

Passed by both Houses



New South Wales

Liquor Amendment (Small Bars) Bill 2013

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Liquor Act 2007 No 90	3
Schedule 2 Amendment of other legislation	10

I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2013*



New South Wales

Liquor Amendment (Small Bars) Bill 2013

Act No , 2013

An Act to amend the *Liquor Act 2007* to provide for a new type of licence for small bars; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Liquor Amendment (Small Bars) Act 2013*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Liquor Act 2007 No 90

[1] Section 4 Definitions

Omit the definition of *extended trading authorisation* in section 4 (1).

Insert instead:

extended trading authorisation means an extended trading authorisation under section 49 or 49A.

[2] Section 4 (1)

Insert in alphabetical order:

small bar means the premises to which a small bar licence relates.

[3] Section 10 Types of licences and authorisation conferred by licence

Insert after section 10 (1) (b):

(b1) small bar licence,

[4] Section 12 Standard trading period for certain licensed premises

Insert after section 12 (1) (after the note):

(1A) Despite subsection (1), the *standard trading period* for a small bar is the period from noon to midnight on any day of the week.

Note. Small bars are subject to the 6-hour closure period under section 11A.

[5] Section 12 (2)

Omit "such".

[6] Part 3, Division 3A

Insert after Division 3:

Division 3A Small bar licences

20A Authorisation conferred by small bar licence

A small bar licence authorises the licensee to sell liquor by retail on the licensed premises for consumption on the licensed premises only.

Note. Gaming machines in small bars are prohibited under the *Unlawful Gambling Act 1998*.

20B Trading hours for small bars

- (1) The times when liquor may be sold under the authority conferred by a small bar licence are during the standard trading period or at such other times as may be authorised by an extended trading authorisation.
- (2) In the case of a small bar that is situated in an area that is not a freeze precinct, an extended trading authorisation under section 49A is, on the granting of the licence, taken to be in force authorising the sale or supply of liquor on the licensed premises between midnight and 2 am on any day of the week.
Note. Small bars in a non-freeze precinct can apply for longer trading periods under section 49A. Small bars in a freeze precinct can also apply for an extended trading authorisation under section 49A to trade after midnight.
- (3) This section does not authorise liquor to be sold in a small bar on a restricted trading day.
- (4) Subsection (3) does not apply in relation to the period between midnight and such later time as may be authorised by an extended trading authorisation on a restricted trading day that immediately follows a day that is not a restricted trading day.
- (5) In this section, *freeze precinct* has the same meaning as in section 47A.

20C Small bar licence—miscellaneous conditions

- (1) **Maximum number of patrons**
Liquor must not be sold or supplied in a small bar if the number of patrons on the premises exceeds 60 or such greater number as may be prescribed by the regulations.
- (2) **Small bars must be open to general public**
The business carried out under a small bar licence must not be, or include, a business that is limited to the sale or supply of liquor only:
 - (a) to persons who have been invited to use or attend the small bar, or
 - (b) to a particular class, or particular classes, of persons using or attending the small bar.
- (3) Subsection (2) is subject to such exceptions as may be approved by the Authority on a temporary basis in relation to any particular small bar or to such other exceptions as may be prescribed by the regulations. Also, subsection (2) does not apply to the extent that

is necessary to comply with any other provision of this Act or with any other law.

(4) **Food must be made available**

Liquor may only be sold or supplied in a small bar if food of a nature and quantity consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied on the premises.

[7] **Section 47AA**

Omit the section. Insert instead:

47AA Small bars excluded

This Division does not apply to or in respect of subject premises:

- (a) that comprise a small bar, and
- (b) that would, as a result of any application under this Act or an application for development consent as referred to in section 47I, continue to comprise a small bar.

[8] **Section 48 Community impact**

Insert “, small bar licence” after “club licence” wherever occurring in paragraphs (a)–(c) of the definition of *relevant application* in section 48 (2).

[9] **Section 48 (2), definition of “relevant application”**

Insert “or 49A (3) (b)” after “or (5A)”.

