



New South Wales

Casino Control Amendment (Miscellaneous) Regulation 2016

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*.

TROY GRANT, MP
Minister for Racing

Explanatory note

The objects of this Regulation are as follows:

- (a) to align various provisions in the *Casino Control Regulation 2009* with those in the *Liquor Regulation 2008*, including provisions relating to the responsible service of alcohol, and to make other miscellaneous amendments to achieve consistency with the *Liquor Regulation 2008*,
- (b) to transfer certain functions of the Independent Liquor and Gaming Authority relating to discount liquor promotions and advertisements to the Secretary of the Department of Justice,
- (c) to apply further provisions of the *Liquor Act 2007* to licensed premises to which the *Casino Control Regulation 2009* applies, including provisions relating to licence conditions, closure of licensed premises and the investigation of, and grounds for making, complaints,
- (d) to modify certain applied provisions of the *Liquor Act 2007*, including:
 - (i) in relation to intoxication on licensed premises, undesirable liquor products, supplying liquor to minors, local liquor accords and delegation powers, and
 - (ii) by expanding the definition of **liquor** and by transferring certain other functions of the Authority under the *Liquor Act 2007* to the Secretary.

This Regulation is made under the *Casino Control Act 1992*, including sections 89 (2) and 170 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Casino Control Amendment (Miscellaneous) Regulation 2016*.

2 Commencement

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

Schedule 1 Amendment of Casino Control Regulation 2009

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

Secretary means the Secretary of the Department of Justice.

[2] Clauses 21 (5), 22 (1) (c), 23 (4), 24 (3), 25 (9) and 26 (2)

Omit “the NSW Office of Liquor, Gaming and Racing” wherever occurring.

Insert instead “Liquor and Gaming NSW, Department of Justice”.

[3] Clause 40

Omit the clause. Insert instead:

40 Obligations of licensee as to responsible service of alcohol

- (1) The licensee of licensed premises must not:
 - (a) sell, supply or serve liquor by retail on the premises, or
 - (b) cause or permit liquor to be sold, supplied or served by retail on the premises,unless the licensee holds a current recognised RSA certification.
Maximum penalty: 50 penalty units.
- (2) The licensee of licensed premises must not cause or permit a staff member to sell, supply or serve liquor by retail on the premises unless the staff member:
 - (a) holds a current recognised competency card or existing RSA certificate, or
 - (b) was granted an interim RSA certificate within the previous 5 years.Maximum penalty:
 - (a) if the staff member’s recognised RSA certification has expired—25 penalty units, or
 - (b) in any other case—50 penalty units.
- (3) Subclause (1) does not apply to a licensee that is a corporation.

[4] Clause 44B

Insert after clause 44A:

44B 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 or under the *Liquor Act 2007* or the *Liquor Regulation 2008*

- 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 *Liquor Act 2007* or the *Liquor Regulation 2008* 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 or 42 (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.

- [5] **Clause 46 Drinking water to be available free of charge on licensed premises**
Omit “47–50” from clause 46 (2). Insert instead “48–50”.
- [6] **Clause 47 Low alcohol beer and non-alcoholic beverages to be available on licensed premises**
Omit the clause.
- [7] **Clause 48 Discount liquor promotions or advertisements**
Omit “Authority” wherever occurring in clause 48 (2) and (3). Insert instead “Secretary”.
- [8] **Clause 55A**
Insert after clause 55:
- 55A Delegation by Secretary**
The Secretary may delegate to any Public Service employee any of the Secretary’s functions under this Regulation (other than this power of delegation).
- [9] **Schedule 5 Application of Liquor Act 2007 to casino**
Omit “52, 53” from Part 1. Insert “52–54”.
- [10] **Schedule 5, Part 1**
Omit “79–81, 91, 92, 95, 97, 99–102, 111–113, 117–119, 123–136”.
Insert instead “79–82, 84, 91, 92, 95, 97, 99–102A, 111–113, 117–119, 123–136, 138, 139”.
- [11] **Schedule 5, Part 2**
Omit “82–85”. Insert instead “83, 85”.
- [12] **Schedule 5, Part 2**
Omit “and 137–143”. Insert instead “, 137 and 140–143”.
- [13] **Schedule 6 Applied provisions of Liquor Act 2007 as modified**
Insert after paragraph (c) of the definition of *evidence of age document* in section 4 (1):
(c1) a proof of age card issued by Australia Post (known as a “Keypass identity card”) for the purpose of attesting to a person’s identity and age,
- [14] **Schedule 6, section 4 (1)**
Insert after paragraph (c) of the definition of *liquor* in section 4 (1):
(c1) any powder that would, when added to any liquid, form a beverage as referred to in paragraph (a),
- [15] **Schedule 6, section 4 (1)**
Insert in alphabetical order:
Secretary means the Secretary of the Department of Justice.
- [16] **Schedule 6, section 5 (3)**
Omit “The Director-General of the Department of Trade and Investment, Regional Infrastructure and Services”.

