises,
  - (e) compliance by the licensee with the requirements of this or any other Act with respect to the licensed premises,
  - (f) the number of packaged liquor licences held by the same person, or in which the same person (other than a financial institution) is interested in the business, or profits of the business, carried on under the licences, or both.
- (4) For the purposes of subsection (3), a person is interested in the business, or the profits of the business, carried on under the licence if the person is entitled to receive:
  - (a) any income derived from the business, or any other financial benefit or financial advantage from the carrying on of the business (whether the entitlement arises at law or in equity or otherwise), or
  - (b) any rent, profit or other income in connection with the use or occupation of premises on which the business is to be carried on.

**58B Suspension and cancellation for late payment of periodic licence fee**

- (1) If the periodic licence fee payable for a licence has not been paid before the expiration of 28 days after the due date for payment as provided by the regulations, the licence is suspended.
- (2) If, during the period of 28 days after the licence has been suspended, the periodic licence fee is paid, the suspension is lifted.
- (3) However, if the periodic licence fee payable for a licence is not paid before the expiration of the 28 day period after the licence is suspended, the licence is cancelled on the expiration of the period.

**58C Application for reinstatement of cancelled licence**

- (1) The following persons may apply to the Director-General for the reinstatement of a licence cancelled by the operation of section 58B:
  - (a) the former holder of the licence,
  - (b) any other person (other than a financial institution) who is interested in the business, or the profits of the business, carried on under the licence.
- (2) Such an application may only be made within 56 days after the cancellation of the licence.
- (3) An application under this section must:
  - (a) be made in the form and manner approved by the Director-General, and
  - (b) be accompanied by:
    - (i) the unpaid periodic licence fee concerned, and
    - (ii) the late payment fee prescribed by the regulations, and
    - (iii) the application fee prescribed by the regulations (if any), and

- (c) be accompanied by such information and particulars as may be prescribed by the regulations, and
  - (d) comply with such other requirements as may be imposed by the Director-General or prescribed by the regulations.
- (4) The Director-General may reinstate the licence if the Director-General is satisfied that there is a reasonable explanation for the failure to pay the periodic licence fee.
- (5) A cancelled licence that is reinstated under this section is to take effect and continue in force as if the licence had been suspended during the period of cancellation.
- (6) Regulations may be made for and with respect to the circumstances in which a fee that accompanies an application under this section, or a proportion of such a fee, may be waived or refunded.
- (7) For the purposes of subsection (1), a person is interested in the business, or the profits of the business, carried on under a licence if the person is entitled to receive:
- (a) any income derived from the business, or any other financial benefit or financial advantage from the carrying on of the business (whether the entitlement arises at law or in equity or otherwise), or
  - (b) any rent, profit or other income in connection with the use or occupation of premises on which the business is carried on.
- (8) Sections 23 (2) and 28 (2) of the *Gaming Machines Act 2001* do not apply in relation to a licence that has been cancelled by the operation of section 58B and reinstated under this section.

**[19] Section 91 Responsibilities and liabilities in relation to licensed premises**

Omit “section 116A (2) (i)” from section 91 (1A).

Insert instead “sections 116A (2) (i) and 116I (2) (i)”.

**[20] Section 103 Closing of certain hotel and bottle shop areas**

Insert “or a bar area permitted by the regulations to be used solely for purposes other than the sale or supply of alcoholic drinks at that time” after “paragraph (b)” in section 103 (1).

**[21] Section 104 Person in bar area or certain other areas of hotel outside trading hours**

Insert “or is not permitted by the regulations to be used solely for purposes other than the sale or supply of alcoholic drinks at that time” after “liquor” in section 104 (1) (a).

**[22] Section 116AA Interpretation**

Insert “or an adjacent precinct” after “precinct” in the definition of *relevant licensed premises* in section 116AA (1).

**[23] Section 116AD Temporary banning orders—licensed premises in Kings Cross precinct and adjacent precincts**

Insert “in the Kings Cross precinct” after “relevant licensed premises” wherever occurring in paragraphs (a), (b) and (c) of section 116AD (1).

**[24] Section 116AD (2)**

Insert “in the Kings Cross precinct and the other adjacent precinct specified in the order” after “public safety”.

**[25] Section 116AD (6)**

Insert “in the Kings Cross precinct and any other adjacent precinct specified in the order” after “premises”.

**[26] Section 116AE Long-term banning orders—high risk venues**

Omit “50 penalty units” from section 116AE (9).

Insert instead “100 penalty units”.

**[27] Section 116A Regulatory controls for licensed premises in the Kings Cross precinct**

Insert “(including in circumstances or at times otherwise permitted by or under this Act)” after “times” in section 116A (2) (c).

