



Liquor Amendment (Kings Cross) Regulation 2012

under the

Liquor Act 2007

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Liquor Act 2007*.

GEORGE SOURIS, MP
Minister for Tourism, Major Events, Hospitality and Racing

Explanatory note

The objects of this Regulation are as follows:

- (a) to prescribe additional licence conditions in respect of licensed premises in the Kings Cross precinct (being the area described in Schedule 2 to the *Liquor Act 2007*),
- (b) to provide that premises in the Kings Cross precinct are to be regarded as a small venue only if the premises are not authorised to trade beyond 2 am on any day of the week (small venues have a patron capacity of no more than 60 and are exempt from some of the additional licence conditions and from the liquor licence and development consent freeze that applies to premises in the Kings Cross precinct),
- (c) to require persons who carry out supervisory duties in relation to the responsible service of alcohol on licensed premises in the Kings Cross precinct to hold a RSA competency card.

This Regulation is made under the *Liquor Act 2007*, including sections 47AA and 116A (as inserted by the *Liquor Amendment (Kings Cross Plan of Management) Act 2012*) and section 99 (2) (c).

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Clause 1 Liquor Amendment (Kings Cross) Regulation 2012

Liquor Amendment (Kings Cross) Regulation 2012

under the

Liquor Act 2007

1 Name of Regulation

This Regulation is the *Liquor Amendment (Kings Cross) Regulation 2012*.

2 Commencement

This Regulation commences on 7 December 2012 and is required to be published on the NSW legislation website.

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[1] Clause 17A

Insert after clause 17:

17A Additional criteria relating to small venues in Kings Cross precinct

For the purposes of section 47AA of the Act, premises situated in the Kings Cross precinct comprise a small venue only if the premises are not authorised to trade beyond 2 am on any day of the week.

[2] Clause 39C Expiry of recognised RSA certifications

Insert after clause 39C (5) (c) (as inserted by Schedule 2 [1] to the *Liquor Amendment (Kings Cross Plan of Management) Act 2012*):

- (d) a person who is employed as an RSA marshal (within the meaning of clause 53G) on licensed premises situated in the Kings Cross precinct.

[3] Clause 42A

Insert after clause 42:

42A Obligations in relation to persons carrying on RSA supervisory duties on licensed premises in Kings Cross precinct

- (1) A person (including the licensee of licensed premises) must not employ a person as an RSA marshal on licensed premises situated in the Kings Cross precinct unless the person holds a current recognised competency card.
Maximum penalty: 50 penalty units.
- (2) A person must not, in the course of the person's employment as an RSA marshal, carry out RSA supervisory duties on licensed premises situated in the Kings Cross precinct unless the person holds a current recognised competency card.
Maximum penalty: 20 penalty units.
- (3) In this clause, *RSA marshal* and *RSA supervisory duties* have the same meanings as in clause 53G.
- (4) This clause takes effect on and from 17 December 2012.

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[4] Part 5A

Insert after Part 5:

Part 5A Special licence conditions for premises in Kings Cross precinct

53A Special licence conditions

- (1) This Part prescribes, for the purposes of section 116A of the Act, conditions to which a licence relating to premises situated in the Kings Cross precinct is subject. Any such premises are referred to in this Part as *subject premises*.
- (2) This Part applies to subject premises only if liquor is authorised to be sold for consumption on the premises. However, clauses 53L and 53N apply in relation to all subject premises.

53B Definitions

In this Part:

general late trading period, in relation to subject premises, means:

- (a) the period between midnight on any day of the week 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 day of the week—the period between midnight and 7 am.

small venue has the same meaning as in section 47AA of the Act.

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

- (a) the period between midnight on any Friday or Saturday night 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 or Saturday night—the period between midnight on any Friday or Saturday night and 7 am.

53C Service of alcohol to cease one hour before late closing time on weekends

If subject premises are authorised to trade after 2 am on any Saturday or Sunday morning, the licensee must cease selling or supplying liquor on the premises one hour before the premises are required to cease trading on that day.