Insert instead “The Secretary”.

[17] Schedule 6, section 5 (3) and (4)

Omit “the Director-General” wherever occurring. Insert instead “the Secretary”.

[18] Schedule 6, section 6 (2)

Omit “of the Act, the following requirements are prescribed:”.

Insert instead “the requirements are as follows:”.

[19] Schedule 6, sections 6 (2) (d) and 11 (1) (a)

Insert “or the Secretary” after “Authority” wherever occurring.

[20] Schedule 6, section 42 (1) and (1A)

Omit section 42 (1). Insert instead:

- (1) If the Authority receives an application for a licence, the Authority:
 - (a) may carry out such investigations and inquiries in relation to the application as the Authority considers necessary for a proper consideration of the application, and
 - (b) may refer the application to the Secretary (unless the regulations made under the *Casino Control Act 1992* otherwise provide).
- (1A) If the Authority refers an application to the Secretary under subsection (1), the Secretary is to inquire into, and to report to the Authority on, such matters in relation to the application as the Authority may request.

[21] Schedule 6, section 42 (4)

Insert “also” after “may”.

[22] Schedule 6, section 54

Insert after section 53:

54 Secretary may impose, vary or revoke licence conditions

- (1) Without limiting the power of the Secretary to impose conditions on a licence under any other provision of this Act, the Secretary may impose conditions on a licence for such reasons, or in such circumstances, as the Secretary considers necessary or appropriate.
- (1AA) [not applied]
- (1A) The conditions that may be imposed by the Secretary on a licence include, but are not limited to, conditions:
 - (a) prohibiting the sale or supply of liquor on the licensed premises before 10 am or after 11 pm (or both), and
 - (b) restricting the trading hours of, and public access to, the licensed premises.
- (2) The Secretary may, on application by the licensee or the Commissioner of Police or on the Secretary’s own initiative:
 - (a) vary or revoke a licence condition that has been imposed by the Secretary under this section or any other provision of this Act, or
 - (b) vary or revoke a licence condition:
 - (i) relating to the trading hours of any licensed premises, or

- (ii) relating to licensed premises situated wholly or partly in the precinct to which a precinct liquor accord applies or in an area to which a community event liquor accord applies,
 - (iii) [not applied]
- that has been imposed by the Authority.
- (2A) An application by a licensee under subsection (2) must:
 - (a) be made in the form and manner approved by the Secretary, and
 - (b) be accompanied by the fee prescribed by the regulations under the *Casino Control Act 1992*, and
 - (c) be accompanied by such information and particulars as may be prescribed by the regulations under that Act, and
 - (d) if required by the regulations to be advertised—be advertised in accordance with the regulations under that Act, and
 - (e) comply with such other requirements as may be imposed by the Secretary or prescribed by the regulations under that Act.
- (2B) The regulations under the *Casino Control Act 1992* may provide for the waiver, remittance or postponed payment of the whole or any part of a fee payable under subsection (2A) (b).
- (3) The Secretary must not impose a condition on a licence under this section, or vary or revoke a condition otherwise than on the application of the licensee, unless the Secretary has:
 - (a) given the licensee a reasonable opportunity to make submissions in relation to the proposed decision, and
 - (b) taken any such submissions into consideration before making the decision.
- (4) [not applied]
- (5) Except in the case of a condition imposed under subsection (1A) or in the case of the variation or revocation of a condition referred to in subsection (2) (b), this section does not authorise the Secretary:
 - (a) to impose a condition that is inconsistent with a condition that has been imposed by the Authority or is imposed by this Act or the regulations under the *Casino Control Act 1992*, or
 - (b) to vary or revoke a condition of a licence that has been imposed by the Authority or is imposed by this Act or the regulations under the *Casino Control Act 1992*.