**[28] Part 6, Division 4**

Insert after Division 3 of Part 6:

**Division 4 Prescribed precincts**

**116B Interpretation**

(1) In this Division:

*high risk venue*—see subsection (2).

*long-term banning order* means an order under section 116G.

*prescribed precinct* means a precinct prescribed by the regulations under section 116C.

*relevant licensed premises* means any licensed premises situated in a prescribed precinct or precinct adjacent to a prescribed precinct, but does not include a licensed restaurant that is not authorised to trade after midnight on any day of the week unless it is a high risk venue.

*temporary banning order* means an order under section 116F.

(2) A *high risk venue* is a venue situated in a prescribed precinct comprising:

(a) licensed premises:

(i) on which liquor may be sold for consumption on the premises, and

(ii) that are authorised to trade after midnight at least once a week on a regular basis, and

(iii) that have a patron capacity (as determined by the Director-General) of more than 120 patrons, or

(b) licensed premises specified by, or of a class specified by, the regulations, or

(c) licensed premises that are designated by the Director-General under subsection (4).

(3) The regulations may create exceptions to subsection (2) (a).

(4) The Director-General may, with the concurrence of the Commissioner of Police, designate any specified licensed premises (or licensed premises of a specified class) in a prescribed precinct as a high risk venue if the Director-General is satisfied that there is a significant degree of alcohol-related violence or other anti-social behaviour associated with the premises.

- (5) The designation of licensed premises as a high risk venue is to be made by order in writing given to the licensee. Any such order takes effect on the date specified in the order (being a date that is not earlier than 6 weeks from the date the order is given).

**Note.** A decision of the Director-General to designate licensed premises as a high risk venue is reviewable by the Independent Liquor and Gaming Authority under the *Gaming and Liquor Administration Act 2007*—see section 36A of that Act.

#### **116C Prescribed precincts**

- (1) The regulations may declare an area described in the regulations to be a ***prescribed precinct*** for the purposes of this Act.
- (2) An area within the Kings Cross precinct may not be declared to be a prescribed precinct.
- (3) A reference in this Act to premises situated in a prescribed precinct includes a reference to premises:
- (a) that front or back onto, or abut, any street or part of a street within the prescribed precinct (other than premises situated in the Kings Cross precinct), or
  - (b) that can be entered from any such street or part, or
  - (c) that the regulations declare to be situated in the prescribed precinct.
- (4) An area may be declared to be a prescribed precinct by reference to a map signed by the Minister and deposited in the Office of Liquor, Gaming and Racing.
- (5) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.

#### **116D Prescribed precinct ID scanner system**

- (1) The ***prescribed precinct ID scanner system*** is an integrated database system that is approved by the Director-General and that consists of the following:
- (a) the identification details of those persons who are the subject of a temporary or long-term banning order (together with the period for which any such order is in force),
  - (b) any information that has been scanned and recorded by patron ID scanners operating in high risk venues,
  - (c) any associated equipment (including the patron ID scanners linked to the system).
- (2) The Director-General may, with the concurrence of the Commissioner of Police, approve a person or body to operate the prescribed precinct ID scanner system. A person or body may not be approved if the person or body is a close associate of a licensee or has any interest, whether financial or otherwise, in the business carried on under a licence.
- (3) The approval of a person or body to operate the system is subject to such conditions as the Director-General considers appropriate (including conditions relating to the disposal and retention of information held in the system) and may be revoked at any time by the Director-General. The conditions of approval may be varied at any time by the Director-General.

- (4) Without limiting subsection (3), the conditions of any such approval are taken to include the following:
- (a) any information held in the system must not be transferred to any place outside of Australia except New Zealand,
  - (b) information must not be held in the system for more than 30 days after it is collected except:
    - (i) in the case of information relating to a person who is the subject of a long-term banning order (in which case the information may be held in the system for the period that the order is in force), or
    - (ii) in such other cases as may be authorised by the Director-General at the request of the Commissioner of Police,
  - (c) if the approved system provider is not an organisation within the meaning of the *Privacy Act 1988* of the Commonwealth—the provider must ensure that the provider is treated as an organisation for the purposes of that Act,
  - (d) the approved system provider must comply with the requirements of the *Privacy Act 1988* of the Commonwealth with respect to the protection of any personal information held by the provider,
  - (e) the approved system provider must comply with a request by the Commissioner of Police to dispose of any information held by the provider,
  - (f) if the prescribed precinct ID scanner system fails for any reason, the approved system provider must:
    - (i) immediately notify the local police, and
    - (ii) comply with a contingency protocol, as approved by the Director-General, for ID scanner system failure.

