



Liquor Amendment (Social Impact Assessments and Licence Fees) Regulation 2004

under the

Liquor Act 1982

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Liquor Act 1982*.

GRANT McBRIDE, M.P.,
Minister for Gaming and Racing

Explanatory note

The objects of this Regulation are as follows:

- (a) to specify requirements in relation to the social impact assessments that must be provided in connection with applications for the grant or removal of hoteliers' licences and off-licences (retail),
- (b) to specify the fees that are payable in respect of hoteliers' licences and off-licences (retail).

This Regulation is made under the *Liquor Act 1982*, as amended by the *National Competition Policy Liquor Amendments (Commonwealth Financial Penalties) Act 2004*, including sections 56 and 56C and Division 6A of Part 3.

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Clause 1 Liquor Amendment (Social Impact Assessments and Licence Fees)
Regulation 2004

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Licence Fees) Regulation 2004**

under the

Liquor Act 1982

1 Name of Regulation

This Regulation is the *Liquor Amendment (Social Impact Assessments and Licence Fees) Regulation 2004*.

2 Commencement

This Regulation commences on 1 August 2004.

3 Amendment of Liquor Regulation 1996

The *Liquor Regulation 1996* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] Part 2, Division 3

Insert after Division 2:

Division 3 Social impact assessment of licence applications

18A Definitions

In this Division:

relevant application means an application to which Division 6A of Part 3 of the Act applies.

relevant facility means any of the following:

- (a) a school,
- (b) a hospital,
- (c) a place of worship,
- (d) public housing accommodation,
- (e) any facility (including housing) that is used primarily by Aboriginal people,
- (f) any place or area in which young people are likely to congregate (such as a game arcade),
- (g) a women's refuge,
- (h) a counselling centre (particularly if associated with counselling alcohol-related problems),
- (i) a hostel (or similar accommodation facility) for any of the following:
 - (i) homeless people,
 - (ii) people with psychiatric illnesses or intellectual disabilities,
 - (iii) people with alcohol-related problems,
- (j) a detoxification centre,
- (k) an authorised place of detention within the meaning of the *Intoxicated Persons Act 1979* or Part 16 of the *Law Enforcement (Powers and Responsibilities) Act 2002*,

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- (l) any alcohol-free zone within the meaning of the *Local Government Act 1993*,
 - (m) any area that has been identified by the police as being a problem area in relation to public drinking.

relevant premises means the premises to which a relevant application relates.

18B Categories of SIA

- (1) A social impact assessment (**SIA**) required to be provided in connection with a relevant application is to be a “**category A**” **SIA** or a “**category B**” **SIA** (as determined in accordance with this clause).
- (2) A “category A” SIA is required to be provided if:
 - (a) the relevant application is for:
 - (i) the removal of an off-licence to sell liquor by retail to premises that, in the case of a metropolitan area, are or will be situated within 500 metres of the previous premises, or
 - (ii) the removal of a hotelier’s licence to premises that, in the case of a metropolitan area, are or will be situated within 1 kilometre of the previous premises, or
 - (iii) the removal of a hotelier’s licence, or an off-licence to sell liquor by retail, to premises that are or will be situated, in the case of a country area, within 5 kilometres of the previous premises, and
 - (b) the trading hours of the relevant premises are to be the same as, or more restricted than, the trading hours of the previous premises, and
 - (c) the conditions of the licence concerned are not being varied (unless the variation relates to a condition that, in the opinion of the Board, relates to a matter that is specific to the location of the previous premises), and
 - (d) the total area of the licensed premises to which the licence is to be removed does not exceed the area of the previous premises by more than 10%.
- (3) A “category B” SIA is required to be provided in connection with any other relevant application.

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- (4) For the purposes of subclause (2) (a), the distance between the the premises to which the licence is to be removed and the previous premises is to be measured in a straight line on a horizontal plane from the closest boundaries of the premises concerned.
 - (5) In deciding, for the purposes of subclause (2) (c), whether or not a condition of a licence is a condition that is specific to the location of the previous premises, the Board is, without limiting the operation of section 62F (4) of the Act, subject to the guidelines furnished by the Minister under section 62F (3) of the Act.
 - (6) If the area of the previous premises has been redefined under section 90 of the Act at any time during the 5-year period immediately preceding the relevant application, the area of the previous premises is, for the purposes of subclause (2) (d), taken to be the largest area of the premises during that period.

