



New South Wales

Liquor Amendment (Powdered Alcohol and Other Matters) Regulation 2015

under the

Liquor Act 2007

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

TROY GRANT, MP
Minister for Racing

Explanatory note

The objects of this Regulation are as follows:

- (a) to prohibit the sale or supply of powdered alcohol as an undesirable liquor product,
- (b) to clarify the amount of the base fee element of the periodic licence fee for a packaged liquor licence in the case where a combination of matters apply in relation to the licence,
- (c) to provide that the fee to accompany an application for the reinstatement of a licence cancelled due to unpaid periodic licence fees is \$250,
- (d) to provide that applications for liquor licences and licence-related authorisations that relate to the same business or activity already being carried out on any premises within the Opera House site, Warwick Farm Racecourse or Canterbury Racecourse will, for a period of 3 months, be exempt from the requirement to be accompanied by a community impact statement,
- (e) to clarify that a producer/wholesaler licence authorises the licensee to sell or supply the licensee's product at a producer's market or fair where there are at least 10 stall holders displaying their products (and not just produce) to the public,
- (f) to provide that the Independent Liquor and Gaming Authority may suspend or revoke a person's RSA certification if the person has committed a serious indictable offence involving an act of violence on licensed premises or in the immediate vicinity of the premises on a patron of the premises or a person attempting to enter the premises,
- (g) to exempt premises situated within the Opera House site from the temporary freeze on the granting of liquor licences, licence-related authorisations and development consents in respect of premises in the Sydney CBD Entertainment precinct for a period of 3 months.

This Regulation is made under the *Liquor Act 2007*, including paragraph (c) of the definition of **liquor** in section 4 (1), sections 33 (5), 47AB, 99, 100 (1) and 159 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Liquor Amendment (Powdered Alcohol and Other Matters) Regulation 2015*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Liquor Regulation 2008

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

Opera House site means the Opera House within the meaning of the *Sydney Opera House Trust Act 1961*.

[2] Clause 5D Base fee element

Omit "\$2,000" from clause 5D (1) (f) (iv).

Insert instead "the highest of the amounts so referred to".

[3] Clause 5K Application for reinstatement fees

Insert "of \$250" after "fee" in clause 5K (1).

[4] Clause 5K (2)

Omit the subclause.

[5] Clause 11A

Insert after clause 11:

11A CIS exemptions for applications relating to certain premises

- (1) A community impact statement is not required to accompany an application for a licence or licence-related authorisation that relates to the same business or activity carried out immediately before the commencement of this clause on any premises situated within:
 - (a) the Opera House site, or
 - (b) Warwick Farm Racecourse, or
 - (c) Canterbury Racecourse.
- (2) Subclause (1) only applies in relation to an application for a licence or licence-related authorisation that is made within the period of 3 months immediately following the commencement of this clause.

[6] Clause 24 Requirements relating to producers' markets or fairs

Insert "or other products" after "produce" in clause 24 (a).

[7] Clause 39AA

Omit the clause. Insert instead:

39AA Suspension or revocation of recognised RSA certification

- (1) The Authority may, on application by the Secretary or the Commissioner of Police, make any of the following orders:
 - (a) an order suspending, for the period specified by the Authority, any recognised RSA certification held by a person,
 - (b) an order revoking any recognised RSA certification held by a person,
 - (c) an order declaring that a person is disqualified from holding any recognised RSA certification for such period (not exceeding 12 months) as is specified in the order.

- (2) The Authority may only make an order under this clause in respect of a person if the Authority is satisfied that the person has:
 - (a) contravened any of the person's obligations under the Act or this Regulation that, in the opinion of the Authority, relate to the responsible service of alcohol (including, without limitation, permitting intoxication on licensed premises), or
 - (b) been charged with, or found guilty of, a serious indictable offence involving violence that was committed on licensed premises or in the immediate vicinity of licensed premises on a patron of the premises or a person attempting to enter the premises, or
 - (c) while a member of staff of licensed premises situated in the Kings Cross precinct or the Sydney CBD Entertainment precinct, contravened any of the person's obligations under the Act or this Regulation that relate to the use of a patron ID scanner (including obligations relating to the protection of any personal information recorded by a patron ID scanner).
- (3) An order made on the ground that a person has been charged with, or found guilty of, a serious indictable offence is revoked if the charge is withdrawn or dismissed or the finding is overturned on appeal.
- (4) The Authority may not make an order under this clause in respect of a person unless the person 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) An order under this clause 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.
- (6) If the Authority makes an order under this clause in respect of a person, the person may apply to the Civil and Administrative Tribunal for an administrative review under the *Administrative Decisions Review Act 1997* of the Authority's decision.
- (7) Section 53 of the *Administrative Decisions Review Act 1997* does not apply in relation to the Authority's decision to make an order under this clause.
- (8) A person must not work in any capacity as an employee on any licensed premises in New South Wales during any period in which:
 - (a) the person's recognised RSA certification is suspended by the Authority under this clause, or
 - (b) the person is disqualified under this clause from holding any recognised RSA certification.Maximum penalty: 50 penalty units.
- (9) If a person's recognised RSA certification is suspended or revoked under this clause, the person to whom it was issued must surrender it to the Secretary if required to do so by the Authority.
Maximum penalty: 20 penalty units.
- (10) A person (*the employer*) does not commit an offence under clause 40 (2) or (2A), 40A (2), 42 (1) or (1A) or 42A (1) in relation to a person whose

recognised RSA certification has been suspended or revoked by the Authority under this clause if:

- (a) the person presents the employer with recognised RSA certification that appears to be current, and
- (b) the employer is satisfied on reasonable grounds that the certification is current.

[8] Clause 39CA Suspension or revocation of recognised RSA certification for contravention of RSA obligations

Omit the clause.

[9] Clause 52 Undesirable liquor products

Insert after clause 52 (1) (d):

- (e) any alcoholic powder that is sold or supplied for consumption (whether in that form or if added to any liquid).

[10] Clause 66 Additional substances prescribed as liquor

Insert after clause 66 (1) (b):

- (c) any powder that would, when added to any liquid, constitute a beverage as referred to in paragraph (a) of that definition.

[11] Clause 79 Temporary freeze on licences

Insert after clause 79 (2), before the note:

- (3) Division 1A of Part 4 of the Act does not apply to or in respect of any premises situated within the Opera House site in relation to which an application for a licence, licence-related authorisation or development consent is made within the period of 3 months immediately following the commencement of this subclause.

[12] Schedule 2 Penalty notice offences

Omit the matters relating to clause 39CA from Columns 1 and 2.