**116E High risk venues—licence conditions relating to ID scanning**

**(1) Patron photo IDs to be scanned**

The licence for a high risk venue is subject to the following conditions:

- (a) a person must not be permitted to enter the venue as a patron unless:
  - (i) the person produces to a staff member a form of identification containing a photograph of the person and the person's identification details (*photo ID*), and
  - (ii) the photo ID is scanned by a staff member using a patron ID scanner,
- (b) a person must be refused admission to the venue as a patron if the person:
  - (i) chooses not to produce his or her photo ID to a staff member, or
  - (ii) is subject to a temporary or long-term banning order,
- (c) the use of a patron ID scanner as required by this section (including the procedures for scanning and the time of use) must comply with such requirements as are approved by the Director-General and notified to the licensee,
- (d) only patron ID scanners of a type approved by the Director-General may be used in the venue for the purposes of this section,
- (e) a patron ID scanner may only be used to record information of the kind prescribed by the regulations,

- (f) if any patron ID scanner used in the venue fails for any reason, the licensee must:
    - (i) immediately notify the local police, and
    - (ii) comply with a contingency protocol, as approved by the Director-General, for patron ID scanner failure.
- (2) Subsection (1) (a) (ii) does not require a person to be refused permission to enter a high risk venue if, at that time, each patron ID scanner in the venue is not working because of scanner or system failure.
- (3) **Producing false ID to enter high risk venue**

A person who produces any document purporting to contain the person's identification details in order to gain entry to a high risk venue is guilty of an offence if the document is false in a material particular in relation to the person.

Maximum penalty: 50 penalty units.
- (4) **Privacy protection**

It is a condition of the licence for a high risk venue that the licensee must:

  - (a) if the licensee is not an organisation within the meaning of the *Privacy Act 1988* of the Commonwealth—ensure that the licensee is treated as an organisation for the purposes of that Act, and
  - (b) comply with the requirements of that Act with respect to the protection of any personal information recorded by a patron ID scanner operating in the venue.
- (5) It is also a condition of the licence for a high risk venue that the licensee:
  - (a) prepares and implements a privacy management plan relating to the use of patron ID scanners in the venue, and
  - (b) prepares and implements a privacy policy containing information for patrons about the use of patron ID scanners in the venue and the procedures for ensuring that the privacy of patrons is protected and for making complaints about breaches of privacy, and
  - (c) ensures that the privacy policy for the venue is made available for inspection by any person who requests to see it, and
  - (d) ensures that an outline of the privacy policy is displayed at or near any public entrance to the venue in a manner that enables patrons to be alerted to its contents immediately before being required to produce a photo ID, and
  - (e) without limiting any requirement under the *Privacy Act 1988* of the Commonwealth, ensures that any written complaint by a patron about a breach of privacy is, within 14 days of the complaint being made to the licensee or a staff member, notified to the Director-General.
- (6) The privacy management plan and privacy policy required to be prepared by a licensee under this section must, without limiting any requirement under the *Privacy Act 1988* of the Commonwealth, adopt or comply with a plan and policy approved by a local liquor accord in force under Division 1 of Part 8 of this Act in conjunction with the relevant industry association for the licensee and applying to the area in which the licensed premises are situated.

**116F Temporary banning orders—licensed premises in prescribed precinct and adjacent precincts**

- (1) A police officer may, in the circumstances described in subsection (2), by order in writing given to a person who is in a prescribed precinct (a **temporary banning order**) prohibit the person from entering or remaining on any relevant licensed premises in the prescribed precinct and in any other adjacent precinct specified in the order, for the period (not exceeding 48 hours) specified in the order.
- (2) A temporary banning order may be made as soon as practicable after the person:
  - (a) refuses or fails to comply with a direction under section 198 of the *Law Enforcement (Powers and Responsibilities) Act 2002* to leave relevant licensed premises in the prescribed precinct or a public place in the vicinity of such relevant licensed premises, or
  - (b) fails to leave relevant licensed premises in the prescribed precinct after being required to do so under section 77 (4) because the person is intoxicated, violent, quarrelsome or disorderly, or
  - (c) contravenes section 77 (6) or (8) in relation to relevant licensed premises in the prescribed precinct.
- (3) A police officer must not give a person a temporary banning order unless the officer is satisfied that the conduct of the person which resulted in the person being required to leave (or being refused admission to) the licensed premises or other public place concerned is likely to continue and cause a public nuisance or risk to public safety in the prescribed precinct and in any other adjacent precinct specified in the order.
- (4) A temporary banning order:
  - (a) does not have effect unless it is given by, or given with the approval of, a police officer of or above the rank of sergeant, and
  - (b) must specify the grounds on which it is given.
- (5) A person who is the subject of a temporary banning order must not enter or attempt to enter or remain on any relevant licensed premises in the prescribed precinct or any other adjacent precinct specified in the order during the period specified in the order.  
Maximum penalty: 50 penalty units.