[23] Schedule 6, sections 56 (1), 75 (1) and (5), 79 (1) and (3) (d), 80 (1), (3), (5) and (6), 81 (1) and (3), 87 (1), 89, 90, 99 (2) (d), 101 (1)–(4), 102 (1), (2) and (4), 138 and 141 (2) (l) (i)

Omit “Authority” wherever occurring. Insert instead “Secretary”.

[24] Schedule 6, section 73 (4) (a1)

Insert after section 73 (4) (a):

- (a1) that the licensee, and the licensee’s employees or agents, took the steps set out in the guidelines under subsection (6) to prevent intoxication on the licensed premises, or

[25] Schedule 6, section 73 (6)

Insert after section 73 (5):

- (6) The Secretary is to issue guidelines relating to the prevention of intoxication on licensed premises. Such guidelines are to be made publicly available in such manner as the Secretary considers appropriate.

[26] Schedule 6, sections 82 (2) (a) and 84 (1)

Insert “the Secretary or” after “application of” wherever occurring.

[27] Schedule 6, section 84 (2) (a)

Insert “the Secretary or” after “investigation by”.

[28] Schedule 6, section 100 (1) (e)

Insert after section 100 (1) (d):

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

[29] Schedule 6, section 102A

Insert after section 102:

102A Secretary may restrict or prohibit activities that encourage misuse or abuse of liquor

- (1) The Secretary may, by notice in writing given to a licensee, restrict or prohibit the licensee carrying on, or permitting on the licensed premises, any activity specified or described in the notice that, in the opinion of the Secretary, is likely to encourage misuse or abuse of liquor (such as binge drinking or excessive consumption).
- (2) A licensee who, without reasonable excuse, fails to comply with a notice under this section is guilty of an offence.
Maximum penalty: 50 penalty units.

[30] Schedule 6, section 117 (4)–(5A)

Omit section 117 (4) and (5). Insert instead:

(4) Supplying liquor to minors on other premises

A person must not supply liquor to a minor on any premises other than licensed premises unless:

- (a) the person is a parent or guardian of the minor or is authorised to supply liquor to the minor by a parent or guardian of the minor, and
- (b) the supply is consistent with the responsible supervision of the minor.

Maximum penalty: 100 penalty units or 12 months imprisonment (or both).

- (5) The matters that are considered to be relevant in determining whether the supply of liquor is consistent with the responsible supervision of a minor for the purposes of subsection (4) include the following:
 - (a) the age of the minor,
 - (b) whether the person supplying the liquor to the minor is intoxicated,
 - (c) whether the minor is consuming the liquor with food,

- (d) whether the person supplying the liquor is responsibly supervising the minor's consumption of the liquor,
- (e) the quantity and type of liquor supplied and the period of time over which it is supplied,
- (f) such other matters as may be prescribed by the regulations under the *Casino Control Act 1992*.

(5A) The supply of liquor to a minor who is intoxicated is not, in any circumstances, consistent with the responsible supervision of the minor for the purposes of subsection (4).

[31] Schedule 6, section 127 (7)

Omit "obtained from the Authority".

Insert instead "obtained from Liquor and Gaming NSW, Department of Justice".

[32] Schedule 6, section 134 (1A)

Insert after section 134 (1):

(1A) A local liquor accord must include a list of the key objectives of the accord.

[33] Schedule 6, section 139 (3) (e)

Insert ", the Secretary" after "Authority".

[34] Schedule 6, section 152 (1) (o)

Omit the paragraph. Insert instead:

- (o) that a specified person is or was, at a specified time or during a specified period, the Secretary,

[35] Schedule 6, section 152 (1) (p)

Omit "or of the Authority". Insert instead "the Authority or the Secretary".

[36] Schedule 6, section 157 (1A)

Insert after section 157 (1) before the note:

(1A) The Secretary may delegate to a person any function conferred or imposed on the Secretary by or under this Act, other than this power of delegation.

[37] Schedule 7 Penalty notice offences

Omit the matter relating to clause 40 from Part 2. Insert instead:

Clause 40 (1) \$1,100

Clause 40 (2):

- (a) if the staff member's recognised RSA certification has expired, or \$550
- (b) in any other case. \$1,100

[38] Schedule 7, Part 2

Insert after the matter relating to clause 44A (2):

Clause 44B (8) \$550

Clause 44B (9) \$220

[39] Schedule 7, Part 3

Insert after the matter relating to section 102 (3):

Section 102A (2) \$550