



New South Wales

# Liquor Amendment (24-hour Economy) Bill 2020

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*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,*

*, 2020*



New South Wales

## **Liquor Amendment (24-hour Economy) Bill 2020**

Act No \_\_\_\_\_, 2020

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An Act to amend the *Liquor Act 2007* and *Liquor Regulation 2018* to establish an integrated demerit points and incentives scheme; to provide for cumulative impact assessments; to regulate same day deliveries of liquor; to make miscellaneous amendments to that Act and regulation; and for other purposes.

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*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.*

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**The Legislature of New South Wales enacts—**

**1 Name of Act**

This Act is the *Liquor Amendment (Night-time Economy) Act 2020*.

**2 Commencement**

- (1) Subject to subsections 2 and 3, this Act commences on a day or days to be appointed by proclamation.
- (2) The following provisions commence on 1 December 2021—
  - (a) Schedule 3.1[5] and [6],
  - (b) Schedule 3.1[7] to the extent it inserts proposed sections 114P and 114Q,
  - (c) Schedule 3.2[2] to the extent it inserts the entry relating to section 114P(1).
- (3) Schedule 2, other than Schedule 2.1[2] and 2.2[1], commences on the date of assent to this Act.
- (4) Schedule 3.1[7], to the extent it inserts section 114HA, commences on 1 June 2022.

## Schedule 1 Amendments of Liquor Act 2007 and regulation for an integrated demerit points and incentives scheme

### 1.1 Liquor Act 2007 No 90

#### [1] Section 4 Definitions

Insert in alphabetical order in section 4(1)—

**category 1 demerit offence** means an offence against—

- (a) any of the following provisions of this Act—
  - (i) section 9 (sale or supply of liquor contrary to licence), but only where the offence relates to the sale or supply of liquor on or in relation to licensed premises outside of the trading hours of the premises,
  - (ii) section 11(2) (breach of licence conditions), but only in respect of a condition imposed under—
    - (A) Division 4 of Part 6, or
    - (B) Subdivision 2 or 3 of Division 4 of Part 9A, that restricts the trading hours of licensed premises or prohibits patrons from entering licensed premises at certain times,
  - (iii) section 73(1)(a) or (b) (permitting intoxication or indecent, violent or quarrelsome conduct),
  - (iv) section 73(2) (selling or supplying liquor to an intoxicated person),
  - (v) section 74(1)(b) or (2) (permitting the sale, possession or use of a prohibited plant or drug),
  - (vi) section 75(3) (failure to comply with a direction given by the Secretary),
  - (vii) section 82(6) (failure to comply with a short-term closure order),
  - (viii) section 84(7) (failure to comply with a long-term closure order),
  - (ix) section 102A(2) (failure to comply with a notice issued by the Secretary),
  - (x) section 114J (supplying liquor to an intoxicated person),
  - (xi) section 114M (making a same day delivery past the cut-off time),
  - (xii) section 149 (licensees and managers liable for act of employees etc) in respect of a contravention of section 73(2) or 75(3), or
- (b) any other provision of this Act or the regulations that is prescribed by the regulations for the purposes of this definition.

**category 2 demerit offence** means an offence against—

- (a) any of the following provisions of this Act—
  - (i) section 117(1), (2) or (8) (selling or supplying liquor to a minor or allowing such sale or supply),
  - (ii) section 149 (licensees and managers liable for act of employees etc) in respect of a contravention of section 117(1) or (2), or
- (b) any other provision of this Act or the regulations that is prescribed by the regulations for the purposes of this definition.

**demerit offence** means a category 1 demerit offence or a category 2 demerit offence.

*demerit point*, in relation to a licensee, manager of licensed premises or club licence, means a demerit point—

- (a) incurred against a licensee or manager of licensed premises under section 144H, or
- (b) incurred against a club licence under section 144I, or
- (c) imposed against a licensee or manager of licensed premises, or a club licence, under section 144N(1)(b).

**[2] Section 11 Licence conditions—general provisions**

Omit section 11(1A).

**[3] Section 46A Voluntary suspension of licence**

Omit “, 61(5A), 130C or 130D” from the note to section 46A(3). Insert instead “or 61(5A)”.

**[4] Section 60A Alternative process for transfer of licence**

Omit “a prescribed offence within the meaning of section 144B” from section 60A(2)(b).  
Insert instead “a demerit offence”.

**[5] Section 60A(6)**

Omit “prescribed offence”. Insert instead “demerit offence”.

**[6] Part 7, Division 4 Additional sanctions for selling liquor to minors on licensed premises**

Omit the Division.

**[7] Section 139 Grounds for making complaint**

Insert after section 139(3)(h)—

- (ha) that 2 or more serious indictable offences involving violence have been committed within a 12-month period—
  - (i) by persons on the licensed premises, or
  - (ii) near the licensed premises by persons who have been on the licensed premises within a reasonable time before the act occurred, or
  - (iii) near the licensed premises by persons attempting to enter, or who have been refused entry to, the licensed premises within a reasonable time before the act occurred,
- (hb) that 2 or more incidents posing a serious risk to the health or safety of persons have occurred within a 12-month period—
  - (i) involving persons on the licensed premises, or
  - (ii) near the licensed premises involving persons who have been on the licensed premises within a reasonable time before the incident occurred, or
  - (iii) near the licensed premises involving persons attempting to enter, or who have been refused entry to, the licensed premises within a reasonable time before the incident occurred,

**[8] Section 139(5)**

Insert after section 139(4)—

- (5) For the purposes of subsection (3)(ha), a person commits a serious indictable offence if a court convicts the person for the offence, whether or not it imposes any penalty.

