

Act No. 3 of 1987

LIQUOR (AMENDMENT) BILL 1986

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Registered Clubs (Entertainment) Amendment Bill 1986.

The object of this Bill is to amend the Liquor Act 1982—

- (a) to exempt a person selling small amounts of liquor as part of a gift containing food or flowers from the need to obtain a licence under the Principal Act;
- (b) to enable the Licensing Court to classify an on-licence to sell liquor at a function as a special on-licence and so cause a fee of 10 per cent of liquor purchases to be paid rather than a nominal fee;
- (c) to make it an offence to sell or supply liquor to a minor, whether or not on licensed premises, and to obtain liquor for a minor from licensed premises;
- (d) to enable civil proceedings to be taken by a vendor of liquor against a person directly or indirectly interested in the profits of a business carried on at licensed premises if the licensee defaults in the payment of liquor purchased from the vendor; and
- (e) to make other miscellaneous amendments.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day or days to be appointed by the Governor-in-Council.

Clause 3 is a formal provision which gives effect to the Schedule of amendments.

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SCHEDULE 1—AMENDMENTS TO THE LIQUOR ACT 1982

Schedule 1 (1) amends section 6 of the Principal Act to exempt a person selling not more than 2 litres of liquor with a gift containing food or flowers from the requirement to obtain a licence under the Principal Act.

Schedule 1 (2) amends section 20 of the Principal Act to enable the Liquor Administration Board to vary a condition of a licence relating to the keeping, use and operation of approved amusement devices imposed by the Licensing Court. The Board may allow the keeping, use and operation of not more than 5 approved amusement devices, which is the same number as that which the Court is empowered to approve.

Schedule 1 (3) inserts proposed section 35A into the Principal Act to allow the Licensing Court to vary the trading hours of a vessel if adequate sleeping berths are provided on the vessel for the use of passengers.

Schedule 1 (4) amends section 38 of the Principal Act to provide that an applicant for an on-licence relating to a vessel or an aircraft must furnish an affidavit with the application stating the persons—

- (a) who are directly or indirectly interested in the application; or
- (b) who will be directly or indirectly interested in the business, or the profits of the business, to be carried on pursuant to the licence if the application is granted.

Schedule 1 (5) inserts proposed section 42A into the Principal Act to provide for a fee prescribed by the Governor-in-Council to accompany an application for the transfer of a licence. The fee for the transfer of the licence shall be reduced by the amount of the application fee.

Schedule 1 (6) amends section 51 of the Principal Act to enable the Licensing Court to classify an on-licence to sell liquor at a function as a special on-licence for which no fee is payable under section 56 of the Principal Act when the licence is issued.

Schedule 1 (7) and (8) amend sections 55 and 56 of the Principal Act in consequence of the amendment made by Schedule 1 (6).

Schedule 1 (9) amends section 61 of the Principal Act so as to remove the requirement that the records of a business carried on pursuant to a licence be produced on transfer of the licence if the persons directly or indirectly interested in the business after the transfer remain unchanged.

Schedule 1 (10) amends section 79 of the Principal Act to provide that a special on-licence does not cease to be in force at the end of a licensing period.

Schedule 1 (11) amends section 80 of the Principal Act to provide that the periodic licence fee for a special on-licence is 10 per cent of liquor sales at each function held pursuant to the licence.

Schedule 1 (12) amends section 82 of the Principal Act to give the secretary of the Liquor Administration Board, rather than the Board, the function of assessing licence fees. The secretary has power to refer any assessment to the Board for determination.

Schedule 1 (13) inserts proposed section 83A into the Principal Act to empower the Liquor Administration Board to give a refund of a licence fee if the licence is surrendered.

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Schedule 1 (14) substitutes section 114 of the Principal Act to make it an offence to sell or supply liquor to a minor, whether or not on licensed premises, to obtain liquor for a minor from licensed premises and, in the case of a licensee, to allow liquor to be sold or supplied to a minor on the licensed premises. It is a defence if the defendant was the parent or guardian of the minor or was authorised by the parent or guardian or if the minor was of or above the age of 14 years and was believed by the defendant to be of or above the age of 18 years.

Schedule 1 (15) amends section 138C of the Principal Act so as to enable a person to sell approved amusement devices without the need to obtain a licence if the sale is in connection with the transfer of a hotelier's licence.

Schedule 1 (16) amends section 140 of the Principal Act to provide that an allegation in an application, objection, information or complaint that specified hours are the trading hours of specified licensed premises is evidence of the truth of the allegation.

Schedule 1 (17) amends section 141 of the Principal Act to enable certificate evidence to be given as to the non-payment of an instalment of a licence fee or a penalty for late payment of a licence fee.

Schedule 1 (18) inserts proposed section 142A into the Principal Act to place on the defendant the onus of proving that the exemption referred to in Schedule 1 (1) applies.

Schedule 1 (19) amends section 148 of the Principal Act to provide that the lodging of an appeal against the cancellation or suspension of a licence which authorises the sale of liquor does not act as a stay of the cancellation or suspension unless the Licensing Court of its own motion or on application being made to it otherwise directs.

Schedule 1 (20) amends section 149 of the Principal Act in consequence of the amendment made by Schedule 1 (19).

Schedule 1 (21) inserts proposed sections 154A and 154B into the Principal Act.

Proposed section 154A allows a vendor of liquor to take proceedings against the persons directly or indirectly interested in a business carried on pursuant to a licence if the licensee defaults in the payment for liquor supplied by the vendor.

Proposed section 154B requires the holder of an amusement device seller's licence or an amusement device technician's licence to notify the Principal Registrar of the Licensing Court when changing employers.