53D “Time-outs” for 24-hour premises

If subject premises are not required to cease trading after 2 am on any Saturday or Sunday morning, liquor must not be sold or supplied on the premises between 4 am and 5 am on any such day.

53E Glasses prohibited during general late trading period

- (1) This clause applies to subject premises if the licence for the premises is:
 - (a) a hotel licence (including a general bar licence), or
 - (b) a club licence, or
 - (c) an on-premises licence relating to a public entertainment venue (other than a cinema) or karaoke bar, or
 - (d) an on-premises licence relating to a restaurant in respect of which an authorisation under section 24 (3) of the Act is in force.
- (2) During the general late trading period, any drink (whether or not it contains liquor) sold or supplied for consumption on subject premises must not be served or supplied in a glass.
- (3) During the general late trading period, glasses must be removed from patrons on subject premises and from any area of the premises to which patrons have access.
- (4) In this clause:

glass means:

 - (a) a drinking vessel, or
 - (b) a container (such as a bottle or jug) from which drinks can be poured,that is made wholly or principally of glass.

53F Certain drinks and other types of liquor sales prohibited during weekend late trading period

- (1) This clause does not apply to subject premises that comprise a small venue.

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- (2) The following drinks must not be sold or supplied on subject premises during the weekend late trading period:
 - (a) any drink (commonly referred to as a “shot” or a “shooter”) that is designed to be consumed rapidly,
 - (b) any drink containing more than 50% spirits or liqueur,
 - (c) any ready to drink beverage with an alcohol by volume content of more than 5%,
 - (d) any drink prepared on the premises that contains more than one 30 ml nip of spirits or liqueur.
- (3) During the weekend late trading period, no more than:
 - (a) 4 alcoholic drinks (whether or not of the same kind), or
 - (b) the contents of one bottle of wine,may be sold or supplied on subject premises to the same person at any one time.
- (4) In this clause:
ready to drink beverage means an alcoholic mixed beverage that is prepared by the manufacturer.

53G Requirement for RSA marshals during weekend late trading period

- (1) This clause does not apply to subject premises that comprise a small venue.
- (2) In the case of class 1 subject premises, the licensee must ensure that at least 2 RSA marshals are carrying out RSA supervisory duties on the premises at all times during the weekend late trading period.
- (3) In the case of class 2 subject premises, the licensee must ensure that at least one RSA marshal is carrying out RSA supervisory duties on the premises at all times during the weekend late trading period.
- (4) The licensee of subject premises must ensure that any person who is carrying out RSA supervisory duties as required by this clause is, while carrying out those duties, wearing clothing that identifies the person as an RSA marshal.
- (5) In this clause:
class 1 subject premises means subject premises to which any of the following licences relate:
 - (a) a hotel licence (including a general bar licence),
 - (b) a club licence,

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- (c) an on-premises licence for a public entertainment venue (other than a cinema or a theatre).

class 2 subject premises means subject premises to which any of the following licences relate:

- (a) an on-premises licence for a theatre or karaoke bar,
(b) an on-premises licence for a restaurant in respect of which an authorisation under section 24 (3) of the Act is in force.

RSA marshal means a person who is employed for the purposes of carrying out RSA supervisory duties on subject premises.

RSA supervisory duties means the following:

- (a) monitoring responsible service of alcohol practices by staff members who are selling, supplying or serving liquor,
(b) engaging with those staff, and with patrons on the premises, for the purposes of encouraging responsible attitudes and practices in relation to the promotion, sale, supply, service and consumption of liquor,
(c) monitoring alcohol consumption by patrons and their behaviour for signs of irresponsible, rapid or excessive consumption of alcohol and for signs of intoxication,
(d) intervening at any early stage to assist in the prevention of intoxication and anti-social behaviour (such intervention may include suggesting that patrons moderate their alcohol consumption by consuming food or non-alcoholic beverages),
(e) assisting in the resolution of disputes arising on the premises between patrons.