**[9] Part 9A**

Omit the Part. Insert instead—

**Part 9A Demerit points scheme**

**Division 1 Preliminary**

**144A Part 9 not affected**

This Part does not limit the operation of Part 9.

**144B Definitions**

In this Part—

*demerit points register*—see section 144D.

*prescribed complaint*, for Subdivision 2 of Division 3—see section 144K.

*relevant demerit point*, for Subdivision 2 of Division 4—see section 144S.

*remedial action* means any action the Authority is authorised to take under Division 4.

*reviewable decision* means any of the following decisions—

- (a) a decision by the Authority to take remedial action in relation to a person or licence,
- (b) a decision by the Authority to refuse to remove a demerit point under section 144ZE(1)(b).

*submission period*, in relation to a notice given under section 144M or 144Z, means the period of 21 days after the day on which the notice is given.

**144C Committing demerit offence**

- (1) For the purposes of this Part, a person commits a demerit offence if the act or circumstance giving rise to the offence occurred or existed on or after the commencement of this Part and—
- (a) a court convicts the person for the offence, whether or not it imposes any penalty, or
  - (b) an amount is paid under a penalty notice in relation to the offence, or
  - (c) a penalty notice enforcement order under the *Fines Act 1996* is made against the person in respect of the offence.
- (2) However, any demerit point under this Part that is based on the conviction, penalty notice or penalty notice enforcement order is revoked and any remedial action taken as the result of the demerit point ceases to have effect if—
- (a) the conviction is overturned on appeal, or
  - (b) the person elects, after an amount is paid under the penalty notice, to have the offence dealt with by a court, or
  - (c) the penalty notice, or the penalty notice enforcement order to the extent that it applies to the penalty notice, is withdrawn or annulled.

- (3) Demerit offences that are committed in relation to a particular licence or licensed premises within a single 24-hour period are taken, for the purposes of this Part, to be a single demerit offence.

## **Division 2 Demerit points register**

### **144D Demerit points register**

- (1) The Secretary must maintain a register of demerit points (the *demerit points register*) in accordance with this Part and the regulations.
- (2) The Secretary must record in the demerit points register the following details for each licensee or manager of licensed premises, or each club licence, in relation to whom 1 or more demerit points are in force—
- the details of the licensee, manager or club licence,
  - for demerit points incurred or imposed against a licensee or manager of licensed premises—the details of the licence for the licensed premises,
  - the total number of demerit points in force for the licensee, manager or club licence from time to time,
  - the day on which each demerit point was incurred or imposed,
  - the day on which each demerit point expires (unless earlier removed),
  - any other details prescribed by the regulations for the purpose of this section.

### **144E Secretary to record demerit points incurred or imposed**

- (1) If demerit points are incurred or imposed against a licensee, manager or club licence under section 144H, 144I or 144N(1)(b), the Secretary must record the number of demerit points incurred or imposed in respect of the licensee, manager or licence in the demerit points register.
- (2) Demerit points incurred against a licensee, manager or club licence as a result of the commission of a demerit offence must be recorded in the demerit points register in respect of the day on which the demerit offence was committed.
- (3) Demerit points imposed against a licensee, manager or club licence under section 144N(1)(b) must be recorded in the demerit points register in respect of the day on which the demerit points were imposed by the Authority.
- (4) To avoid doubt, the Secretary must not record demerit points incurred against a licensee, manager or club licence in respect of a demerit offence if the court makes an order under section 10 of the *Crimes (Sentencing Procedure) Act 1999* in respect of the offence.
- (5) Without limiting any other provision of this Division, the Secretary may correct any mistake, error or omission in the demerit points register, subject to any requirements of the regulations.

### **144F Secretary may publish details from demerit points register**

The Secretary may publish any of the information contained in the demerit points register on a public website maintained by the Department of Customer Service.

### **144G When demerit points come into force or expire**

- (1) A demerit point incurred or imposed against a licensee, manager or club licence comes into force—

- (a) for a demerit point incurred under section 144H or 144I—on the day on which the demerit offence in relation to which the demerit point is incurred was committed, or
  - (b) for a demerit point imposed under section 144N(1)(b)—on the day the demerit point is imposed by the Authority.
- (2) A demerit point expires on the earlier of the following days—
- (a) the day that is 3 years after the day on which the demerit point comes into force,
  - (b) if the demerit point is removed under section 144ZE(1)(a)—the day the demerit point is removed.
- (3) The expiration or removal of a demerit point does not affect the continued operation of any remedial action taken as a result of the demerit point being incurred or imposed.

### **Division 3 Incurring and imposition of demerit points**

#### **Subdivision 1 Demerit points incurred for demerit offences**

##### **144H Demerit points incurred for demerit offences—licensed premises other than club premises**

If the licensee or manager of a licensed premises other than a club premises commits a demerit offence, the following number of demerit points are incurred against the licensee or manager—

- (a) if the demerit offence is a category 2 demerit offence—2 demerit points,
- (b) otherwise—1 demerit point.

##### **144I Demerit points incurred for demerit offences—club premises**

If the manager of a club premises commits a demerit offence, the following number of demerit points are incurred against the club licence for the club premises—

- (a) if the demerit offence is a category 2 demerit offence—2 demerit points,
- (b) otherwise—1 demerit point.