[10] **Section 48 (3A) and (3B)**

Insert after section 48 (3):

- (3A) However, a small bar application is not required to be accompanied by a community impact statement if:
 - (a) development consent is required under the *Environmental Planning and Assessment Act 1979* to use the premises to which the application relates as a small bar or to sell liquor during the times to which the application relates, and
 - (b) the local police and the Director-General are, no more than 2 working days after the application for the required development consent, or any variation to that application, is made, notified by the applicant of the making of the application for development consent or of the variation to that application.

- (3B) For the purposes of subsection (3A), a *small bar application* means any of the following:
- (a) an application for a small bar licence,
 - (b) an application for approval to remove a small bar licence to other premises,
 - (c) an application for an extended trading authorisation for a small bar,
 - (d) an application to vary an extended trading authorisation for a small bar.

[11] Section 49A

Insert after section 49:

49A Extended trading authorisation for small bars

- (1) The Authority may, on application by the holder of a small bar licence, authorise the licensee to sell or supply liquor, for consumption on the licensed premises only, during a specified period outside of the standard trading period for small bars.
- Note.** Small bars that are not in a freeze precinct are, on the granting of the small bar licence, authorised to trade between midnight and 2 am. See section 20B (2).
- (2) An extended trading authorisation for a small bar cannot authorise the sale or supply of liquor after 5 am or before 10 am on any day of the week.
- (3) An extended trading authorisation in relation to a small bar operates to authorise the sale or supply of liquor on the licensed premises:
- (a) on a regular basis (until such time as the authorisation is varied or revoked by the Authority), or
 - (b) if the authorisation so provides—on an occasion considered by the Authority to be a special occasion and that takes place on a specified date.
- (4) In granting an extended trading authorisation for a small bar, the Authority is to specify the trading hours during which the licensee is authorised to sell or supply liquor.
- (5) Section 49 (8) applies in relation to an extended trading authorisation granted by the Authority under this section.

[12] Section 51 General provisions relating to licence-related authorisations

Insert “(or, in the case of an application for an extended trading authorisation for a small bar, by the Director-General)” after “Authority” wherever occurring in section 51 (2) (a) and (d).

[13] Section 123 Minor not to enter or remain in certain licensed premises

Insert after section 123 (1) (b):

(b1) enter or remain in a small bar during trading hours, or

[14] Section 124 Licensee not to allow minors to enter or remain in certain licensed premises

Insert after section 124 (1) (b):

(b1) enters a small bar during trading hours, or

[15] Section 124 (2) (b1)

Insert after section 124 (2) (b):

(b1) is in a small bar during trading hours, or

[16] Section 126 Minors must be refused entry to licensed premises

Insert “, small bar” after “club premises” in section 126 (a).

[17] Schedule 1 Savings and transitional provisions

Insert at the end of clause 1 (1):

any other Act that amends this Act

[18] Schedule 1, Part 10

Insert after Part 9:

**Part 10 Provisions consequent on enactment of
Liquor Amendment (Small Bars) Act 2013**

39 Conversion of existing general bar 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 premises means the premises to which an existing general bar licence related immediately before the cancellation of the licence under this clause.

- (2) The Authority is, on application by the holder of an existing general bar licence made during the period of 6 months (or such longer period as may be prescribed by the regulations) immediately following the commencement of this clause, to:
 - (a) cancel the existing general bar licence, and
 - (b) at the same time grant a small bar licence for the existing premises (a *new licence*) to the person who was the holder of the existing licence.
- (3) For the avoidance of any doubt, Division 3A of Part 3 of this Act applies to a new licence.
- (4) Any conditions imposed by or under this Act in relation to an existing general bar licence are, on the cancellation of the existing licence, taken to be conditions to which the new licence is subject.
- (5) Any strike incurred under Part 9A of this Act in respect of an existing general bar licence and in force immediately before the cancellation of the existing licence is taken to have been incurred in respect of the new licence.
- (6) Any proceedings commenced under Part 9 of this Act in relation to an existing general bar licence that were pending immediately before the cancellation of the existing licence may continue to be taken in relation to the new licence.
- (7) Any development consent under the *Environmental Planning and Assessment Act 1979* for the existing premises extends to the premises to which the new licence relates.
- (8) If, on the cancellation of an existing general bar licence, the existing premises were declared premises within the meaning of Schedule 4, the new premises are taken to be declared premises until such time as that Schedule is amended to remove the reference to the existing general bar licence.
- (9) This clause is subject to the regulations.