53H CCTV systems to be maintained on subject premises

- (1) The licensee of subject premises to which this clause applies must maintain a closed-circuit television system on the premises in accordance with the following requirements:
- (a) the system must operate continuously from opening time until one hour after the premises are required to close (or, in the case of premises that are not required to cease trading, continuously at all times),
(b) recordings must be in digital format and at a minimum of 6 frames per second,
(c) any recorded image must specify the time and date of the recorded image,

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- (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points on the premises,
 - (ii) the footpath immediately adjacent to the premises,
 - (iii) all publicly accessible areas (other than toilets) on the premises.
- (2) The licensee of subject premises to which this clause applies must:
 - (a) keep all recordings made by the CCTV system for at least 30 days, and
 - (b) ensure that the system is accessible by at least one member of staff at all times it is in operation, and
 - (c) provide any recordings made by the system to a police officer or inspector within 24 hours of any request by a police officer or inspector to provide such recordings.
- (3) This clause applies to subject premises if the licence for the premises is:
 - (a) a hotel licence (including a general bar licence), or
 - (b) a club licence, or
 - (c) an on-premises licence relating to a public entertainment venue (other than a cinema) or karaoke bar, or
 - (d) an on-premises licence relating to a restaurant that is authorised to trade after midnight on any day of the week and in respect of which an authorisation under section 24 (3) of the Act is in force.
- (4) However, this clause does not, except to the extent provided by subclause (5), apply to subject premises that comprise a small venue.
- (5) Without affecting the operation of subclause (3), the Director-General may, by notice in writing served on the licensee of subject premises, declare the premises to be premises to which this clause applies, but only if the Director-General is satisfied that:
 - (a) there has been a history (whether before or after the commencement of this Part) of alcohol-related violence on the premises, or
 - (b) an incident has occurred on the premises after the commencement of this clause involving an act of violence that has caused a serious injury to a person.

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- (6) The licensee of any such declared subject premises must comply with the requirements of subclauses (1) and (2) as soon as practicable (or in any case no later than 4 weeks) after being notified of the declaration.
 - (7) This clause takes effect on and from 17 December 2012.

53I “Round the clock” incident register

- (1) The licensee of subject premises must maintain a register, in the form approved by the Director-General, in which the licensee is to record, in the manner approved by the Director-General, the details of any of the following incidents and any action taken in response to any such incident:
 - (a) any incident involving violence or anti-social behaviour occurring on the premises,
 - (b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,
 - (c) any incident that results in a person being turned out of the premises under section 77 of the Act,
 - (d) any incident that results in a patron of the premises requiring medical assistance.
- (2) The licensee of subject premises must, if requested to do so by a police officer or inspector:
 - (a) make any such incident register immediately available for inspection by a police officer or inspector, and
 - (b) allow a police officer or inspector to take copies of the register or to remove the register from the premises.
- (3) The licensee of subject premises must ensure that the information recorded in an incident register under this clause is retained for at least 3 years from when the record was made.
- (4) Section 56 of the Act does not apply in relation to the licence for any subject premises.

53J Other requirements relating to violent incidents

- (1) The licensee of subject premises must, immediately after the licensee or a staff member becomes aware of an incident on the

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premises involving an act of violence that has caused an injury to a person, ensure:

- (a) that all reasonable steps are taken to preserve and keep intact the area where the incident occurred and that any implement or other thing associated with the act of violence is retained in accordance with guidelines issued by the NSW Police Force relating to the preservation of crime scenes, and
- (b) that the Local Area Commander of the local police area in which the premises are situated is advised by a staff member of the incident, and
- (c) that any directions given by the Commander to the licensee or a staff member to preserve or keep intact the area where the incident occurred are complied with.