##### **144J Notice of demerit points incurred**

- (1) If a demerit point is incurred against a licensee, manager of licensed premises or club licence under section 144H or 144I, the Secretary must give written notice about the demerit point to the following—
- (a) for a demerit point incurred against a licensee—the licensee,
  - (b) for a demerit point incurred against a manager of licensed premises—
    - (i) the manager, and
    - (ii) the licensee for the licensed premises,
  - (c) for a demerit point incurred against a club licence—
    - (i) the manager of the registered club to which the club licence relates, and
    - (ii) the secretary of the registered club to which the club licence relates.
- (2) The notice must specify the following information—



- (a) the details of the licensee or manager against whom, or the club licence against which, the demerit point was incurred,
- (b) the details of the demerit offence in relation to which the demerit point was incurred,
- (c) the date on which the demerit point came into force,
- (d) the date on which the demerit point will expire, if not removed earlier,
- (e) the total number of demerit points in force for the licensee, manager or club licence after the incurring of the demerit point,
- (f) if, because of the total number of demerit points in force in relation to the licensee, manager or club licence, the Authority may take remedial action—the remedial action that the Authority may take,
- (g) any other matter prescribed by the regulations for the purposes of this section.

## **Subdivision 2 Demerit points imposed for prescribed complaints**

### **144K Definition**

In this Subdivision—

***prescribed complaint*** means a complaint in relation to a licensee or manager of licensed premises made to the Authority by the Secretary or Commissioner of Police under Part 9—

- (a) on a ground stated in section 139(3)(f), (g), (h), (ha) or (hb), and
- (b) relating to conduct or activities engaged in, circumstances existing, acts committed, or incidents occurring on or after the commencement of this Part.

### **144L Authority may impose demerit points in relation to prescribed complaints**

- (1) After dealing with and determining a prescribed complaint under Part 9, the Authority may, in addition to taking any disciplinary action under that Part, decide to impose 1 or 2 demerit points against—
  - (a) if the complaint relates to a licensee—the licensee, or
  - (b) if the complaint relates to the manager of licensed premises other than club premises—the manager, or
  - (c) if the complaint relates to the licensee or manager of club premises—the licence for the club premises.
- (2) In deciding whether to impose demerit points against the licensee, manager or licence, the Authority—
  - (a) must consider the following—
    - (i) the nature and seriousness of the grounds for the prescribed complaint,
    - (ii) the nature and seriousness of any outcome of the acts or circumstances forming the grounds for the prescribed complaint,
    - (iii) the size and patron capacity of the licensed premises and any impact those factors have on the ability of the licensee or manager to prevent or manage the acts or circumstances forming the grounds for the prescribed complaint,
    - (iv) any demerit points incurred against the licensee, manager or licence under Subdivision 1 for a demerit offence arising from

the conduct or activity, circumstances, act, or incident on which the prescribed complaint is based,

- (v) any disciplinary action taken under Part 9 by the Authority in relation to the prescribed complaint, and
- (b) may take into account any other matter the Authority considers relevant.

#### **144M Notice of proposed demerit points**

- (1) If the Authority proposes to impose a demerit point under section 144L(1), the Authority must give written notice about the proposed demerit point to the following—
  - (a) if the Authority proposes to impose a demerit point against a licensee—the licensee,
  - (b) if the Authority proposes to impose a demerit point against a manager—
    - (i) the manager, and
    - (ii) the licensee for the licensed premises,
  - (c) if the Authority proposes to impose a demerit point against a club licence—
    - (i) the manager of the club premises to which the club licence relates, and
    - (ii) the secretary of the registered club to which the club licence relates.
- (2) The notice must specify the following information—
  - (a) the number of demerit points proposed to be imposed against the licensee, manager or club licence,
  - (b) that any person given notice under this section may, within the submission period for the notice, make written submissions to the Authority about why the proposed demerit points should not be imposed.

#### **144N Decision about imposition of demerit points**

- (1) After considering any submissions made by a licensee, manager or secretary of a registered club, the Authority must decide to either—
  - (a) take no further action under this Subdivision, or
  - (b) impose 1 or 2 demerit points against the licensee, manager or club licence.
- (2) If the Authority decides to impose demerit points under subsection (1)(b), the Authority must not impose more than the number of demerit points stated in the notice given under section 144M.

#### **144O Authority to give notice of decision**

- (1) The Authority must give written notice of the Authority's decision to each person to whom the Authority gave notice under section 144M(1).
- (2) If the Authority decides to impose demerit points against the licensee, manager or club licence, the notice must state the following details—
  - (a) the details of the licensee, manager or club licence,
  - (b) the number of demerit points imposed against the licensee, manager or club licence,
  - (c) the date on which the demerit points come into force,

- (d) the date on which the demerit points will expire, if not removed earlier,
- (e) the total number of demerit points in force for the licensee, manager or club licence after the imposition of the demerit points,
- (f) if, because of the total number of demerit points in force in relation to the licensee, manager or club licence, the Authority may take remedial action—the remedial action that the Authority may take,
- (g) any other matter prescribed by the regulations for the purposes of this section.