**116G Long-term banning orders—high risk venues**

- (1) The Authority may, by order in writing (a **long-term banning order**), prohibit a person from entering or remaining on any high risk venue for such period (not exceeding 12 months) as is specified in the order.
- (2) A long-term banning order may only be made on application by the Commissioner of Police in the manner approved by the Authority.
- (3) The Authority may make a long-term banning order only if the Authority is satisfied that the person the subject of the proposed order:
  - (a) has been charged with, or found guilty of, a serious indictable offence involving alcohol-related violence (whether or not the offence was committed in a prescribed precinct), or
  - (b) has been given 3 temporary banning orders during a period of 12 consecutive months.

- (4) The Authority may not make a long-term banning order unless the person the subject of the proposed order has been given notice of the application for the order and has been given a reasonable opportunity to make submissions to the Authority in relation to the application.
- (5) In deciding whether to make a long-term banning order on the ground that a person has been given 3 temporary banning orders, the Authority may take into consideration the circumstances that resulted in the person being given those orders.
- (6) A long-term banning order takes effect on the date specified by the Authority in the order. Notice of the making of the order is to be given to the person who is the subject of the order, but failure to give notice does not affect the operation of the order if a reasonable attempt has been made to notify the person.
- (7) As soon as practicable after the Authority makes a long-term banning order, the Authority is to provide such persons or bodies (if any) as are prescribed by the regulations with the following information:
  - (a) the name and address of the person who is the subject of the order,
  - (b) the period that the order is in force.
- (8) A person who is the subject of a long-term banning order must not enter or attempt to enter or remain on any high risk venue during the period specified in the order.  
Maximum penalty: 100 penalty units.

**116H Administrative review by Civil and Administrative Tribunal of long-term banning orders**

- (1) A person who is the subject of a long-term banning order may apply to the Civil and Administrative Tribunal for an administrative review under the *Administrative Decisions Review Act 1997* of the Authority's decision to make the order.
- (2) Section 53 of the *Administrative Decisions Review Act 1997* does not apply in relation to the Authority's decision to make a long-term banning order.

**116I Regulatory controls for licensed premises in prescribed precincts**

- (1) The regulations may prescribe conditions to which a licence relating to premises situated in a prescribed precinct is subject.
- (2) Without limiting the matters to which any such conditions may relate, the conditions prescribed by the regulations under this section may:
  - (a) prohibit or restrict the use of glass or other breakable containers on the licensed premises, or
  - (b) prohibit or restrict the sale or supply of certain types of liquor on the licensed premises (including liquor with a high alcohol content or liquor that is intended to be consumed rapidly such as a shot), or
  - (c) prohibit or restrict the sale or supply of liquor on the licensed premises in certain circumstances or at certain times (including in circumstances or at times otherwise permitted by or under this Act), or
  - (d) prohibit patrons from entering the licensed premises at certain times, or
  - (e) require the implementation of security or public safety measures in respect of the licensed premises, or
  - (f) require incident registers to be kept, or

- (g) require the exclusion from licensed premises of persons of a specified class (including persons who are wearing any clothing or article displaying the name of, or other matter associated with, a particular organisation), or
  - (h) require the licensee of any premises situated in the prescribed precinct to contribute towards the costs associated with measures to minimise or prevent alcohol-related violence or anti-social behaviour or other alcohol-related harm in the precinct, or
  - (i) require the appointment of a person, as approved by the Director-General, who is to be present in a high risk venue during such periods, or in such circumstances, as may be specified or determined by the regulations (an *approved manager*), or
  - (j) require records to be kept of the times when an approved manager is present in a high risk venue, or
  - (k) require records to be kept of the amount of liquor sold or supplied on the licensed premises and require the production of such information.
- (3) The conditions that may be prescribed by the regulations under this section may, without limitation, apply to a specified class of licensed premises or to specified licensed premises.
- (4) The regulations may authorise the Director-General to exempt the licensee of any premises situated in a prescribed precinct from any of the conditions prescribed by the regulations under this section. The regulations may also provide that any such exemption is subject to conditions specified in the exemption.
- (5) In approving a person to be present in a high risk venue as required by licence conditions imposed by the regulations under subsection (2) (i), the Director-General must, after obtaining the consent of the person concerned, conduct a criminal record check in relation to the person and be satisfied that the person has the experience and capacity to have responsibility for the high risk venue during the relevant periods. It is the duty of the Commissioner of Police to assist in any such criminal record check.
- (6) Any conditions prescribed by the regulations under this section are in addition to any other conditions to which a licence relating to premises in the prescribed precinct may be subject.
- (7) Regulations may be made under this section regardless of whether any licensee who is likely to be affected by the regulation has been given an opportunity to make submissions in relation to the proposed regulation.

