



New South Wales

# Liquor Legislation Amendment Bill 2008

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Liquor Act 2007* to provide that any new liquor licence granted on or after 30 October 2008 (and any licence in force before that date if the trading hours for the licensed premises are extended after that date) will be subject to a condition that the licensed premises must close for a period of 6 hours every day,
- (b) to amend the *Local Government Act 1993*:
  - (i) to enable police officers and local council employees authorised by the Commissioner of Police to confiscate alcohol, without being required to give any warning, from persons who are drinking in alcohol-free zones and to tip the alcohol out immediately or otherwise dispose of it, and
  - (ii) to remove existing penalty notice provisions relating to drinking alcohol in alcohol-free zones, and
  - (iii) to extend the maximum period for which an alcohol-free zone may be established or re-established under that Act from 3 years to 4 years,

- (c) to amend the *Road Transport (Driver Licensing) Act 1998* to enable the period for which a person is required to hold a provisional licence to be extended if the person is convicted or found guilty of an offence under section 129 of the *Liquor Act 2007* (which relates to persons under the age of 18 years using false evidence of age to gain entry to, or to remain in, or to obtain liquor from, licensed premises) or is issued with a penalty notice for an alleged offence under that section,
- (d) to make other amendments of a minor or consequential nature (including an amendment to the *Fines Act 1996* that is consequential on the removal of the penalty notice provisions under the *Local Government Act 1993* relating to drinking in alcohol-free zones).

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

**Clause 3** is a formal provision that gives effect to the amendments to the *Liquor Act 2007* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendments to the *Local Government Act 1993* set out in Schedule 2.

**Clause 5** is a formal provision that gives effect to the amendments to the Acts set out in Schedule 3.

**Clause 6** provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

**Schedules 1–3** contain the amendments described in the Overview above.



New South Wales

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New South Wales

# Liquor Legislation Amendment Bill 2008

No. , 2008

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## A Bill for

An Act to amend the *Liquor Act 2007* to restrict the trading hours of licensed premises; to amend the *Local Government Act 1993* in relation to alcohol-free zones; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Liquor Legislation Amendment Act 2008</i> .	3
<b>2 Commencement</b>	4
This Act commences on the date of assent to this Act.	5
<b>3 Amendment of Liquor Act 2007 No 90</b>	6
The <i>Liquor Act 2007</i> is amended as set out in Schedule 1.	7
<b>4 Amendment of Local Government Act 1993 No 30</b>	8
The <i>Local Government Act 1993</i> is amended as set out in Schedule 2.	9
<b>5 Amendment of other Acts</b>	10
The Acts specified in Schedule 3 are amended as set out in that Schedule.	11 12
<b>6 Repeal of Act</b>	13
(1) This Act is repealed on the day following the day on which this Act commences.	14 15
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	16 17

<b>Schedule 1</b>	<b>Amendment of Liquor Act 2007</b>	1
	(Section 3)	2
<b>[1] Section 11A</b>		3
	Insert after section 11:	4
<b>11A</b>	<b>Special licence condition—6-hour closure period for licensed premises</b>	5 6
	(1) This section applies in relation to:	7
	(a) any licence granted on or after 30 October 2008, and	8
	(b) any licence in force before that date, but only if an extended trading authorisation granted on or after that date is in force in relation to the licensed premises concerned.	9 10 11
	(2) A licence to which this section applies is subject to the condition that liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours (as determined in accordance with this section) during each consecutive period of 24 hours ( <i>the 6-hour closure period</i> ).	12 13 14 15 16
	(3) Except as provided by subsection (4), the 6-hour closure period for any particular licensed premises is the period that is approved for the time being by the Authority.	17 18 19
	(4) In the case of a licence:	20
	(a) granted on or after 30 October 2008 but before the date on which this section (as inserted by the <i>Liquor Legislation Amendment Act 2008</i> ) commenced, or	21 22 23
	(b) granted by the Local Court (as provided by clause 25 of Schedule 1) at any time after the date on which this section commenced,	24 25 26
	the 6-hour closure period for the licensed premises is, subject to subsection (5), the period from 4 am to 10 am.	27 28
	(5) The Authority may at any time, on application by the licensee or by the Director or the Commissioner of Police, or on its own initiative, approve of licensed premises having a different 6-hour closure period than:	29 30 31 32
	(a) the period as last approved by the Authority, or	33
	(b) the period specified in subsection (4).	34
	(6) Any such application by the licensee must be accompanied by the fee prescribed by the regulations.	35 36