#### **Division 4 Remedial action for accumulation of demerit points**

##### **Subdivision 1 Remedial action for accumulation of demerit points—licensees or managers of licensed premises**

###### **144P Remedial action—accumulation of 2–3 demerit points**

- (1) This section applies if, during any 3-year period, at least 2, but not more than 3, demerit points are in force for a licensee or manager of licensed premises.
- (2) If the Authority is satisfied that it is appropriate in the circumstances, the Authority may—
  - (a) reprimand the licensee or manager, or
  - (b) require the licensee or manager to undertake the courses of training or instruction as the Authority considers appropriate.

###### **144Q Remedial action—accumulation of 4–5 demerit points**

- (1) This section applies if, during any 3-year period, at least 4, but not more than 5, demerit points are in force for a licensee or manager of licensed premises.
- (2) If the Authority is satisfied that it is appropriate in the circumstances, the Authority may do any of the following—
  - (a) reprimand the licensee or manager,
  - (b) require the licensee or manager to undertake the courses of training or instruction the Authority considers appropriate,
  - (c) disqualify the licensee or manager for a specified period.

###### **144R Remedial action—accumulation of 6 or more demerit points**

- (1) This section applies if, during any 3-year period, 6 or more demerit points are in force for a licensee or manager of licensed premises.
- (2) If the Authority is satisfied that it is appropriate in the circumstances, the Authority may do any of the following—
  - (a) reprimand the licensee or manager,
  - (b) require the licensee or manager to undertake the courses of training or instruction the Authority considers appropriate,
  - (c) disqualify the licensee or manager for a specified period,
  - (d) permanently disqualify the licensee or manager.

## **Subdivision 2 Remedial action for accumulation of demerit points—licences other than club licences**

### **144S Definition**

In this Subdivision—

**relevant demerit point**, in relation to a licensed premises, means a demerit point—

- (a) incurred under Subdivision 1 of Division 3 for a demerit offence committed on or in relation to the licensed premises, or
- (b) imposed under Subdivision 2 of Division 3 in relation to a prescribed complaint based on conduct or activities engaged in, circumstances existing, acts committed, or incidents occurring on or in relation to the licensed premises.

### **144T Remedial action—accumulation of 2–3 demerit points**

- (1) This section applies if, during any 3-year period, at least 2, but not more than 3, relevant demerit points are in force for a licensee or manager, or former licensee or manager, of a licensed premises other than club premises.
- (2) If the Authority is satisfied that it is appropriate in the circumstances, the Authority may impose any condition on the licence the Authority considers necessary to address—
  - (a) the risk of a demerit offence being committed, or
  - (b) the likelihood of a prescribed complaint being made in relation to the licensee or manager.

### **144U Remedial action—accumulation of 4–5 demerit points**

- (1) This section applies if, during any 3-year period, at least 4, but not more than 5, relevant demerit points are in force for a licensee or manager, or former licensee or manager, of a licensed premises other than club premises.
- (2) If the Authority is satisfied that it is appropriate in the circumstances, the Authority may do any of the following—
  - (a) suspend the licence for the licensed premises for a period of up to 7 days,
  - (b) impose any condition on the licence for the licensed premises the Authority considers necessary to address—
    - (i) the risk of a demerit offence being committed, or
    - (ii) the likelihood of a prescribed complaint being made in relation to the licensee or manager.

### **144V Remedial action—accumulation of 6 or more demerit points**

- (1) This section applies if, during any 3-year period, 6 or more relevant demerit points are in force for a licensee or manager, or former licensee or manager, of a licensed premises other than club premises.
- (2) If the Authority is satisfied that it is appropriate in the circumstances, the Authority may do any of the following—
  - (a) suspend the licence for a period of up to 14 days,
  - (b) impose any condition on the licence the Authority considers necessary to address—
    - (i) the risk of a demerit offence being committed, or

- (ii) the likelihood of a prescribed complaint being made in relation to the licensee or manager.

### **Subdivision 3 Remedial action for accumulation of demerit points—club licences**

#### **144W Remedial action—accumulation of 2–3 demerit points**

- (1) This section applies if, during any 3-year period, at least 2, but not more than 3, demerit points are in force for a club licence.
- (2) If the Authority is satisfied that it is appropriate in the circumstances, the Authority may do any of the following—
  - (a) reprimand the manager of the club premises,
  - (b) reprimand the secretary of the club to which the club licence relates,
  - (c) require any one or more of the following persons to undertake the courses of training or instruction the Authority considers appropriate—
    - (i) the manager of the club premises,
    - (ii) the secretary of the club to which the club licence relates,
    - (iii) any member of the governing body of the club to which the club licence relates,
  - (d) impose any condition on the club licence the Authority considers necessary to address—
    - (i) the risk of a demerit offence being committed, or
    - (ii) the likelihood of a prescribed complaint being made in relation to the licensee or manager of the club premises.

#### **144X Remedial action—accumulation of 4–5 demerit points**

- (1) This section applies if, during any 3-year period, at least 4, but not more than 5, demerit points are in force for a club licence.
- (2) If the Authority is satisfied that it is appropriate in the circumstances, the Authority may do any of the following—
  - (a) reprimand, or disqualify for a specified period, the manager of the club premises,
  - (b) reprimand, or disqualify for a specified period, the secretary of the club to which the club licence relates,
  - (c) require any one or more of the following persons to undertake the courses of training or instruction the Authority considers appropriate—
    - (i) the manager of the club premises,
    - (ii) the secretary of the club to which the club licence relates,
    - (iii) any member of the governing body of the club to which the club licence relates,
  - (d) impose any condition on the club licence the Authority considers necessary to address—
    - (i) the risk of a demerit offence being committed, or
    - (ii) the likelihood of a prescribed complaint being made in relation to the licensee or manager of the club premises.