(2) In this clause:

staff member, in relation to subject premises, means any person employed by or acting on behalf of the licensee of the premises, and includes any person who is employed to carry on activities as a crowd controller or bouncer on or about the premises.

53K Exclusion of persons from subject premises

The licensee of subject premises must not permit any person to enter the premises, or to remain on the premises, if the person is wearing or carrying any clothing, jewellery or accessory displaying:

- (a) the name of any of the following motorcycle-related organisations:
 - (i) Bandidos,
 - (ii) Black Uhlans,
 - (iii) Coffin Cheaters,
 - (iv) Comancheros,
 - (v) Finks,
 - (vi) Fourth Reich,
 - (vii) Gladiators,
 - (viii) Gypsy Jokers,
 - (ix) Hells Angels,
 - (x) Highway 61,
 - (xi) Life and Death,
 - (xii) Lone Wolf,
 - (xiii) Mobshitters,

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- (xiv) Mongols,
 - (xv) Muslim Brotherhood Movement,
 - (xvi) Nomads,
 - (xvii) Notorious,
 - (xviii) Odins Warriors,
 - (xix) Outcasts,
 - (xx) Phoenix,
 - (xxi) Rebels,
 - (xxii) Scorpions, or
- (b) the colours, club patch, insignia or logo of any such organisation, or
 - (c) the “1%” or “1%er” symbol, or
 - (d) any image, symbol, abbreviation, acronym or other form of writing that indicates membership of, or an association with, any of the organisations specified in paragraph (a).

53L Removal of litter from outside of premises

The licensee of subject premises must ensure that the footpath directly adjacent to the premises is cleared of any litter:

- (a) in the case of premises that are authorised to trade after midnight—each hour between midnight and closing time or 5 am (whichever is the earlier), and
- (b) within 30 minutes of closing time (if any).

53M Promotion of late night transport options

The licensee of subject premises must:

- (a) promote on the premises late night transport options for patrons, and
- (b) ensure that members of staff who are employed to sell, supply or serve liquor or to carry out security activities are able to provide information on the late night transport options that are available for patrons.

53N Patron and customer responsibility

The licensee of subject premises must:

- (a) promote on the premises any campaign that is conducted by the NSW Police Force about patron or customer responsibility in relation to alcohol, and

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- (b) ensure that members of staff who are employed to sell, supply or serve liquor or to carry out security activities are aware of, and are able to advise patrons or customers on, the operation of section 77 of the Act (Non-voluntary exclusion of persons from licensed premises).

53O Alcohol sales data

- (1) The licensee of subject premises must, during such period as may be specified by the Director-General by notice in writing served on the licensee, record the amount of liquor sold or supplied for consumption on the premises during each hour:
 - (a) between 8 pm and the time that the premises are required to cease trading, or
 - (b) in the case of subject premises that are not required to cease trading—between 8 pm and 5 am on the next day.
- (2) Any such record must:
 - (a) be kept in the form and manner approved by the Director-General, and
 - (b) be provided to the Director-General in accordance with the arrangements specified in the notice to the licensee, and
 - (c) be made available for inspection on request at any time by an authorised officer.

53P Exemptions

- (1) The Director-General may, on application by the licensee of subject premises, exempt the licensee, by order in writing served on the licensee, from the any of the following provisions:
 - (a) clause 53E,
 - (b) clause 53F,
 - (c) clause 53H (but only in the case of a licensed restaurant).
- (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 Kings Cross precinct, and
 - (b) measures other than the specified condition to which the exemption relates are in place on the subject premises and that such measures will be effective in reducing the risk of

alcohol-related violence or anti-social behaviour in or about the subject premises.

- (3) Any such exemption may, if the relevant order so provides, apply in relation to or a specified part of the 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.

[5] Schedule 2 Penalty notice offences

Insert in appropriate order in the matter relating to offences under the *Liquor Regulation 2008*:

Clause 42A (1)	\$550
Clause 42A (2)	\$440