



New South Wales

# Liquor and Gaming Legislation Amendment Regulation 2021

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the following Acts—

- (a) *Gaming and Liquor Administration Act 2007*,
- (b) *Liquor Act 2007*.

VICTOR DOMINELLO, MP  
Minister for Customer Service

## Explanatory note

The objects of this Regulation are as follows—

- (a) to amend the *Gaming and Liquor Administration Regulation 2016* to remove references to repealed provisions,
- (b) to amend the *Liquor Regulation 2018*—
  - (i) to specify licensed premises that may be included on the list of live music and performance venues to be kept by the Secretary of the Department of Customer Service, and
  - (ii) to provide that licensed premises on the list are eligible for certain fee concessions, and
  - (iii) to extend by 6 months the period within which specified temporary boundary changes to licensed premises may apply, and
  - (iv) to provide for exemptions from consultation and fee requirements for certain permanent boundary changes to licensed premises that are substantively identical to earlier temporary boundary changes to which the same exemptions were applicable, and
  - (v) to provide that a licensee of subject premises is not required to maintain an incident register in a period during which a high-risk music festival is being held at the premises if the licensee reaches specified written agreements in advance with the music festival organiser, and
  - (vi) to make miscellaneous and consequential amendments.

## **Liquor and Gaming Legislation Amendment Regulation 2021**

### **1 Name of Regulation**

This Regulation is the *Liquor and Gaming Legislation Amendment Regulation 2021*.

### **2 Commencement**

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

## **Schedule 1      Amendment of Gaming and Liquor Administration Regulation 2016**

### **Clause 8 Certain decisions required to be published**

Omit clause 8(e).

## Schedule 2 Amendment of Liquor Regulation 2018

### [1] Clause 3 Definitions

Insert in alphabetical order in clause 3(1)—

**Great Southern Nights music event** means the NSW Government initiative, delivered in 2020 by Destination NSW in partnership with the Australian Recording Industry Association, to stimulate the revival of the live music and entertainment sectors following the impacts of the COVID-19 pandemic.

**high-risk festival** has the same meaning as in the *Music Festivals Act 2019*.

**incentivised event** means—

- (a) the Great Southern Nights music event, or
- (b) another live music performance or other arts and cultural event that is—
  - (i) designated by the Secretary for the purposes of this definition, and
  - (ii) notified as an incentivised event on an appropriate publicly accessible government website before the event occurs.

**list of live music and performance venues** means the list kept by the Secretary under the Act, section 3A(a).

**live music venue**—see clause 61A.

**live performance venue** means a music hall, concert hall, dance hall, theatre or other venue that is—

- (a) licensed under an on-premises licence relating to a public entertainment venue, and
- (b) used primarily for live performances or other creative or cultural events, and
- (c) not a live music venue.

**music festival organiser** has the same meaning as in the *Music Festivals Act 2019*.

### [2] Clause 3(1), definition of “licence-related authorisation”

Insert at the end of the definition—

- (f) a minors authorisation.

### [3] Clause 7A Waiver, reduction, postponement or refund of fees

Omit clause 7A(5).

### [4] Clause 7C

Insert after clause 7B—

#### 7C Reduction or refund of particular fees

Without limiting clause 7A, the Secretary may reduce or refund a proportion, not exceeding 80%, of the total fee payable for an application for an ongoing extended trading authorisation of a type listed in Schedule 1, Part 2 for licensed premises that are live music venues or live performance venues and are—

- (a) on the list of live music and performance venues at the time the application is made, or
- (b) added to the list within 12 months after the application is made.

**[5] Clause 10 Base fee element**

Omit clause 10(2)(c). Insert instead—

- (c) for live music venues and live performance venues—by 80%, or
- (d) for an assessment year that commences on or after 15 March 2022, if the licensed premises have participated in an incentivised event held in the 1-year period preceding the assessment date—by 80%.

**[6] Clause 10(2A)**

Insert after clause 10(2)—

- (2A) Subclause (2)(c) and (d) apply only to licensed premises on the list of live music and performance venues on the assessment date.

**Note.** See clause 61B.

**[7] Clause 10(3)**

Omit “Subclause (2)(c) ceases”. Insert instead “Subclauses (2)(c) and (d) and (2A) cease”.

**[8] Clause 10(4)**

Insert “and (d), (2A)” after “Subclauses (2)(c)”.

**[9] Clause 12 Trading hours risk loading element**

Omit clause 12(3A)(c). Insert instead—

- (c) for live music venues and live performance venues—by 80%, or
- (d) for an assessment year that commences on or after 15 March 2022, if the licensed premises have participated in an incentivised event held in the 1-year period preceding the assessment date—by 80%.

**[10] Clause 12(3B)**

Insert after clause 12(3A)—

- (3B) Subclause (3A)(c) and (d) apply only to licensed premises on the list of live music and performance venues on the assessment date.

**Note.** See clause 61B.

**[11] Clause 12(6)**

Omit the subclause.

**[12] Clause 12(7)**

Omit “Subclause (3A)(c) ceases”. Insert instead “Subclauses (3A)(c) and (d) and (3B) cease”.

**[13] Clause 12(8)**

Omit “(3A)(c), (6)”. Insert instead “(3A)(c) and (d), (3B)”.