**144Y Remedial action—accumulation of 6 or more demerit points**

- (1) This section applies if, during any 3-year period, 6 or more demerit points are in force for a club licence.
- (2) If the Authority is satisfied that it is appropriate in the circumstances, the Authority may do any of the following—
  - (a) reprimand, or disqualify either permanently or for a specified period, the manager of the club premises,
  - (b) either or both of the following—
    - (i) reprimand, or disqualify either permanently or for a specified period, the secretary of the club to which the club licence relates,
    - (ii) reprimand, or disqualify for a specified period, another member of the club's governing body,
  - (c) require any one or more of the following persons to undertake the courses of training or instruction the Authority considers appropriate—
    - (i) the manager of the club premises,
    - (ii) the secretary of the club to which the club licence relates,
    - (iii) any member of the governing body of the club to which the club licence relates,
  - (d) impose any condition on the club licence the Authority considers necessary to address—
    - (i) the risk of a demerit offence being committed, or
    - (ii) the likelihood of a prescribed complaint being made in relation to the licensee or manager of the club premises.

**Subdivision 4 General provisions**

**144Z Notice of proposed remedial action**

- (1) Before taking remedial action under this Subdivision, the Authority must give the following persons written notice of the proposed remedial action—
  - (a) if the Authority proposes to take remedial action in relation to a licensee or manager of licensed premises other than club premises—
    - (i) the licensee or manager against whom remedial action is proposed to be taken, and
    - (ii) if the Authority proposes to take remedial action against a manager of licensed premises—the licensee for the licensed premises, and
    - (iii) the owner of the licensed premises, and
    - (iv) each person who is interested in the business, or in the conduct or profits of the business, carried on under the licence and whose name has been given to the Authority under section 41 or 55, and
    - (v) any other person prescribed by the regulations for the purposes of this section,
  - (b) if the Authority proposes to take remedial action in relation to a licence other than a club licence—
    - (i) the licensee for the licence, and
    - (ii) the manager of the licensed premises, and
    - (iii) the owner of the licensed premises to which the licence relates, and

- (iv) each person who is interested in the business, or in the conduct or profits of the business, carried on under the licence and whose name has been given to the Authority under section 41 or 55, and
    - (v) any other person prescribed by the regulations for the purposes of this section, or
  - (c) if the Authority proposes to take remedial action in relation to a club licence—
    - (i) the secretary of the registered club to which the club licence relates, and
    - (ii) the manager of the club premises to which the club licence relates, and
    - (iii) if the Authority proposes to reprimand or disqualify a member of the club's governing body—the member, and
    - (iv) any other person prescribed by the regulations for the purposes of this section.
- (2) The notice must specify the following information—
  - (a) the number of demerit points in force in relation to the licensee, manager or licence,
  - (b) the following details of the proposed remedial action—
    - (i) the period of any proposed suspension of the licence,
    - (ii) the details of any proposed reprimand of a person,
    - (iii) the period of any proposed disqualification of a person,
    - (iv) the date on which any proposed suspension or disqualification starts,
    - (v) the date on which any proposed suspension or disqualification ends,
    - (vi) the details of any conditions proposed to be imposed on the licence,
    - (vii) any other details prescribed by the regulations for the purposes of this section,
  - (c) that the person may, within the submission period for the notice, make submissions to the Authority about the proposed remedial action.

**144ZA Requirements for deciding to take remedial action**

- (1) In deciding whether to take remedial action under this Division, the Authority—
  - (a) must take into account the following—
    - (i) any submissions made by the following persons—
      - (A) a person specified in section 144Z(1),
      - (B) the NSW Police Force,
      - (C) the local consent authority for the licensed premises,
      - (D) the Secretary,
    - (ii) to the extent that the Authority considers it to be relevant to the decision—
      - (A) the size and patron capacity of the licensed premises and any impact those factors have on the ability of the licensee or manager of the licensed premises to prevent a demerit offence being committed or another prescribed complaint

- being made in relation to the licensee or manager of the licensed premises, and
  - (B) the history and nature of the commission of demerit offences by the licensee or manager, and
  - (C) the history and nature of prescribed complaints that have been made in relation to the licensee or manager, and
  - (D) whether other action would be preferable, and
  - (E) whether there have been changes to the persons who are the licensee, manager of the licensed premises, or owner of the business carried on under the licence, and
  - (F) whether there have been changes to the business practices in respect of the business carried on under the licence, and
  - (G) any other matter prescribed by the regulations for the purposes of this section, and
- (b) may take into account any other matter the Authority considers relevant.
- (2) The Authority must, as soon as practicable after making the decision, give each person stated in section 144Z(1) written notice of the following—
- (a) the decision,
  - (b) the reasons for the decision,
  - (c) any right of review in respect of the decision.
- (3) The regulations may prescribe guidelines setting out how the matters referred to in subsection (1)(a)(ii) are to be taken into account by the Authority.

