

LIQUOR (MISCELLANEOUS AMENDMENTS) BILL 1990*

NEW SOUTH WALES



EXPLANATORY NOTE

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

The Registered Clubs (Miscellaneous Amendments) Bill 1990 is cognate with this Bill.

The objects of this Bill are to amend the Liquor Act 1982:

- (a) to provide for more flexible proceedings in the Licensing Court;
- (b) to remove the present ceiling of \$20,000 on the fee for granting an off-licence to sell liquor by retail; and
- (c) to increase other fees; and
- (d) to collate within a separate Part of the Act the provisions relating to minors; and
- (e) to enable the police to serve on juveniles infringement notices like those provided for under the Summary Offences Act 1988.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to commence on a proclaimed day or days.

Clause 3 gives effect to the Schedules of amendments.

SCHEDULE 1—THE LICENSING COURT

Schedule 1 (1) enables any licensing magistrate sitting as, or as a member of, the Licensing Court constituted as at first instance to deliver a signed opinion of another magistrate who sat as, or as a member of, the Licensing Court hearing a matter at first instance.

Schedule 1 (2) enables any licensing magistrate sitting as a member of the Licensing Court constituted as for an appeal to deliver a signed opinion of another magistrate who sat as a member of the Licensing Court hearing an appeal.

* Amended in committee — see table at end of volume.

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Schedule 1 (3) provides for the making of regulations conferring on the Principal Registrar of the Licensing Court the jurisdiction of the court in relation to a matter to which there has been no objection.

SCHEDULE 2—FEE FOR GRANT OF LICENCE

Schedule 2 (a) makes a formal amendment.

Schedule 2 (b) removes the \$20,000 ceiling on the present fee payable on the granting of an off-licence to sell liquor by retail.

Schedule 2 (c)-(q) increases the other fees payable on the grant of a licence.

Schedule 2 (r) makes a consequential amendment.

SCHEDULE 3—MINORS

This Schedule brings together as a new Part 7A of the Act all the present provisions relating to minors together with certain new provisions.

Schedule 3 (1) inserts in the Act definitions of “minor” and “responsible adult”.

Schedule 3 (2) repeals the present section 87 (Authority for use of part of premises by minor) and Schedule 3 (4) re-enacts it as section 112—the first provision of the new Part 7A.

Schedule 3 (3) provides for the heading for the new Part 7A.

Schedule 3 (4) repeals the present section 112 (to be re-enacted in Part 8 as section 125A) and replaces it with a re-enactment of the present section 87.

Schedule 3 (5) repeals the present section 113 (to be re-enacted in Part 8 as section 125B) and replaces it with a new provision creating an offence relating to the production of false evidence of age.

The present sections 114–116 relate to minors and will remain unchanged.

Schedule 3 (7) amends the present section 117 which enables a minor to be on licensed premises in the company of any person who is at least 18 years of age. By the proposed amendment, the minor would be required to be in the company of a “responsible adult”. The persons to be regarded as responsible adults are to be described in the regulations.

The present sections 117A and 117B relate to minors and will remain unchanged.

Schedule 3 (7) inserts proposed sections 117C–117G. Of these:

Proposed section 117C would be a re-enactment of the present section 125A (which penalises the holder of a hotelier’s licence if an approved amusement device on the licensed premises is used by a minor).

Proposed section 117D would be a re-enactment of the present section 125B (which penalises a minor who uses an approved amusement device on licensed premises).

Proposed section 117E is a new provision enabling the regulations to prescribe the kind of evidence that would be acceptable as proof of age.

Proposed section 117F follows the Summary Offences Act 1988 in enabling a police officer, instead of bringing proceedings in a court against a juvenile offender, to serve an infringement notice requiring payment by the offender of \$50.

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Proposed section 17G precludes the imprisonment or detention of a minor who fails to pay a penalty imposed under the Act.

Schedule 3 (8) repositions the present heading to Part 8 of the Act as a consequence of the inclusion in the new Part 7A of some of the provisions at present included in Part 8.

Schedule 3 (9) re-enacts, as sections 125A and 125B in Part 8, the present sections 112 and 113 which do not relate to minors and are, by Schedule 3 (4) and (5), to be repealed and replaced.

SCHEDULE 4—OTHER AMENDMENTS

Schedule 4 (1) (a) replaces the existing definition of “liquor” with a more modern version.

Schedule 4 (1) (b) expands the definition of “race-meeting” to cover the situation where a race-meeting is postponed or abandoned.

Schedule 4 (2) requires one month’s notice to be given before certain objections may be made, or certain questions raised, in proceedings before the Licensing Court.

Schedule 4 (3) renders discretionary, rather than mandatory, a refund of part of the fee for a licence cancelled after a complaint and provides for the deduction of a cancellation fee.

Schedule 4 (4) simplifies the procedure for obtaining a duplicate of a licence.

Schedule 4 (5) provides for the recovery, as a debt due to the Crown, of so much of a licence fee, or an instalment of a licence fee, as consists of unpaid duty payable in respect of an approved amusement device.

Schedule 4 (6) renders discretionary, rather than mandatory, a refund of part of the fee for a surrendered licence and provides for the deduction of a fee.
