



New South Wales

# Casino Control Amendment (Liquor Act Application) Regulation 1996

under the

Casino Control Act 1992

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Casino Control Act 1992*.

J. RICHARD FACE, M.P.,

Minister for Gaming and Racing.

## Explanatory note

The object of this Regulation is to amend Schedule 4 to the *Casino Control Regulation 1995* (which lists the provisions of the *Liquor Act 1982* that are applied in the casino and shows how those provisions are to be modified in their application in the casino) to mirror certain amendments made to the *Liquor Act 1982* by the *Liquor and Registered Clubs Legislation Amendment Act 1996* and *Liquor and Registered Clubs Legislation Amendment (Enforcement) Act 1996*. An additional amendment is also made to bring a provision of the *Casino Control Regulation 1995* into line with a corresponding provision in the *Liquor Regulation 1996*.

This Regulation is made under the *Casino Control Act 1992*, including section 170 (the general regulation-making power) and section 89.

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## **Casino Control Amendment (Liquor Act Application) Regulation 1996**

### **1 Name of Regulation**

This Regulation is the *Casino Control Amendment (Liquor Act Application) Regulation 1996*.

### **2 Commencement**

This Regulation commences on 1 October 1996.

### **3 Amendment of Casino Control Regulation 1995**

The *Casino Control Regulation 1995* is amended as set out in Schedule 1.

### **4 Notes**

The explanatory note does not form part of this Regulation.

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## Schedule 1 Amendment of Casino Control Regulation 1995

(Clause 3)

### [1] Schedule 4, Part A The applied provisions

Insert a reference to sections 2A, 78AA, 78A and 110A in appropriate order in the list of sections of the *Liquor Act 1982* in Part A of the Schedule.

### [2] Schedule 4, Part B The applied provisions as modified

Insert before section 4:

#### 2A Harm minimisation is a primary object of the Act

A primary object of this Act is harm minimisation, that is, the minimisation of harm associated with misuse and abuse of liquor (such as harm arising from violence and other anti-social behaviour). The Authority, the Director, the Commissioner of Police and all other persons having functions under this Act are required to have due regard to the need for harm minimisation when exercising functions under this Act.

### [3] Schedule 4, Part B, section 4

Omit the definition of *beer*. Insert instead:

*beer* means liquor which is beer, ale, lager, pilsener, porter, stout or any other fermented malt liquor or any fermented liquor made from hops or that for the purposes of sale is held out to be beer.

### [4] Schedule 4, Part B, section 4

Insert in alphabetical order:

*brewer* means a person who, for the purposes of sale, makes beer.

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**[5] Schedule 4, Part B, section 20**

Insert after section 20 (2):

- (2A) Without limiting this section, a condition can be imposed under this section that prohibits or restricts activities (such as promotions or discounting) that could encourage misuse or abuse of liquor (such as binge drinking or excessive consumption).

**[6] Schedule 4, Part B, section 69F**

Omit section 69F (1) and (2). Insert instead:

- (1) The person appointed as manager of licensed premises is responsible at all times for the personal supervision and management of the conduct of the business of the licensed premises under the licence.
- (2) If an element of an offence under a provision of this Act is an act or omission by a licensee, a person who is manager of the licensed premises is, while responsible under subsection (1), responsible in respect of the offence as though that person were also a licensee of those premises and is liable for the offence accordingly.

**[7] Schedule 4, Part 4, sections 78AA, 78A**

Insert after section 78:

**78AA Liability of persons interested in licensed business for fees and penalties under this Part**

When the Authority is entitled to recover any amount payable under this Part from a licensee or former licensee, the Authority may also recover the amount, as a debt due to the Crown, from any person who, at the time the licensee or former licensee became liable to pay the amount, was directly interested in the business, or the profits of the business, carried on under the licence.

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**78A Freight costs to brewers' regional depots not to be included in price of beer**

- (1) Despite section 78, a reference in this Part to the amount paid or payable by or on behalf of a person for any liquor does not, in the case of liquor that is beer, include brewery regional depot freight charges for that beer.
  - (2) Brewery regional depot freight charges for beer are any amounts paid or payable as freight or other delivery charges to the holder of a licence for a brewer in respect of the delivery of that beer from the licensed premises of the brewer to a regional depot of the brewer, being a depot that is approved by the Authority for the purposes of this section by order in writing and being beer that is made by the holder of that licence or by a body corporate that is related (within the meaning of the *Corporations Law*) to that holder.
    - (2A) In subsection (2):
      - (a) a reference to a licence for a brewer is a reference to an off-licence for a brewer under this Act or a corresponding licence of another jurisdiction (that is, a licence that corresponds to an off-licence for a brewer under a law in force in another State or in a Territory that corresponds to this Act), and
      - (b) a reference to licensed premises of the brewer includes (in the case of a corresponding licence of another jurisdiction) licensed premises under that corresponding licence.
  - (3) If the Authority is of the opinion that any amount paid or payable as freight or other delivery charges exceeds the value of the freight or other delivery, the Authority may determine the value of the freight or delivery (having regard to the circumstances in which the beer was delivered).
  - (4) An amount so determined by the Authority is to be regarded for the purposes of this section as the amount actually paid or payable as the freight or other delivery charges concerned.
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- (5) A person who is a party to any arrangement for the payment of an amount for freight or other delivery charges which exceeds the true cost of the freight or other delivery, with the intention of causing or assisting in the avoidance or evasion of the payment of licence fee, is guilty of an offence.

