



New South Wales

Liquor Amendment (Outdoor Dining) Regulation 2017

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*.

PAUL TOOLE, MP
Minister for Racing

Explanatory note

The object of this Regulation is to provide for the provisional approval of applications to change the boundaries of licensed restaurants for outdoor dining purposes.

This Regulation is made under the *Liquor Act 2007*, including section 159 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Liquor Amendment (Outdoor Dining) Regulation 2017*.

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

Clause 80B

Insert after clause 80A:

80B Provisional approval of applications to change boundaries of licensed restaurants for outdoor dining purposes

- (1) An application under section 94 of the Act to change the boundaries of a licensed restaurant is, when the application is made, taken to be provisionally approved if:
 - (a) the application is made in a form and manner approved by the Secretary, and
 - (b) the applicant declares in the application that the area to which the application relates is to be used for outdoor dining and the sale of liquor with (or ancillary to) outdoor dining, and
 - (c) any approval by the local council that is required for the area to which the application relates to be used for outdoor dining has been obtained.
- (2) However, any such application is taken not to be provisionally approved if:
 - (a) an extended trading authorisation or an authorisation under section 24 (3) of the Act is in force in respect of the licensed restaurant, or
 - (b) the licence for the licensed restaurant is, or was at any time in the previous 12 months, a level 1 or level 2 licence within the meaning of Schedule 4 to the Act, or
 - (c) the licensee or manager of the licensed restaurant has, in the previous 12 months, committed a prescribed offence within the meaning of Part 9A of the Act.
- (3) The provisional approval of an application to change the boundaries of a licensed restaurant:
 - (a) operates to change the boundaries of the licensed premises during the period that the provisional approval is in force, and
 - (b) is subject to such conditions as may imposed by the Secretary, and
 - (c) may be revoked at any time by the Secretary.
- (4) Unless it is sooner revoked by the Secretary, the provisional approval of an application to change the boundaries of a licensed restaurant continues in force until the application is determined by the Authority in accordance with section 94 of the Act.
- (5) The Secretary may waive the application fee for an application under section 94 of the Act that is made in accordance with this clause. In that case, section 94 (4) of the Act does not apply in relation to licensed premises to which the application relates.
- (6) In this clause, *licensed restaurant* means licensed premises operating under the authority of an on-premises licence granted in respect of a restaurant.