**[29] Section 144B Definitions**

Insert “or 4” after “Division 3” in paragraph (b) of the definition of *prescribed offence*.

**[30] Section 152 Evidentiary provisions**

Insert “or a prescribed precinct” after “Kings Cross precinct” in section 152 (1) (n1).

**[31] Section 152 (1) (n2)**

Insert “or 116B” after “116AA”.

**[32] Section 159 Regulations**

Omit section 159 (2) (f1). Insert instead:

- (f1) any matter relating to the operation of the Kings Cross precinct ID scanner system or a prescribed precinct ID scanner system and the use of patron ID scanners under Division 3 or 4 of Part 6,

**[33] Schedule 1 Savings and transitional provisions**

Omit clause 1 (1). Insert instead:

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.

**[34] Schedule 1, Part 12**

Insert after Part 11 of Schedule 1:

## **Part 12 Provisions consequent on enactment of Liquor Amendment Act 2014**

### **42 Definition**

In this Part:

*amending Act* means the *Liquor Amendment Act 2014*.

### **43 Kings Cross precinct**

- (1) The declaration of the Sydney CBD Entertainment precinct by the regulations does not affect the application of this Act and the regulations to the Kings Cross precinct.
- (2) In particular (and without limiting subclause (1)), the provisions of this Act and the regulations that apply to premises situated within the Kings Cross precinct continue after the commencement of the amending Act to apply to premises that, immediately before the commencement of this clause, were treated by the operation of section 4A (2) as being situated within the Kings Cross precinct.

### **44 Extended trading authorisations**

A term of an extended trading authorisation in force immediately before the commencement of this clause in respect of a licence under section 14, 18, 26 or 29 that authorises licensed premises to sell liquor for consumption away from the licensed premises after 10 pm is taken on that commencement to have no effect.

### **45 Authorisation to sell liquor for consumption away from licensed premises**

A term of an authorisation under section 26 in force immediately before the commencement of this clause that authorises licensed premises to which an on-premises licence relates to sell liquor by retail for consumption away from the licensed premises after 10 pm is taken on that commencement to have no effect.

**46 Crown not liable for any compensation**

- (1) Damages or compensation are not payable by or on behalf of the Crown:
  - (a) because of the enactment of the amending Act or the operation of the amendments made by the amending Act (including the provisions of this Part), or
  - (b) for the consequences of that enactment or operation, or
  - (c) because of a representation or conduct of any kind about the sale or supply of liquor on any premises or kind of premises.
- (2) In this clause, *the Crown* means the Crown within the meaning of the *Crown Proceedings Act 1988*, and includes any employee or agent of the Crown.

**47 Review of amendments relating to “lock outs” and cessation of liquor sales at 3 am in Sydney CBD Entertainment precinct**

- (1) The Minister is to appoint a person who in the opinion of the Minister possesses appropriate expertise, knowledge and skills and who is independent of the Government to review the amendments made to the *Liquor Regulation 2008* by the amending Act that relate to “lock outs” and the cessation of liquor sales at 3 am and any other provision prescribed by the regulations, to determine whether the policy objectives of those amendments remain valid and whether the terms of those amendments remain appropriate for securing those objectives, and report to the Minister.
- (2) The review is to be undertaken as soon as possible after the end of the period of 2 years following the date of assent to the amending Act and the Minister is to report to the Premier on the outcome of the review as soon as practicable after the review is completed.

**[35] Schedule 4 Special licence conditions for declared premises**

Omit “2 am” from clause 3 (1). Insert instead “1.30 am”.

## Schedule 2 Amendment of Liquor Regulation 2008

### [1] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

**high risk day period**—see clause 3A.

**liquor sales cessation period** means the period on any day between 3 am and the commencement of the standard trading period referred to in section 12 (1) (a) (i) of the Act.

**lock out period** means the period on any day between 1.30 am and the commencement of the standard trading period referred to in section 12 (1) (a) (i) of the Act.

**Sydney CBD Entertainment precinct** means the area of that name described in Schedule 1A.

**tourist accommodation establishment** means:

- (a) premises operating under an on-premises, hotel or club licence that relates to accommodation premises, and
- (b) that provides accommodation in at least 20 rooms or self-contained suites (other than accommodation on a bed or dormitory-style basis rather than in separate rooms), and
- (c) that provides beverages, meals and other associated services to temporary residents and their guests,

but does not include any tourist accommodation establishment bar area on the premises that permits entry or exit (including by way of a vestibule) directly to a public street.

