



New South Wales

Liquor Amendment Regulation 2016

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 object of this Regulation is to amend the *Liquor Regulation 2008* to implement miscellaneous reforms arising out of the Callinan and other liquor law reviews. The reforms include relaxing the existing “lock out” and “last drinks” restrictions in the case of live entertainment venues in the Kings Cross and Sydney CBD Entertainment precincts.

This Regulation is made under the *Liquor Act 2007*, including sections 116A, 116I and 159 (the general regulation-making power), in particular section 159 (4).

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1 Name of Regulation

This Regulation is the *Liquor Amendment Regulation 2016*.

2 Commencement

- (1) Except as provided by this clause, this Regulation commences on the day on which it is published on the NSW legislation website.
- (2) Schedule 1 [10], [16] and [18] commence on 16 January 2017.
- (3) Schedule 1 [4]–[7] commence on 31 January 2017.

Schedule 1 Amendment of Liquor Regulation 2008

[1] Clause 4 Application fees generally

Omit “a licence application of a type specified in Part 1 of Schedule 1” from clause 4 (2A).
Insert instead “an application specified in Schedule 1 (other than an application for a limited licence (single function))”.

[2] Clause 4 (2B) and (2C)

Omit the subclauses.

[3] Clause 50 Review of amendment relating to periodic licence fees

Omit the clause.

[4] Clause 9B

Insert after clause 9A:

9B Exemption for restaurant licence applications made online

- (1) This Division does not apply to or in respect of an application for an on-premises licence relating to a restaurant if the application results in the issuing of an interim restaurant authorisation under clause 16A.
- (2) However, a person who makes any such licence application must notify the local police and the local consent authority of the making of the application no later than 2 working days after the application is made.

[5] Clause 12 Submissions in relation to applications

Insert “, subject to this clause,” after “Any person may” in clause 12 (1).

[6] Clause 12 (5)

Insert after clause 12 (4):

- (5) This clause does not apply in relation to an application for an on-premises licence relating to a restaurant if the application results in the issuing of an interim restaurant authorisation under clause 16A.

[7] Part 3, Division 4

Insert after Division 3:

Division 4 Interim restaurant authorisations

16A Issue of interim restaurant authorisation to applicants for restaurant licence

- (1) A person who, on or after the commencement of this clause, makes an application for an on-premises licence relating to a restaurant is, when the application is made, to be issued with an interim restaurant authorisation by the Secretary if:
 - (a) the application is made online, and
 - (b) the application is not required to be accompanied by a community impact statement under section 48 of the Act, and
 - (c) the application is, except to the extent provided by this clause, made in accordance with sections 40 and 41 of the Act, and

- (d) any planning approval required to use the premises for the purposes of a restaurant is in force, and
 - (e) the application for the planning approval was subject to a public consultation process under the *Environmental Planning and Assessment Act 1979* and indicated that the premises are intended to operate as a licensed restaurant.
- (2) The Secretary may, by notice in writing to the person making the licence application, require the person to provide such information as the Secretary requires in relation to matters referred to in subclause (1). If any such information is not provided within 30 days from the giving of the notice the Secretary may revoke the interim restaurant authorisation issued to the person.
- (3) If:
- (a) an application for an on-premises licence relating to a restaurant was made in accordance with the Act before the commencement of this clause but was not determined before that commencement, and
 - (b) the application was not required to be accompanied by a community impact statement under section 48 of the Act, and
 - (c) any planning approval required to use the premises for the purposes of a restaurant is in force, and
 - (d) the application for the planning approval was subject to a public consultation process under the *Environmental Planning and Assessment Act 1979* and indicated that the premises are intended to operate as a licensed restaurant,
- the Secretary may issue the licence applicant with an interim restaurant authorisation.
- (4) An interim restaurant authorisation under this clause is to be in the form approved by the Secretary.
- (5) While an interim restaurant authorisation under this clause is in force, the person to whom the authorisation is issued, and any employee or agent of that person, is exempt from so much of section 7 of the Act as would prohibit the person, employee or agent from selling liquor on the premises to which the authorisation relates.
- (6) Subclause (5) is subject to the following requirements:
- (a) the sale of liquor on the premises to which the authorisation relates and the operation of those premises must comply with the licence conditions under the Act and this Regulation that would apply in relation to the premises if they were a licensed restaurant,
 - (b) any person selling liquor on the premises to which the authorisation relates must hold current recognised RSA certification under Division 1 of Part 5,
 - (c) in the case of an interim restaurant authorisation issued under subclause (3), liquor cannot be sold on the premises unless the local police and the local consent authority have been given at least 2 days' notice before trading commences.
- (7) The Secretary may revoke an interim restaurant authorisation if the Secretary is satisfied that any such requirement has not been complied with in respect of the premises to which the authorisation relates.