40 Review of amendments relating to small bars

- (1) The Minister is to review the amendments made to this Act and the regulations by the *Liquor Amendment (Small Bars) Act 2013* to determine whether the policy objectives of those amendments remain valid and whether the terms of the amendments remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after 1 January 2016.

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- (3) A report on the outcome of the review is to be tabled in each House of Parliament before 1 January 2017.

Schedule 2 Amendment of other legislation

2.1 Liquor Regulation 2008

[1] Clause 9A

Insert after clause 9:

9A Exemption for small bar applications

- (1) This Division does not apply to or in respect of a small bar application if:
 - (a) development consent is required under the *Environmental Planning and Assessment Act 1979* to use the premises to which the application relates as a small bar or to sell liquor during the times to which the application relates, and
 - (b) the local police and the Director-General are, no more than 2 working days after the application for the required development consent, or any variation to that application, is made, notified by the applicant of the making of the application for development consent or of the variation to that application.
- (2) However, a person who makes a small bar application must notify the local police of the making of the application no later than 2 working days after the application is made.
- (3) In this clause:

small bar application means any of the following:

 - (a) an application for a small bar licence,
 - (b) an application for approval to remove a small bar licence to other premises,
 - (c) an application for an extended trading authorisation for a small bar,
 - (d) an application to vary an extended trading authorisation for a small bar.

[2] Clause 10 Categories of CIS

Insert after clause 10 (3) (b):

- (b1) an application for a small bar licence, or
- Note.** Applications in relation to small bars are exempt from the CIS requirements in certain circumstances—see section 48 (3A) of the Act.

[3] Clause 17 General and small bar licences—prohibition on gambling

Insert “or a small bar licence” after “general bar licence”.

[4] Clause 17A Additional criteria relating to small venues in Kings Cross precinct

Omit the clause.

[5] Clause 33A

Insert after clause 33:

33A Minors prohibited in small bars during trading hours—notice to be displayed

- (1) The licensee of a small bar must cause a notice that contains the following words to be displayed, in accordance with this clause, on the licensed premises:

PERSONS UNDER THE AGE OF 18 YEARS ARE NOT PERMITTED ON THESE PREMISES DURING LIQUOR TRADING HOURS

Maximum penalty: 20 penalty units.

- (2) The notice must be in the form approved by the Director-General and be obtained from the NSW Office of Liquor, Gaming and Racing.
- (3) The notice must be displayed in such a manner and in such a place that it would be reasonable to expect that a person entering the licensed premises would reasonably be expected to be alerted to its contents.

[6] Clause 53B Definitions

Omit the definition of *small venue*.

[7] Clauses 53F (1), 53G (1) and 53H (4)

Omit “small venue” wherever occurring. Insert instead “small bar”.

[8] Schedule 1 Application fees

Insert in Part 1 after the matter relating to club licences:

Small bar licence	50% of the amount specified for an on-premises licence	50% of the amount specified for an on-premises licence	50% of the amount specified for an on-premises licence
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[9] Schedule 1, Part 2

Insert at the end of the Part:

Extended trading authorisation for a small bar	\$750	\$250	\$1,000
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[10] Schedule 2 Penalty notice offences

Insert after the matter relating to clause 33 (2) of the *Liquor Regulation 2008*:

Clause 33A (1)	\$220
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2.2 Retail Trading Act 2008 No 49

Section 9 Certain licensed premises exempt

Insert “or small bar licence” after “hotel licence”.

2.3 Standard Instrument (Local Environmental Plans) Order 2006

[1] Standard instrument, Dictionary

Insert after paragraph (c) of the definition of *food and drink premises*:

(d) a small bar.

[2] Standard instrument, Dictionary

Insert after the definition of *site coverage*:

small bar means a small bar within the meaning of the *Liquor Act 2007*.

Note. Small bars are a type of *food and drink premises*—see the definition of that term in this Dictionary.