**tourist accommodation establishment bar area**, in relation to a tourist accommodation establishment, means any part of the establishment in which liquor is ordinarily sold or supplied for consumption in the establishment, but does not include:

- (a) a dining area in the establishment, or
- (b) any part of the establishment in which liquor is, otherwise than as authorised under section 17 (6) of the Act, sold or supplied exclusively to residents.

**weekend or holiday late trading period**, in relation to subject premises, means:

- (a) the period between midnight on any Friday, Saturday or public holiday night or night before a public holiday and such later time at which the premises are required to cease trading, or
- (b) in the case of premises that are not required to cease trading at any time after midnight on any Friday, Saturday or public holiday night or night before a public holiday—the period between midnight on any Friday, Saturday or public holiday night or night before a public holiday and 7 am, or
- (c) a high risk day period.

### [2] Clause 3A

Insert after clause 3:

#### 3A High risk day period

- (1) The Director-General may by order published on the NSW legislation website declare a period on a specified day or part-day in a particular year to be a **high risk day period**.

- (2) The order can declare a high risk day period for the whole of a precinct or for a specified part of a precinct and for a specified venue, or class of venues, within such a precinct or part of a precinct.
- (3) An order declaring a high risk day period may only be made if the Director-General is satisfied that there is a risk that a significant degree of alcohol-related violence or other anti-social behaviour associated with the day will occur in the precinct, part precinct or venue or venues concerned on that day.
- (4) Notice in writing of an order declaring a high risk day period for a specified venue or class of venues must be given to the licensees of the venues concerned at least 28 days before the high risk day period.
- (5) The Director-General may by order published on the NSW legislation website cancel a high risk day period declared under this clause.
- (6) An order under subclause (1) or (5) must be published at least 21 days before the high risk day period.

**[3] Clause 39AA Kings Cross and prescribed precincts—suspension or revocation of recognised competency cards**

Insert “or the Sydney CBD Entertainment precinct” after “Kings Cross precinct” wherever occurring in clause 39AA (1) and (3).

**[4] Clause 39AA (6)**

Omit “Administrative Decisions Tribunal for a review”.

Insert instead “Civil and Administrative Tribunal for an administrative review under the *Administrative Decisions Review Act 1997*”.

**[5] Clause 39AA (7)**

Omit “*Administrative Decisions Tribunal Act 1997*”.

Insert instead “*Administrative Decisions Review Act 1997*”.

**[6] Clause 49A Additional approval to provide an approved RSA training course online**

Insert after clause 49A (5):

- (6) The operation of this clause is suspended on and from the commencement of this subclause (the *suspension period*).
- (7) For the duration of the suspension period:
  - (a) any additional approval granted before the commencement of the suspension period is suspended, and
  - (b) no application may be made, or approval granted, for an additional approval.
- (8) The suspension of the operation of this clause does not affect any recognised RSA certification issued before the commencement of the suspension period.
- (9) Despite subclause (7), a person who has successfully completed an approved RSA training course online before the commencement of the suspension period may be granted recognised RSA certification as if any relevant additional approval had not been suspended by that subclause.

**[7] Clause 53B Definitions**

Omit the definition of *weekend late trading period*.

**[8] Clauses 53C and 53D**

Omit the clauses. Insert instead:

**53C “Lock outs” for certain subject premises**

- (1) In this clause:  
*subject premises* means the following subject premises (other than a tourist accommodation establishment or a licensed restaurant):
  - (a) premises to which a hotel licence (including a general bar licence) applies,
  - (b) premises to which a club licence applies,
  - (c) premises to which an on-premises licence relating to a public entertainment venue (other than a cinema or theatre) or karaoke bar applies,
  - (d) a high risk venue within the meaning of section 116AA of the Act,
  - (e) declared premises to which a level 2 licence (within the meaning of Schedule 4 to the Act) relates.
- (2) The licensee of any subject premises must not permit patrons to enter the premises during the lock out period.
- (3) For the avoidance of doubt, patrons already present in the subject premises immediately before the start of the lock out period may:
  - (a) leave the premises at any time, or
  - (b) remain on the premises while the premises are authorised to trade, but are not permitted to re-enter the premises during the lock out period.
- (4) This clause does not prevent a resident of the subject premises from entering the premises during the lock out period.