- (8) While an interim restaurant authorisation is in force:
 - (a) the premises to which the authorisation relates are taken to be licensed premises, and
 - (b) the person to whom the authorisation is issued is taken to be the licensee of those premises,for the purposes of the Act and this Regulation.
- (9) Subclause (8) does not apply in relation to Division 3 of Part 4 of the Act or to such other provisions of the Act or this Regulation as the Secretary may determine by order in writing.
- (10) Unless it is revoked by the Secretary, an interim restaurant authorisation continues to be in force until the licence application in respect of which the authorisation was issued is determined by the Authority in accordance with the Act.
- (11) For the purposes of this clause, *planning approval* means development consent under the *Environmental Planning and Assessment Act 1979* or approval under Part 3A or 5.1 of that Act.

[8] Clause 17A

Insert after clause 17:

17A Small bars—maximum number of patrons

For the purposes of section 20C (1) of the Act, the prescribed number is 100.

[9] Clause 53K Exclusion of persons from subject premises

Omit clause 53K (a). Insert instead:

- (a) the name of any of the following motorcycle-related and similar organisations:
 - (i) Bandidos,
 - (ii) Black Uhlans,
 - (iii) Comanchero,
 - (iv) Finks,
 - (v) Fourth Reich,
 - (vi) Gladiators,
 - (vii) Gypsy Joker,
 - (viii) Hells Angels,
 - (ix) Highway 61,
 - (x) Life and Death,
 - (xi) Lone Wolf,
 - (xii) Mongols,
 - (xiii) Muslim Brotherhood Movement,
 - (xiv) Nomads,
 - (xv) Odin's Warriors,
 - (xvi) Outcasts,
 - (xvii) Phoenix,
 - (xviii) Rebels,
 - (xix) Rock Machine,
 - (xx) Satudarah, or

[10] Clause 530A

Insert after clause 530:

530A Live entertainment venues—exemption from lock out and liquor sales cessation restrictions

- (1) The Secretary may, on application by the licensee of subject premises and payment of a reasonable fee, exempt the licensee from clause 53C (2) or 53D (2) by order in writing served on the licensee.
- (2) An exemption from clause 53C (2) is subject to the condition that patrons must not be permitted to enter the subject premises during the period on any day of the week between 2 am and the commencement of the standard trading period referred to in section 12 (1) (a) (i) of the Act. Clause 53C (3), (4) and (6) extend to the condition under this subclause as if references in those subclauses to the lock out period were references to the period referred to in this subclause.
- (3) An exemption from clause 53D (2) is subject to the condition that liquor must not be sold or supplied on the subject premises during the period on any day of the week between 3.30 am and the commencement of the standard trading period referred to in section 12 (1) (a) (i) of the Act. Clause 53D (3) and (4) extend to the condition under this subclause.
- (4) An exemption from clause 53C (2) or 53D (2) is also subject to the condition that, on any night of the week on which the exemption applies in relation to the subject premises concerned, live entertainment must be held or provided after midnight on the premises.
- (5) An order may only be made under this clause in relation to subject premises if the Secretary is of the opinion that the premises have a market orientation towards live performances, the arts and cultural events and endeavours.
- (6) In forming any such opinion, the Secretary is to take the following matters into consideration:
 - (a) whether tickets for live entertainment on the premises can be purchased,
 - (b) whether the premises are covered by a licence issued by APRA AMCOS (the Australasian Performing Right Association and the Australasian Mechanical Copyright Owners Society),
 - (c) whether the premises are used in connection with artistic or cultural festivals,
 - (d) any other matter the Secretary considers relevant.
- (7) In determining an application for an exemption under this clause, the Secretary may, without limitation, take into consideration the compliance history of the licensee in relation to the requirements of this Division.
- (8) An exemption under this clause may, if the relevant order so provides, apply in relation to a specified part of the subject premises concerned.
- (9) An order under this clause may be varied or revoked by the Secretary by a subsequent order in writing served on the licensee concerned.
- (10) An application for an exemption under this clause must be in the form and manner approved by the Secretary.
- (11) A reference in this clause to subject premises does not include a reference to any subject premises that:
 - (a) are premises to which a level 1 licence (within the meaning of Schedule 4 to the Act) relate, or

- (b) comprise a karaoke bar, or
- (c) in the opinion of the Secretary operate solely as a nightclub or are used primarily to provide adult entertainment of a sexual nature.

(12) This clause does not limit the operation of clause 53P.

(13) In this clause:

live entertainment means:

- (a) an event at which one or more persons are engaged to play or perform live or pre-recorded music, or
- (b) a performance at which the performers (or at least some of them) are present in person.

[11] Clause 53Y “Lock outs” for certain CBD subject premises

Insert “any of” after “means” in the definition of *CBD subject premises* in clause 53Y (1).