**144ZB Provisions relating to conditions imposed on licences under Subdivision 2 or 3**

- (1) In imposing a condition on a licence under Subdivision 2 or 3, the Authority may, but is not required to, specify a period for which the condition is to apply.
- (2) The Authority may, at any time, vary or revoke a condition imposed on a licence under Subdivision 2 or 3.
- (3) In varying or revoking a condition under subsection (2), the Authority must comply with sections 144Z and 144ZA as if—
  - (a) a reference to taking remedial action in relation to a licence in those sections were a reference to varying or revoking a condition of the licence, and
  - (b) a reference to proposed remedial action in those sections were a reference to the proposed variation or revocation.
- (4) If a period for which a condition imposed on a licence under this Subdivision is to apply is not specified, the condition remains in force until revoked by the Authority.

**Division 5 Removal and reinstatement of demerit points**

**144ZC Application by licensee or manager of licensed premises to remove a category 1 demerit point**

- (1) This section applies in relation to a licensee or manager of licensed premises other than club premises, or the secretary of a registered club, if—
  - (a) there is not more than 1 demerit point in force in relation to the licensee or manager, or the club licence for the registered club, and
  - (b) the demerit point is a category 1 demerit point.



- (2) The licensee, manager or secretary may apply to the Authority to remove the category 1 demerit point if, in the 10-year period immediately preceding the making of the application—
  - (a) for a demerit point in force in relation to a licensee or manager—the licensee or manager has not committed a demerit offence other than the demerit offence, if any, in respect of which the demerit point was incurred, and
  - (b) for a demerit point in force in relation to a club licence—the manager of the club premises has not committed a demerit offence other than the demerit offence, if any, in respect of which the demerit point was incurred, and
  - (c) no other demerit points have been incurred or imposed against the licensee or manager, or the club licence.
- (3) The application must—
  - (a) be in the form and manner approved by the Authority, and
  - (b) be accompanied by—
    - (i) the fee (if any) prescribed by the regulations, and
    - (ii) any information or particulars prescribed by the regulations, and
  - (c) comply with any other requirements approved by the Authority or prescribed by the regulations.
- (4) In this section—

***category 1 demerit point***—

  - (a) in relation to a person, means a demerit point incurred against the person as a result of the person having committed a category 1 demerit offence, or
  - (b) in relation to a club licence, means a demerit point incurred against the club licence as a result of the manager of the club premises having committed a category 1 demerit offence.

**144ZD Application to remove demerit points**

- (1) The following persons may apply to the Authority to remove a demerit point that is in force in relation to a licensee, manager of licensed premises or club licence—
  - (a) if the demerit point is in force in relation to a licensee—the licensee,
  - (b) if the demerit point is in force in relation to a manager of licensed premises—the manager,
  - (c) if the demerit point is in force in relation to a club licence—the secretary of the registered club that holds the club licence.
- (2) However, a person may not apply under this section to remove a demerit point within the period of 12 months immediately after the demerit point was incurred or imposed.
- (3) The regulations may prescribe other circumstances in which an application may not be made under this section.
- (4) The application must—
  - (a) be in the form and manner approved by the Authority, and
  - (b) be accompanied by—
    - (i) the fee (if any) prescribed by the regulations, and

- (ii) any information or particulars prescribed by the regulations, and
  - (c) comply with any other requirements approved by the Authority or prescribed by the regulations.
- (5) The Authority must—
- (a) give a copy of the application to each person prescribed by the regulations for the purposes of this subsection, and
  - (b) give each person a reasonable opportunity to make submissions in relation to the application.

**144ZE Deciding application to remove demerit points**

- (1) In deciding an application made under this Division, the Authority may—
- (a) remove the demerit point, or
  - (b) refuse to remove the demerit point.
- (2) The Authority may decide to remove the demerit point only if the Authority is satisfied that—
- (a) for an application made under section 144ZC(2)—
    - (i) the Secretary or the Authority have not taken any action in relation to the licensee or manager of the licensed premises, or the licence for the licensed premises, under any provision of this Act in relation to—
      - (A) the demerit point, or
      - (B) the act or circumstances that were the basis of the demerit offence in respect of which the demerit point was incurred, and
    - (ii) the act or circumstances that were the basis of the demerit offence in respect of which the demerit point was incurred did not result in serious harm to any person, and
    - (iii) the licensee or manager of the licensed premises has implemented measures, or undertaken a course of training or instruction, to manage or reduce the risks that contributed to the commission of the demerit offence in respect of which the demerit point was incurred, and
    - (iv) the provisions of this Act or the regulations referred to in the definitions of *category 1 demerit offence* and *category 2 demerit offence* have not, since the demerit point was incurred or imposed, been contravened—
      - (A) by the person who committed the demerit offence in relation to which the demerit point was incurred, or
      - (B) for a demerit point incurred against a club licence—by a manager of the club premises, or
  - (b) for an application made under section 144ZD(1)—
    - (i) any remedial action taken by the Authority under Division 4 of this Part in relation to the demerit point has been complied with, and
    - (ii) the licensee or manager of the licensed premises has implemented measures, or undertaken a course of training or instruction, to manage or reduce the risks that contributed to—
      - (A) the commission of the demerit offence in respect of which the demerit point was incurred, or

- (B) the prescribed complaint in respect of which the demerit point was imposed, and
  - (iii) the provisions of this Act or the regulations referred to in the definitions of *category 1 demerit offence* and *category 2 demerit offence* have not, since the demerit point was incurred or imposed, been contravened—
    - (A) by the person who committed the demerit offence in relation to which the demerit point was incurred, or
    - (B) for a demerit point incurred against a club licence—by a manager of the club premises.
- (3) For the purposes of subsections (2)(a)(iii) and (b)(ii), the Authority must not take into account a measure or course of training or instruction the licensee or manager is required to implement or undertake under a provision of this Act or regulations.
- (4) The regulations may also prescribe—
  - (a) any matters the Authority must consider in deciding the application, and
  - (b) any mandatory or discretionary grounds for refusing to grant the application.
- (5) The Authority must, as soon as practicable after making the decision, give the applicant written notice of the following—
  - (a) the decision,
  - (b) the reasons for the decision,
  - (c) any right of review in relation to the decision.
- (6) If a demerit point is removed by the Authority under this section, any remedial action taken as a result of the demerit point continues to have effect despite the removal unless the Authority decides otherwise.