**53D Liquor sales cessation period**

- (1) In this clause:  
*subject premises* means the following subject premises (other than a tourist accommodation establishment, licensed restaurant or small bar):
  - (a) premises to which a hotel licence (including a general bar licence) applies,
  - (b) premises to which a club licence applies,
  - (c) premises to which an on-premises licence relating to a public entertainment venue (other than a cinema or theatre) or karaoke bar applies,
  - (d) a high risk venue within the meaning of section 116AA of the Act,
  - (e) declared premises to which a level 1 or level 2 licence (within the meaning of Schedule 4 to the Act) relates.
- (2) Liquor must not be sold or supplied on the subject premises in the liquor sales cessation period.
- (3) Subclause (2) does not in itself prevent the continued provision, or making available, of other services and facilities on the subject premises (such as food and non-alcoholic beverages, entertainment and the use of the premises for conferences or meetings and for gambling activities that are otherwise permitted on the premises).

- (4) Despite section 103 (1) of the Act, a bar area or other part of a hotel referred to in that subsection may remain open for the sale and supply of non-alcoholic beverages, or food, only during the period when liquor is not permitted to be sold or supplied under this clause.

**[9] Clause 53F Certain drinks and other types of liquor sales prohibited during weekend or holiday late trading period**

Insert “or holiday” after “weekend” wherever occurring in clause 53F (2) and (3).

**[10] Clause 53F (2) (d)**

Omit the paragraph. Insert instead:

- (d) any drink prepared on the premises that contains more than 30 ml of spirits or liqueur.

**[11] Clause 53G Requirement for RSA marshals during weekend or holiday late trading period**

Insert “or holiday” after “weekend” wherever occurring in clause 53G (2) and (3).

**[12] Clause 53H CCTV systems to be maintained on subject premises**

Omit “operate” from clause 53H (1) (a). Insert instead “record”.

**[13] Clause 53K Exclusion of persons from subject premises**

Insert “and similar” after “motorcycle-related” in clause 53K (a).

**[14] Clause 53K**

Insert “Brothers for Life” and “Outlaws” in new subparagraphs in alphabetical order in paragraph (a) and renumber the existing subparagraphs accordingly.

**[15] Part 5B**

Insert after Part 5A:

## **Part 5B Prescribed precincts**

### **Division 1 Declaration of prescribed precincts**

#### **53V Declaration of prescribed precincts**

The following precincts are declared to be prescribed precincts for the purposes of the Act:

Sydney CBD Entertainment precinct

### **Division 2 Sydney CBD Entertainment precinct: special licence conditions**

#### **53W Definition**

In this Division:

*high risk venue* has the meaning it has in section 116B (2) of the Act.

**53X Special licence conditions**

- (1) This Division prescribes, for the purposes of section 116I of the Act, conditions to which a licence relating to premises situated in the Sydney CBD Entertainment precinct is subject. Any such premises are referred to in this Division as ***CBD subject premises***.
- (2) This Division applies to CBD subject premises only if liquor is authorised to be sold for consumption on the premises.
- (3) This Division does not apply to or in respect of the sale or supply of liquor to a resident of CBD subject premises that is a tourist accommodation establishment if liquor is sold or supplied for consumption only in the room in which the resident is residing or staying.
- (4) Despite any other provision of this Division, the Director-General may, by order published in the Gazette, apply any provision of this Division prescribing a condition to, or exclude the application of any such provision to, subject premises specified in the order.
- (5) An order under subclause (4) may be made only if the Director-General is satisfied that:
  - (a) in the case of an order applying a provision to subject premises—the order is necessary to reduce the risk of alcohol-related violence or anti-social behaviour in or about the premises, and
  - (b) in the case of an order excluding the application of a provision to CBD subject premises—there is a negligible risk of alcohol-related violence in or about the premises or that a condition other than the specified provision will be more effective in reducing such a risk.

**53Y “Lock outs” for certain CBD subject premises**

- (1) In this clause:

***CBD subject premises*** means the following CBD subject premises (other than a tourist accommodation establishment):

  - (a) premises to which a hotel licence (including a general bar licence) applies,
  - (b) premises to which a club licence applies,
  - (c) premises to which an on-premises licence relating to a public entertainment venue (other than a cinema or theatre) or karaoke bar applies,
  - (d) on and from 15 March 2014—a high risk venue within the meaning of section 116B of the Act,
  - (e) declared premises to which a level 2 licence (within the meaning of Schedule 4 to the Act) relates.
- (2) The licensee of any CBD subject premises must not permit patrons to enter the premises during the lock out period.
- (3) For the avoidance of doubt, patrons already present in the CBD subject premises immediately before the start of the lock out period may:
  - (a) leave the premises at any time, or
  - (b) remain on the premises while the premises are authorised to trade, but are not permitted to re-enter the premises during the lock out period.
- (4) This clause does not prevent a resident of the CBD subject premises from entering the premises during the lock out period.