Maximum penalty: 100 penalty units.

**[8] Schedule 4, Part B, section 97**

Omit section 97 (2) (a). Insert instead:

- (a) the breath analysing instrument concerned did not comply with the relevant Australian Standard (as in force at the date of the manufacture of the instrument), or

**[9] Schedule 4, Part B, section 101**

Omit “5 penalty units” from section 101.  
Insert instead “50 penalty units”.

**[10] Schedule 4, Part B, section 183**

Insert at the end of section 103 (1) (d):

, or

- (e) who uses, or has in his or her possession, while on the premises any substance that the licensee or employee suspects of being a prohibited plant or a prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*.

**[11] Schedule 4, Part B, section 183**

Omit “10 penalty units” from section 103 (3).  
Insert instead “50 penalty units”.

**[12] Schedule 4, Part B, section 103**

Insert after section 103 (3):

- (3A) For the purposes of subsection (1) or (2), such reasonable degree of force as may be necessary may be used to turn a person out of licensed premises.

**[13] Schedule 4, Part B, section 104**

Insert after section 104 (2) (c):

- (cl) a person authorised by the Minister for Urban Affairs and Planning, or

**[14] Schedule 4, Part B, section 110**

Insert after section 110 (4):

- (4A) In the exercise of a power conferred under this section, the Director may:
- (a) if the Director considers it necessary to do so for the purposes of obtaining evidence of the commission of an offence, seize any registers, books, records or other documents relating to the business conducted on the licensed premises, and
  - (b) require any person to answer any question relating to any such registers, books, records or other documents or any other relevant matter.

**[15] Schedule 4, Part B, section 110A**

Insert after section 110:

**110A Dealing with seized documents**

- (1) If the Director seizes any document under section 110 on licensed premises, the Director must issue the person apparently in charge of the premises with a written receipt for the document.

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- (2) The Director may retain any document seized under section 110 until the completion of any proceedings (including proceedings on appeal) in which it may be evidence.
- (3) A document may only be retained under subsection (2) if the person from whom the document was seized is provided, within a reasonable time after the seizure, with a copy of the document certified by the Director as a true copy.
- (4) The copy is, as evidence, of equal validity to the document of which it is certified to be a copy.

**[16] Schedule 4, Part B, section 114**

Omit “20 penalty units” wherever occurring in section 114 (1), (2) and (3).

Insert instead “50 penalty units or, if circumstances of aggravation exist in relation to the offence, 100 penalty units or 12 months imprisonment (or both)”.

**[17] Schedule 4, Part B, section 164**

Insert after section 114 (3):

- (3A) For the purposes of this section, circumstances of aggravation exist in relation to an offence under this section if (and only if) both of the following apply:
  - (a) the information by which the proceedings for the offence are instituted alleges that the offence is (for the reasons specified in the information) so serious as to warrant the imposition of a penalty in excess of 50 penalty units,
  - (b) the court that convicts the person for the offence is of the opinion (having regard to the quantity or nature of the liquor involved or the young age of the person involved, or other relevant considerations) that the offence is so serious as to warrant the imposition of a penalty in excess of 50 penalty units.



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**[18] Schedule 4, Part B, section 114**

Omit section 114 (4) and (5). Insert instead:

- (4) A licensee must cause a notice to be displayed on the licensed premises in accordance with subsection (5).

Maximum penalty: 20 penalty units.

- (5) The notice referred to in subsection (4) must comply with the following:

- (a) it must be in the following form:

**LIQUOR ACT 1982**

It is an offence to SELL or SUPPLY to or to OBTAIN liquor on behalf of a person under the age of 18 years.

- (b) if liquor is sold at a bar or counter, the notice must be prominently displayed at the bar or counter, in such a manner and in such a position that a person standing at the bar or counter would reasonably be expected to be alerted to its contents,

- (c) if liquor is not sold at a bar or counter but is otherwise sold, the notice must be prominently displayed at or near every entrance by which members of the public may enter the premises concerned, in such a manner and in such a position that a person coming in by the entrance would reasonably be expected to be alerted to its contents.

- (5A) Despite subsection (5) (a), a notice that complied with subsection (4), as in force immediately before 1 October 1996, may continue to be used until the expiration of 3 years from that date or until the date the notice is replaced, whichever happens first.