**[14] Part 4, Division 7**

Insert after Part 4, Division 6—

**Division 7 Live music and performance venues—the Act, s 3A**

**61A Live music venues**

- (1) In this Regulation, a venue is a *live music venue* if—

- (a) 1 of the following types of licence is in force for the venue—
    - (i) a hotel licence,
    - (ii) a club licence,
    - (iii) a small bar licence,
    - (iv) an on-premises licence,
    - (v) a producer/wholesaler licence, and
  - (b) live music forms a significant part of the venue's normal operations.
- (2) Live music forms a significant part of a venue's normal operations if the venue—
- (a) holds regular live music performances, and
  - (b) has a room or space dedicated to live music performances that—
    - (i) is a significant part of the venue, and
    - (ii) contains appropriate infrastructure to support the regular performances.
- (3) A venue holds regular live music performances if the venue—
- (a) holds an average of at least 2 live music performances per week, or
  - (b) would, but for the impacts of the COVID-19 pandemic, hold an average of at least 2 live music performances per week.

**61B List of live music and performance venues**

- (1) For the purposes of the Act, section 3A, the Secretary may include the following licensed premises on the list of live music and performance venues—
- (a) a live music venue,
  - (b) a live performance venue,
  - (c) a venue that participates, or is to participate, in an incentivised event.
- (2) For the purpose of determining whether licensed premises are a live music venue, the Secretary is to consider the following—
- (a) if an application was made under the Live Music Support Package in relation to the premises—the content of the application,
  - (b) if an application is made to the Secretary, in a form approved by the Secretary, for the purpose of demonstrating the premises comply with clause 61A(2)—the content of the application.
- (3) The Secretary may decide not to include licensed premises on the list of live music and performance venues if the premises—
- (a) are premises for which the licensee—
    - (i) has been liable for compliance history risk loading under clause 11 within the last 2 assessment years, or
    - (ii) will be liable to pay compliance history risk loading in the next assessment year, or
  - (b) comprise a karaoke bar, or
  - (c) are premises that are used primarily to provide adult entertainment of a sexual nature.
- (4) The Secretary may, at any time, remove licensed premises from the list of live music and performance venues if the Secretary is satisfied—

- (a) the premises are not, or have ceased to be, venues mentioned in subclause (1)(a)–(c), or
  - (b) the premises are, or have become, premises mentioned in subclause (3)(a)–(c).
- (5) Before publishing a list of live music and performance venues that omits licensed premises that were previously included in the list, the Secretary must give the licensee or manager of the premises written notice the licensed premises are to be removed from the list.
- (6) In this clause—  
*assessment year* has the same meaning as in clause 8.  
*Live Music Support Package* means the Live Music Support Package established by the NSW Government in 2021 in response to the COVID-19 pandemic.

**[15] Clause 102**

Insert after clause 101—

**102 Exemptions relating to “round the clock” incident register—the Act, s 116I**

- (1) The licensee of subject premises is not required to maintain an incident register under clause 96 in a period during which a high-risk festival is being held at the premises if the licensee agrees each of the following, in advance of the festival and in writing, with the music festival organiser for the festival—
  - (a) the incident register required to be kept under the *Music Festivals Act 2019*, section 11 will be the only incident register kept in relation to the festival,
  - (b) the music festival organiser will, immediately after the festival, give the licensee a copy of the register.
- (2) The licensee must ensure the copy of the register is kept for at least 3 years from when the information was recorded in the register.
- (3) The licensee must, if requested to do so by a police officer or inspector—
  - (a) make the copy of the register immediately available for inspection by a police officer or inspector, and
  - (b) allow a police officer or inspector to take copies or to remove the copy of the register from the premises.

**[16] Clause 122B**

Insert after clause 122A—

**122B Exemption to requirement to maintain incident register**

- (1) The Act, section 56 does not apply to a licensee in a period during which a high-risk festival is being held at the relevant licensed premises if the licensee agrees each of the following, in advance of the festival and in writing, with the music festival organiser for the festival—
  - (a) the incident register required to be kept under the *Music Festivals Act 2019*, section 11 will be the only incident register kept in relation to the festival,
  - (b) the music festival organiser will, immediately after the festival, give the licensee a copy of the register.

- (2) The licensee must ensure the copy of the register is kept for at least 3 years from when the information was recorded in the register.
- (3) The licensee must, if requested to do so by a police officer or inspector—
  - (a) make the copy of the register immediately available for inspection by a police officer or inspector, and
  - (b) allow a police officer or inspector to take copies or to remove the copy of the register from the premises.

**[17] Clause 130AA Dedicated live music and performance venues**

Omit the clause.

**[18] Clause 130B, heading**

Omit the heading. Insert instead—

**130B Exemptions for temporary boundary changes for outdoor spaces—the Act, s 159(4)**

**[19] Clause 130B(8), definition of “prescribed period”, paragraph (b)**

Omit “31 October 2021”. Insert instead “30 April 2022”.

**[20] Clause 130C**

Insert after clause 130B—

**130C Exemptions for permanent boundary changes for outdoor spaces—the Act, s 159(4)**

- (1) The Act, section 94(3) and (4) do not apply to a permanent change to the boundaries of licensed premises, whether made on the Authority’s own initiative or on application, if the conditions mentioned in subclause (2) apply.
- (2) The change of boundary must—
  - (a) be substantively identical to a temporary change of boundary that is, or has been, in force following an application mentioned in clause 130B, and
  - (b) not result in inconsistency with the conditions imposed by clause 130B in relation to the temporary change, other than clause 130B(7).