(7)	To avoid doubt, during the 6-hour closure period for any licensed premises:	1
		2
(a)	the licensed premises are not authorised to stay open for the retail sale of liquor on the premises, and	3
		4
(b)	the licensee is not authorised to sell liquor by retail for consumption away from the licensed premises.	5
		6
(8)	This section has effect despite any other provision of this Act (in particular, those provisions relating to the standard trading period for licensed premises).	7
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(9)	This section does not, however, apply to the sale or supply of liquor to a resident of licensed premises if the liquor is sold or supplied for consumption in the room in which the resident is residing or staying.	10
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		12
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(10)	The regulations may also create exceptions to this section.	14
<b>[2]</b>	<b>Section 115 Declaration of restricted alcohol area</b>	15
	Omit “In that case, a person cannot, in respect of the same act or omission, be convicted of an offence under that Act and an offence created by the regulations for the purposes of this Division.” from section 115 (3).	16
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<b>[3]</b>	<b>Schedule 1 Savings and transitional provisions</b>	19
	Insert at the end of clause 1 (1):	20
	<i>Liquor Legislation Amendment Act 2008</i>	21



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## Schedule 2      Amendment of Local Government Act 1993

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		2
	(Section 4)	3
<b>[1]</b>	<b>Section 642</b>	4
	Omit the section. Insert instead:	5
	<b>642    Confiscation of alcohol in alcohol-free zones</b>	6
	(1) A police officer or an enforcement officer may seize any alcohol	7
	(and the bottle, can, receptacle or package in which it is	8
	contained) that is in the immediate possession of a person in an	9
	alcohol-free zone if:	10
	(a) the person is drinking alcohol in the alcohol-free zone, or	11
	(b) the officer has reasonable cause to believe that the person	12
	is about to drink, or has recently been drinking, alcohol in	13
	the alcohol-free zone.	14
	(2) Any alcohol or thing seized under this section is, by virtue of the	15
	seizure, forfeited:	16
	(a) if seized by a police officer—to the State, or	17
	(b) if seized by an enforcement officer—to the council that	18
	employs the officer.	19
	(3) Any alcohol seized under this section may:	20
	(a) be disposed of immediately by tipping it out of the bottle,	21
	can, receptacle or package in which it is contained, or	22
	(b) be otherwise disposed of in accordance with directions	23
	given by the Commissioner of Police or the council (as the	24
	case requires).	25
	(4) In this section:	26
	<i>enforcement officer</i> means an employee of a council authorised	27
	in writing by the Commissioner of Police to be an enforcement	28
	officer for the purposes of this section.	29
<b>[2]</b>	<b>Sections 643, 647 and 649</b>	30
	Omit the sections.	31
<b>[3]</b>	<b>Sections 644 (5) and 644B (4)</b>	32
	Omit “3 years” wherever occurring. Insert instead “4 years”.	33

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Schedule 2      Amendment of Local Government Act 1993

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<b>[4] Section 679 Penalty notices for certain offences</b>	1
Omit “642,” from section 679 (1).	2
<b>[5] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts</b>	3
Insert at the end of clause 1 (1):	4
<i>Liquor Legislation Amendment Act 2008</i> , to the extent that it amends this Act	5
<b>[6] Dictionary</b>	6
Omit “and in which the drinking of alcohol is accordingly prohibited in the circumstances and to the extent provided by section 642” from the definition of <i>alcohol-free zone</i> .	7
<b>[7] Dictionary, definition of “enforcement officer”</b>	8
Omit the definition.	9
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<b>Schedule 3</b>	<b>Amendment of other Acts</b>	1
	(Section 5)	2
<b>3.1</b>	<b>Fines Act 1996 No 99</b>	3
	<b>Schedule 1 Statutory provisions under which penalty notices issued</b>	4
	Omit “, 647” from the matter relating to the <i>Local Government Act 1993</i> .	5
<b>3.2</b>	<b>Road Transport (Driver Licensing) Act 1998 No 99</b>	6
<b>[1]</b>	<b>Section 20 Driver licensing system</b>	7
	Insert after section 20 (2) (m):	8
	(m1) make provision for or with respect to extending the period for which a person is required to hold a provisional licence if the person:	9
	(i) is convicted or found guilty of an offence under section 129 (Minor must not use false evidence of age) of the <i>Liquor Act 2007</i> , or	10
		11
	(ii) is issued with a penalty notice under section 150 of the <i>Liquor Act 2007</i> in respect of an alleged offence under section 129 of that Act, and	12
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<b>[2]</b>	<b>Section 20 (5)</b>	18
	Insert after section 20 (4):	19
	(5) Any regulation made under subsection (2) (m1) has effect despite anything to the contrary in section 150 (5) of the <i>Liquor Act 2007</i> .	20
		21