#### **144ZF Reinstatement of demerit points**

- (1) This section applies if the Authority is satisfied a demerit point was removed under section 144ZE(1)(a) on the basis of false, misleading, inaccurate or incomplete information provided by a licensee, manager of licensed premises or secretary of a registered club.
- (2) The Authority may reinstate the demerit point against the licensee, manager of licensed premises or licence from against which the demerit point was removed.
- (3) A demerit point reinstated under subsection (2)—
  - (a) is taken not to have been removed, and
  - (b) must be reinstated in the demerit points register—
    - (i) against the licensee, manager of licensed premises or licence, and
    - (ii) in relation to the day that the demerit point was originally recorded under section 144E(2) or (3).
- (4) If a demerit point is reinstated under this section—
  - (a) any remedial action taken in relation to the licence or person as a result of the demerit point before the removal applies as if the demerit point had not been removed, and

- (b) any condition imposed on the licence as a result of the demerit point immediately before the removal of the demerit point applies as if the demerit point had not been removed.

## **Division 6      General provisions**

### **144ZG      Submissions not to be used for prosecuting offences**

A submission made to the Authority under this Part may not be used for the purposes of prosecuting an offence under this Act.

### **144ZH      Administrative review by NCAT**

- (1) A person required to be given notice of a reviewable decision under section 144ZA(2) or 144ZE(5) may apply to the Civil and Administrative Tribunal for an administrative review under the *Administrative Decisions Review Act 1997* of the decision.
- (2) The application must be made no later than 21 days after the person receives the notice.
- (3) Part 2 of Chapter 3 of the *Administrative Decisions Review Act 1997* does not apply to the application.
- (4) If the reviewable decision is a decision by the Authority to take remedial action, the application operates to stay the reviewable decision unless the Civil and Administrative Tribunal otherwise directs.
- (5) The operation of any remedial action taken by the Authority is suspended during any time the decision is stayed.
- (6) In determining the application, the Civil and Administrative Tribunal must take into account any matter that was required to be taken into account in making the reviewable decision.

### **144ZI      Effect of appeals against convictions for demerit offences**

- (1) An appeal against a conviction for a demerit offence does not operate to prevent—
  - (a) a demerit point being incurred as a result of the commission of the offence, or
  - (b) the taking of remedial action in respect of such a demerit point.
- (2) However, an appeal does operate to suspend the operation of any such remedial action until the appeal is determined or withdrawn.

**Note.** If the appeal is successful and the conviction is overturned, a demerit point based on the conviction is revoked and any remedial action taken as a result of such a demerit point ceases to have effect.
- (3) The Authority may, if satisfied that circumstances have changed during the period that the operation of remedial action is suspended under this section, replace the remedial action with any remedial action that the Authority could have taken had those changed circumstances applied when the relevant demerit point was incurred.

### **[10]      Section 159 Regulations**

Insert “, discounting” after “waiver” in section 159(2)(b).

### **[11]      Schedule 1 Savings and transitional provisions**

Insert at the end of the Schedule—

## **Part 16 Provisions consequent on enactment of Liquor Amendment (Night-time Economy) Act 2020**

### **62 Definitions**

In this Part—

*amending Act* means the *Liquor Amendment (Night-time Economy) Act 2020*.  
*previous*, in relation to a provision, means the provision as in force immediately before its amendment or repeal by the amending Act.

### **63 Existing suspensions or cancellations of licences continue**

The suspension or cancellation of a licence under previous sections 130C, 130D or 130E continues in effect despite the repeal of those provisions.

### **64 Existing disqualifications continue**

The disqualification of a person from holding a licence under previous section 130E continues in effect despite the repeal of that section.

### **65 Existing strikes revoked**

- (1) A strike incurred by a licensee or manager under previous section 144E and in force immediately before the commencement is revoked.
- (2) A strike incurred on a club licence under previous section 144I and in force immediately before the commencement is revoked.

### **66 Existing remedial action resulting from strikes continues**

The revocation of a strike under clause 65 does not affect the continued operation of any remedial action taken under previous Part 9A as a result of the strike.

### **[12] Schedule 4 Special licence conditions for declared premises**

Omit the Schedule.

## **1.2 Liquor Regulation 2018**

### **[1] Clause 8 Definitions**

Omit “11(1)” from the definition of *compliance history risk loading element*.

Insert instead “11”.

### **[2] Clause 8A**

Insert after clause 8—

#### **8A Review**

- (1) The Minister must conduct a review of the effectiveness of the reduction of fees under clauses 10(2)(c), 12(3A)(c), 13(3) and 14(3A) and the extension of trading hours for dedicated live music and performance venues, including—
  - (a) whether the reduction in fees and extension of trading hours has led to an increase in live music performances or other arts and cultural events on licensed premises, and
  - (b) the impact the reduction in fees and extension of trading hours has had on employment at licensed premises and in the live music performance industry and arts and cultural sectors.