[12] Clause 53Y (1), definition of “CBD subject premises”

Insert after paragraph (e):

- (f) premises to which a licence specified in Schedule 1AA relate or the part (as specified in that Schedule) of premises to which such a licence relates.

[13] Clause 53Z Liquor sales cessation period

Insert “any of” after “means” in the definition of *CBD subject premises* in clause 53Z (1).

[14] Clause 53Z (1), definition of “CBD subject premises”

Insert after paragraph (e):

- (f) premises to which a licence specified in Schedule 1AA relate or the part (as specified in that Schedule) of premises to which such a licence relates.

[15] Clause 53ZG Exclusion of persons from CBD subject premises

Omit clause 53ZG (a). Insert instead:

- (a) the name of any of the following motorcycle-related and similar organisations:
 - (i) Bandidos,
 - (ii) Black Uhlans,
 - (iii) Comanchero,
 - (iv) Finks,
 - (v) Fourth Reich,
 - (vi) Gladiators,
 - (vii) Gypsy Joker,
 - (viii) Hells Angels,
 - (ix) Highway 61,
 - (x) Life and Death,
 - (xi) Lone Wolf,
 - (xii) Mongols,
 - (xiii) Muslim Brotherhood Movement,
 - (xiv) Nomads,

- (xv) Odin's Warriors,
- (xvi) Outcasts,
- (xvii) Phoenix,
- (xviii) Rebels,
- (xix) Rock Machine,
- (xx) Satudarah, or

[16] Clause 53ZHA

Insert after clause 53ZH:

53ZHA Live entertainment venues—exemption from “lock out” and liquor sales cessation restrictions

- (1) The Secretary may, on application by the licensee of CBD subject premises and payment of a reasonable fee, exempt the licensee from clause 53Y (2) or 53Z (2) by order in writing served on the licensee.
- (2) An exemption from clause 53Y (2) is subject to the condition that patrons must not be permitted to enter the CBD subject premises during the period on any day of the week between 2 am and the commencement of the standard trading period referred to in section 12 (1) (a) (i) of the Act. Clause 53Y (3)–(5) extend to the condition under this subclause as if references in those subclauses to the lock out period were references to the period referred to in this subclause.
- (3) An exemption from clause 53Z (2) is subject to the condition that liquor must not be sold or supplied on the CBD subject premises during the period on any day of the week between 3.30 am and the commencement of the standard trading period referred to in section 12 (1) (a) (i) of the Act. Clause 53Z (3) and (4) extend to the condition under this subclause.
- (4) An exemption from clause 53Y (2) or 53Z (2) is also subject to the condition that, on any night of the week on which the exemption applies in relation to the CBD subject premises concerned, live entertainment must be held or provided after midnight on the premises.
- (5) An order may only be made under this clause in relation to CBD subject premises if the Secretary is of the opinion that the premises have a market orientation towards live performances, the arts and cultural events and endeavours.
- (6) In forming any such opinion, the Secretary is to take the following matters into consideration:
 - (a) whether tickets for live entertainment on the premises can be purchased,
 - (b) whether the premises are covered by a licence issued by APRA AMCOS (the Australasian Performing Right Association and the Australasian Mechanical Copyright Owners Society),
 - (c) whether the premises are used in connection with artistic or cultural festivals,
 - (d) any other matter the Secretary considers relevant.
- (7) In determining an application for an exemption under this clause, the Secretary may, without limitation, take into consideration the compliance history of the licensee in relation to the requirements of this Division.
- (8) An exemption under this clause may, if the relevant order so provides, apply in relation to a specified part of the CBD subject premises concerned.

- (9) An order under this clause may be varied or revoked by the Secretary by a subsequent order in writing served on the licensee concerned.
- (10) An application for an exemption under this clause must be in the form and manner approved by the Secretary.
- (11) A reference in this clause to CBD subject premises does not include a reference to any subject premises that:
 - (a) are premises to which a level 1 licence (within the meaning of Schedule 4 to the Act) relate, or
 - (b) comprise a karaoke bar, or
 - (c) in the opinion of the Secretary operate solely as a nightclub or are used primarily to provide adult entertainment of a sexual nature.
- (12) This clause does not limit the operation of clause 53ZI.
- (13) In this clause:
live entertainment means:
 - (a) an event at which one or more persons are engaged to play or perform live or pre-recorded music, or
 - (b) a performance at which the performers (or at least some of them) are present in person.