**53Z Liquor sales cessation period**

- (1) In this clause:  
*CBD subject premises* means the following CBD subject premises (other than a tourist accommodation establishment, licensed restaurant or small bar):
  - (a) premises to which a hotel licence (including a general bar licence) applies,
  - (b) premises to which a club licence applies,
  - (c) premises to which an on-premises licence relating to a public entertainment venue (other than a cinema or theatre) or karaoke bar applies,
  - (d) on and from 15 March 2014—a high risk venue within the meaning of section 116B of the Act,
  - (e) declared premises to which a level 1 or level 2 licence (within the meaning of Schedule 4 to the Act) relates.
- (2) Liquor must not be sold or supplied on the CBD subject premises in the liquor sales cessation period.
- (3) Subclause (2) does not in itself prevent the continued provision, or making available, of other services and facilities on the CBD subject premises (such as food and non-alcoholic beverages, entertainment and the use of the premises for conferences or meetings and for gambling activities that are otherwise permitted on the premises).
- (4) Despite section 103 (1) of the Act, a bar area or other part of a hotel referred to in that subsection may remain open for the sale and supply of non-alcoholic beverages, or food, only during the period when liquor is not permitted to be sold or supplied under this clause.

**53ZA Exemptions**

- (1) The Director-General may, on application by the licensee of CBD subject premises and payment of a reasonable fee, exempt the licensee, by order in writing served on the licensee, from any provision of this Division.
- (2) The Director-General may grant such an exemption only if the Director-General is satisfied that:
  - (a) the exemption is unlikely to result in an increase in the level of alcohol-related violence or anti-social behaviour or other alcohol-related harm in the Sydney CBD Entertainment precinct, and
  - (b) measures other than the specified condition to which the exemption relates are in place on the CBD subject premises and that such measures will be effective in reducing the risk of alcohol-related violence or anti-social behaviour on or about the subject premises.
- (3) Any such exemption may, if the relevant order so provides, apply in relation to a specified part of the CBD subject premises concerned.
- (4) An application for an exemption under this clause must be in the form and manner approved by the Director-General.
- (5) An order under this clause may be varied or revoked by the Director-General by a subsequent order in writing served on the licensee concerned.

### **Division 3 Patron ID scanning**

#### **53ZB Minors exempted from patron ID scanning requirements**

Section 116E (1) (a) and (b) of the Act do not apply in relation to minors who are authorised to enter high risk venues within the meaning of section 116B of the Act.

#### **53ZC Time of use of patron ID scanners**

Section 116E (1) (a) and (b) of the Act do not apply in relation to a licence for a high risk venue during any period outside the times approved by the Director-General and notified to the licensee under section 116E (1) (c) of the Act.

#### **[16] Clause 79**

Omit the clause. Insert instead:

##### **79 Temporary freeze on licences**

- (1) For the purpose of paragraph (b) of the definition of *freeze period* in section 47A (1) of the Act, the period commencing on the date of assent to the *Liquor Amendment Act 2014* and ending on the day that is 2 years after the date of assent is prescribed as the freeze period for so much of the Sydney CBD Entertainment precinct as is not within a precinct described in Schedule 5 to the Act.
- (2) Division 1A of Part 4 of the Act does not apply to or in respect of CBD subject premises that are tourist accommodation establishments (other than a club) or a licensed restaurant.  
**Note.** Division 1A of Part 4 of the Act does not apply to small bars (section 47AA).

#### **[17] Schedule 1A**

Insert after Schedule 1:

### **Schedule 1A Prescribed precincts**

#### **Part 1 Sydney CBD Entertainment Precinct**

That part of the City of Sydney shown edged with a heavy unbroken line on the map marked "Sydney CBD Entertainment Precinct" signed by the Minister and deposited in the Office of Liquor, Gaming and Racing, but does not include the area within the Kings Cross precinct.

**Note.** An illustration of the map is as follows:



## **Schedule 3 Other amendments**

### **3.1 Gaming and Liquor Administration Act 2007 No 91**

#### **Section 36A Review by Authority of certain decisions by Director-General under gaming and liquor legislation**

Insert “or 116B (4)” after “section 116AA (4)” in paragraph (a) (viiiia) of the definition of *reviewable decision* in section 36A (1).

### **3.2 Gaming Machines Regulation 2010**

#### **Clause 9 Location and operation of gaming machines in hotels**

Insert “or when the continued provision of services and facilities such as gambling activities is authorised by or under that Act at such a time” after “kept” in clause 9 (1) (b).

[Second reading speech made in—  
Legislative Assembly on 30 January 2014  
Legislative Council on 30 January 2014]