- (7) In this clause:

country area means an area of the State that is outside of a metropolitan area.

metropolitan area means any of the following areas as determined by the Australian Bureau of Statistics:

- (a) the Sydney Statistical Division,
- (b) the Statistical Local Areas of Newcastle (Statistical Local Areas 5901 and 5902),
- (c) the Statistical Local Area of Lake Macquarie (Statistical Local Area 4650),
- (d) the Statistical Local Area of Wollongong (Statistical Local Area 8450).

previous premises, in relation to a relevant application, means:

- (a) the licensed premises from which the licence concerned is to be removed, or
- (b) in the case where the court or the Board has imposed a condition that the licence concerned is to be held in a dormant capacity—the premises on which liquor was last sold under the licence.

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18C SIA fees

For the purposes of section 62C (3) of the Act, the prescribed fee is:

- (a) \$550 for a “category A” SIA, or
- (b) \$6,600 for a “category B” SIA.

18D “Category A” SIA requirements

A “category A” SIA must include a list of any relevant facility that may reasonably be considered to be in the immediate vicinity of the relevant premises.

18E “Category B” SIA requirements

- (1) The following information must be included in a “category B” SIA:
 - (a) a map of the local government area in which the relevant premises are or will be situated (*the area*), indicating the location or proposed location of the premises,
 - (b) a description of the local community that is likely to be affected by the granting of the relevant application (including the area or group from which the persons utilising the services and facilities of the relevant premises are likely to be drawn),
 - (c) the nature of the business to be conducted on the relevant premises and the proposed trading hours,
 - (d) the number of licensed premises in the area and the trading hours for those premises,
 - (e) the number of young persons living in the area per licensed premises in the area,
 - (f) the number of adults living in the area per licensed premises in the area,
 - (g) a demographic profile of the area that includes the following details:
 - (i) the number of persons living in the area who are of or above the age of 15 years and who do not hold a tertiary or trade qualification,
 - (ii) the number of Aboriginal and Torres Strait Islander persons living in the area,

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- (iii) the number of persons living in the area who are from a non-English speaking background,
 - (iv) the number of households with 2 or more families,
 - (v) the number of households in rented accommodation,
 - (vi) the number of single parent households with dependent children,
 - (vii) the unemployment figures for the area,
 - (viii) the number of persons living in the area who work as labourers or in related occupations,
 - (ix) the population density for the area,
 - (x) where available, the tourism visitation data for the area,
 - (h) a list of any relevant facility that may reasonably be considered to be in the immediate vicinity of the relevant premises,
 - (i) in the case where the relevant application relates to a hotel—details of the public transport facilities (including taxi services) that would be available to patrons or of any transport facilities proposed to be provided by the applicant for patrons,
 - (j) the responsible service of alcohol measures adopted or to be adopted in relation to the relevant premises,
 - (k) whether the licensee has entered into (or is proposing to enter into) a local liquor accord and, if the licensee has entered into any such accord, details of the measures undertaken by the licensee in relation to the accord,
 - (l) where available, the following social health indicators for the area:
 - (i) the incidence of alcohol-related crime in the area (as reported by the Bureau of Crime Statistics and Research or by NSW Police),
 - (ii) the rates and general trend in alcohol-related hospital admissions,
 - (iii) the number of emergency accommodation services operating in the area, the number of drug and alcohol counselling services operating in the
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area and the number of domestic violence services and refuges operating in the area, and the capacity of these services to meet demand,

- (m) where available, the Statewide statistics for the social health indicators specified in paragraph (l),
 - (n) in the case of a local government area where there is a recognised Aboriginal or Torres Strait Islander community or a recognised community of persons from a non-English speaking background—the views of the leaders of any such community as to the need for any additional licensed premises in the area.
- (2) In the case where the relevant premises are or will be situated near the boundary of another local government area, the SIA:
- (a) may also include the information specified in subclause (1) (d), (e), (f), (g), (l) and (n) in relation to that other local government area, and
 - (b) must include that additional information in such cases as may be directed by the Board.
- (3) In the case where the relevant premises are or will be situated in a locality that comprises a recognisable or discrete local community, the SIA may, in addition to the information required in relation to the local government area or areas concerned, also include the information specified in subclause (1) (d), (e), (f), (g), (l) and (n) in relation to that locality.
- (4) The following matters must be assessed or addressed in a “category B” SIA:
- (a) the extent of the impact that the granting of the relevant application would or might have on noise, parking and traffic levels and on the amenity of the local community (including the potential for increased littering, vandalism and public drunkenness),
 - (b) whether the relevant application, if granted, would or might result in a significant change to the character or identity of the local community,
 - (c) the potential for increased social and community amenity, including regeneration of the locality and buildings, employment opportunities, expansion of