**[19] Schedule 4, Part B, section 115**

Omit "10 penalty units" from section 115 (4).  
Insert instead "20 penalty units".

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**[20] Schedule 4, Part B, section 116**

Omit "10 penalty units" from section 116 (1).  
Insert instead "50 penalty units".

**[21] Schedule 4, Part B, section 416B**

Omit "20 penalty units" wherever occurring.  
Insert instead "50 penalty units".

**[22] Schedule 4, Part B, section 116D**

Omit "10 penalty units". Insert instead "20 penalty units".

**[23] Schedule 4, Part B, section 117B**

Omit "10 penalty units". Insert instead "20 penalty units".

**[24] Schedule 4, Part B, section 125**

Omit "20 penalty units" from section 125 (1).  
Insert instead "20 penalty units in the case of an offence under paragraph (a) or 50 penalty units in the case of an offence under paragraph (b)".

**[25] Schedule 4, Part B, section 125**

Omit "28 penalty units" from section 125 (3).  
Insert instead "50 penalty units".

**[26] Schedule 4, Part B, section 125**

Omit "all reasonable steps" from section 125 (4).  
Insert instead "the steps set out in subsection (5) or all other reasonable steps".

**[27] Schedule 4, Part B, section 125**

Insert after section 125 (4):

- (5) For the purposes of subsection (4), the following are the relevant steps:
  - (a) asked the intoxicated person to leave the premises,
  - (b) contacted, or attempted to contact, a police officer for assistance in removing the person from the premises,
  - (c) refused to serve the person any alcohol after becoming aware that the person was intoxicated.
- (6) An amendment made to another provision of this section by the *Casino Control Amendment (Liquor Act Application) Regulation 1996* does not apply to proceedings for an offence alleged to have been committed before the commencement of the amendment.

**[28] Schedule 4, Part B, section 125E**

Omit “10 penalty units” wherever occurring in section 125E.  
Insert instead “50 penalty units”.

**[29] Schedule 4, Part B, section 125E**

Insert after section 125E (1):

- (IA) A licensee must not permit the possession or use on the licensed premises of any substance that the licensee suspects of being a prohibited plant or a prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*.

Maximum penalty: 50 penalty units.

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**[30] Schedule 4, Part B, section 125E**

Insert after section 125E (2):

- (2A) A servant of a licensee or a person, other than the licensee, in charge of licensed premises must not permit the possession or use on the licensed premises of any substance that the servant or person suspects of being a prohibited plant or a prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*.

Maximum penalty: 50 penalty units.

**[31] Schedule 4, Part B, section 139**

Omit the section. Insert instead:

**139 False or misleading statements**

- (1) A person must not, in an official document under this Act, make a statement that the person knows:
- (a) is false or misleading in a material respect, or
  - (b) omits material matter.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

- (2) A document is an official document under this Act if it is an application, declaration, affidavit, instrument or other document that is delivered to or lodged with the Authority, the Director or the court, for the purposes of this Act.
- (3) This section continues to apply to an affidavit or statutory declaration made before the substitution of this section by the *Casino Control Amendment (Liquor Act Application) Regulation 1996* as if this section had not been substituted.

**[32] Schedule 4, Part B, section 140**

Omit section 140 (3). Insert instead:

- (3) An allegation referred to in subsection (2) may be denied:
  - (a) at any adjournment prior to the commencement of the hearing of the information—by informing the court, the informant or a person appearing for the informant in writing of the denial, or
  - (b) at any time not later than 14 days before the hearing of the information—by informing the informant or a person appearing for the informant in writing of the denial.

**[33] Schedule 4, Part B, section 145**

Insert after section 145 (2):

- (3) Despite anything to the contrary in this section or in any other Act, proceedings for an offence referred to in the Table to this section may be instituted by information laid within the period of 3 years after the act or omission giving rise to the offence.
- (4) Subsection (3) extends to apply in respect of an act or omission giving rise to proceedings for an offence referred to in the Table to this section that occurred within 12 months before that subsection commenced.

**[34] Schedule 4, Part B, section 145**

Insert at the end of section 145:

**Table (Offences to which 3 year time limit applies)**

An offence against section 69B, 69E, 78A, 86, 86A, 101, 121, 122, 123 or 139 of this Act.

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**[35] Schedule 4, Part B, section 152**

Insert after section 152 (3):

- (3A) If a licence is cancelled under this Act, there is forfeited to the use of the Crown all liquor found, not earlier than 7 days after the cancellation takes effect, in the former licensee's possession on the former licensed premises, together with the vessels in which the liquor is contained.

**[36] Schedule 4, Part B, section 152**

Insert after section 152 (4):

- (5) An inspector may seize and carry away any liquor, together with the vessels in which the liquor is contained, that the inspector reasonably suspects may be liable to forfeiture under this section.