[17] Clauses 70AB and 70AC

Insert after clause 70A:

70AB Exemption relating to take-away liquor trading hours

- (1) This clause applies in relation to licensed premises (or part of licensed premises) to which section 12 (1B) of the Act applies but only if the premises (or relevant part of the premises) are authorised to trade until 10 pm.
- (2) The licensee of licensed premises (or part of licensed premises) to which this clause applies or an employee or agent of the licensee is exempt from so much of section 9 of the Act as would prohibit the licensee, employee or agent from selling or supplying liquor between 10 pm and 11 pm on any day (other than a Sunday or a restricted trading day) for consumption away from the premises.
- (3) However, the exemption under subclause (2) does not apply in relation to licensed premises if the licence is subject to:
 - (a) a condition imposed by the Authority or the Secretary before 24 February 2014 that requires the premises to cease trading at or before 10 pm on any day that the exemption would otherwise apply, or
 - (b) a condition imposed by the Authority or the Secretary on or after 24 February 2014 that requires the premises to cease trading before 10 pm on any day that the exemption would otherwise apply.

70AC Exemption relating to trading hours for small bars in freeze precincts

- (1) This clause applies in relation to a small bar situated in a freeze precinct (within the meaning of section 47A of the Act) but only if the licensed premises are authorised to trade until midnight.
- (2) The licensee of a small bar to which this clause applies or an employee or agent of the licensee is exempt from so much of section 9 of the Act as would prohibit the licensee, employee or agent from selling or supplying liquor between midnight and 2 am for consumption on the premises.

[18] Clauses 70C and 70D

Insert after clause 70B:

70C Sale or supply of liquor to staff members after closing time

- (1) This clause applies in relation to the following licensed premises:
 - (a) a hotel (including the premises to which a general bar licence relates),
 - (b) club premises,
 - (c) a small bar,
 - (d) premises (other than accommodation premises) to which an on-premises licence relates.
- (2) The licensee of licensed premises to which this clause applies or an employee or agent of the licensee is exempt from so much of section 9 of the Act as would prohibit the licensee, employee or agent from selling or supplying liquor to a staff member of the premises during a period of not more than 2 hours immediately following the time that the premises were required to cease trading on any day.
- (3) The exemption under subclause (2) applies only if:
 - (a) the staff member was working on the licensed premises immediately before the premises were required to cease trading, and
 - (b) the liquor is not sold or supplied to the staff member for consumption away from the premises.
- (4) In this clause:

staff member, in relation to licensed premises to which this clause applies, means any employee or agent of, or a person acting on behalf of, the licensee of the premises and includes any person engaged to provide entertainment or services on the premises.

70D Conversion of existing licences to small bar licences

- (1) In this clause:

existing general bar licence means a general bar licence in force immediately before the commencement of this clause.

existing licence means an existing general bar licence or an existing on-premises licence.

existing on-premises licence means an on-premises licence in force immediately before the commencement of this clause relating to licensed premises in respect of which the Authority is satisfied that development consent granted under the *Environmental Planning and Assessment Act 1979* would permit the premises to operate as a small bar.

existing premises means the premises to which an existing licence related immediately before the cancellation of the licence under this clause.
- (2) The holder of an existing licence may surrender the licence to the Authority during the period of 12 months immediately following the commencement of this clause.
- (3) On the surrender of an existing licence in accordance with this clause, the Authority is to:
 - (a) cancel the existing licence, and
 - (b) at the same time issue a small bar licence for the existing premises (a **new licence**) to the person who was the holder of the existing licence.

- (4) The provisions of the Act relating to the procedures for the granting of a small bar licence do not apply in relation to the issuing of a new licence under this clause.
- (5) For the avoidance of any doubt, Division 3A of Part 3 of the Act applies to a new licence.
- (6) Any conditions imposed by or under the Act in relation to an existing licence are, on the cancellation of the existing licence, taken to be conditions to which the new licence is subject.

[19] Clause 79 Temporary freeze on licences

Omit “19 February 2017” from clause 79 (1A). Insert instead “1 June 2018”.

[20] Schedule 1AA

Insert after Schedule 1A:

**Schedule 1AA Sydney CBD premises subject to “lock out”
and liquor sales cessation restrictions**

Licence number	Premises or part of premises
LIQO600462839	Argyle Tavern
LIQO624008199	Play Karaoke
LIQO624009952	Bavarian Beer Cafe York
LIQO624007136	Dockside
LIQO624008450	King St Brewhouse & Restaurant
LIQO624006549	Salon de Thé Restaurant
LIQO624006152	Men’s Gallery Sydney
LIQO624014771	Oxford Art Factory
LIQO624004559	Paradiso Terrace
LIQO624007501	Pure Platinum
LIQO624007139	Quay Bar
LIQO600407544	Governor’s Pleasure Restaurant
LIQO624004483	Metro Theatre
LIQH400121709	Part of QT Sydney known as “Gilt Bar” as at 29 March 2014
LIQH400100035	Part of Sydney Hilton Hotel known as “Zeta Bar” as at 29 March 2014
LIQH400101465	Part of Coronation Hotel known as “Smoking Panda Bar” as at 19 July 2016