entertainment (apart from drinking and gambling) and details of any sponsorships of, or contributions to, local community and sporting groups or projects.

- (5) The applicant may also provide details of any active mitigation measures that will be used to minimise any recognised or potential negative impacts in relation to the granting of the relevant application.

- (6) In this clause:

adult means a person who is of or above the age of 18 years.

licensed premises means a hotel or the premises to which an off-licence to sell liquor relates.

young person means a person who is aged 15 years or above but who is under the age of 18 years.

18F Consultation requirements in relation to “category B” SIA

- (1) If a “category B” SIA is provided to the Board in connection with a relevant application, a copy of the SIA must be provided by the applicant to each of the following:
- (a) the local council for the local government area in which the relevant premises are or will be situated,
 - (b) if the relevant premises are or will be situated near the boundary of another local government area—the local council for that other local government area,
 - (c) NSW Police,
 - (d) the Roads and Traffic Authority,
 - (e) any body or organisation (such as a Chamber of Commerce) representing commercial or business interests in the locality in which the relevant premises are or will be situated,
 - (f) any organisation representing the interests of tourism in the locality,
 - (g) the Council of Social Service of New South Wales,
 - (h) the Department of Community Services,
 - (i) the area health service for the locality,
 - (j) Network of Drug and Alcohol Agencies Inc,
 - (k) the convenor of any local liquor accord for licensed premises in the locality,

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- (1) the occupier of any premises in the immediate vicinity of the relevant premises.
- (2) The copy of the SIA must be accompanied by a document, in the form approved by the Board, explaining the purpose of the SIA and the recipient's role in the consultation process.
- (3) Each person, body or organisation provided with a copy of the SIA under this clause is to be invited to make submissions to the Board on the social impact assessment within 30 days of receiving the copy of the assessment (or such longer period as the Board may approve).
- (4) The Board may also invite submissions on the SIA from such other persons or bodies as it thinks relevant.
- (5) In determining the SIA, the Board is to take into account any submissions made to it under this clause.

18G Advertising of SIA when relevant premises not erected or occupied

In the case where the relevant premises to which a relevant application relates are not yet erected or occupied by the applicant, section 62E (1) (a) of the Act is complied with if the SIA that is required to be provided in connection with the application is dealt with as follows:

- (a) by placing a copy of the SIA on exhibition on premises in the area in which the relevant premises are or will be situated,
- (b) by allowing any person to inspect, at no cost, the SIA at those premises between the hours of 9 am and 5 pm on Monday to Friday (or at such other times as the applicant thinks fit),
- (c) by attaching a notice to the outside of the relevant premises, or to the perimeter of any vacant site on which those premises will be erected, in such a way that the notice can be easily seen and read by a member of the public passing the premises or site, being a notice stating:
 - (i) that a SIA in connection with an application for a licence or licence removal in relation to those premises can be inspected by any member of the public at no cost, and

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- (ii) where and when the SIA can be inspected by the public.

18H Summary of “category B” SIA

A “category B” SIA that is provided to the Board in connection with a relevant application must include, as part of the SIA, a summary or overview of the information and other matters raised or addressed in the SIA.

[2] Part 6, Division 1

Insert after the heading to the Part:

Division 1 Licence fees

59 Fee for grant of hotelier’s licence or off-licence (retail)

For the purposes of section 56 (1) (a) and (b) of the Act, the prescribed fee for the granting of a hotelier’s licence or off-licence to sell liquor by retail is \$2,000.

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

- (1) For the purposes of section 56C (1) of the Act, the prescribed fee is \$2,500.
- (2) In accordance with section 56C (3) of the Act, the annual licence fee under that section is not payable in respect of a hotelier’s licence, or an off-licence to sell liquor by retail, that was in force immediately before the commencement of this clause.