- (2) The Minister must, by 31 March 2025, give a report about the review to the Presiding Officer of each House of Parliament.
- (3) A copy of a report given to the Presiding Officer of a House of Parliament under subclause (2) must be laid before the House within 5 sitting days of the House after it is received by the Presiding Officer.
- (4) This clause is repealed on 30 April 2025.

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

Insert at the end of clause 10—

- (2) The base fee element must be reduced—
  - (a) for an assessment year that commences on or after 15 March 2024, if a demerit point has not been incurred or imposed against the licence, or a licensee or manager of the licensed premises for the licence, in the 3-year period preceding the assessment date—by 5%, or
  - (b) for an assessment year that commences on or after 15 March 2026, if a demerit point has not been incurred or imposed against the licence, or a licensee or manager of the licensed premises for the licence, in the 5-year period preceding the assessment date—by 10%, or
  - (c) for dedicated live music and performance venues—by 80%.
- (3) Subclause (2)(c) ceases to have effect on 31 December 2024.
- (4) Subclauses (2)(c) and (3) and this subclause are repealed on 30 April 2025.

**[4] Clause 11 Compliance history risk loading element**

Omit “The” from clause 11(1).

Insert instead “For an assessment year that commences before 15 March 2022, the”.

**[5] Clause 11(1)**

Omit “prescribed offences” wherever occurring. Insert instead “demerit offences”.

**[6] Clause 11(1) and (3)–(5)**

Omit “prescribed offence” wherever occurring. Insert instead “demerit offence”.

**[7] Clause 11(1A)**

Insert after clause 11(1)—

- (1A) For an assessment year that commences on or after 15 March 2022, the *compliance history risk loading element* of a periodic licence fee for a licence is calculated at a rate of 40 fee units for each demerit point incurred or imposed against the licence, or a licensee or manager of the licensed premises, during the relevant compliance period for the assessment year.

**[8] Clause 11(2)**

Omit the subclause. Insert instead—

- (2) No compliance history risk loading element is payable for a licence if—
  - (a) for an assessment year that commences before 15 March 2022—none of the circumstances specified in subclause (1) exist in relation to the licence, or
  - (b) for an assessment year that commences on or after 15 March 2022—no demerit points have been incurred or imposed against the licence, or a

licensee or manager of the licensed premises, during the relevant compliance period.

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

Omit the definition of *prescribed offence*.

Insert in alphabetical order—

*demerit offence* has the same meaning as in section 4 of the Act.

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

Insert after clause 12(3)—

(3A) The trading hours risk loading element must be reduced—

- (a) for an assessment year that commences on or after 15 March 2024, if a demerit point has not been incurred or imposed against the licence, or a licensee or manager of the licensed premises for the licence, in the 3-year period preceding the assessment date—by 5%, or
- (b) for an assessment year that commences on or after 15 March 2026, if a demerit point has not been incurred or imposed against the licence, or a licensee or manager of the licensed premises for the licence, in the 5-year period preceding the assessment date—by 10%, or
- (c) for dedicated live music and performance venues—by 80%.

**[11] Clause 12(6)–(8)**

Insert after clause 12(5)—

- (6) However, subclause (2)(c) does not apply if, in the Secretary’s opinion, the licensed premises do not have a market orientation towards live performances, the arts or cultural events and endeavours.
- (7) Subclause (3A)(c) ceases to have effect on 31 December 2024.
- (8) Subclauses (3A)(c), (6) and (7) and this subclause are repealed on 30 April 2025.

**[12] Part 7A**

Insert after Part 7—

## **Part 7A Demerit points system**

### **107A Additional details for demerit points register**

For the purposes of section 144D(2)(f) of the Act, the Secretary must, for each licensee, manager of licensed premises or licence in relation to which 1 or more demerit points are in force, record in the demerit points register details of the circumstances that resulted in each demerit point being incurred or imposed.

### **107B Person to whom Authority must give copies of applications to remove demerit points**

For the purposes of section 144ZD(5)(a) of the Act, the following persons are prescribed—

- (a) the NSW Police Force,
- (b) the local consent authority for the licensed premises to which the application relates,

(c) the Secretary.

**107C Matters Authority must consider when deciding to remove demerit points**

For the purposes of section 144ZE(4)(a) of the Act, the following matters are prescribed—

- (a) any submissions received from a person prescribed under clause 107B,
- (b) whether the licensee has entered into a liquor accord,
- (c) if the licensee has entered into a liquor accord—the licensee’s compliance with the terms of the liquor accord.

**[13] Clause 130 Provisional approval of applications to change boundaries of licensed restaurants for outdoor dining purposes**

Omit “prescribed offence” from clause 130(2)(c). Insert instead “demerit offence”.

**[14] Schedule 1 Fees**

Insert in appropriate order in Part 3—

Application under section 144ZC(2) to Nil remove a category 1 demerit point	4.92	4.92
Application under section 144ZD(1) to Nil remove a demerit point	4.92	4.92



## **Schedule 2 Amendments of Liquor Act 2007 and regulation for cumulative impact assessments**

### **2.1 Liquor Act 2007 No 90**

#### **[1] Section 4 Definitions**

Insert in alphabetical order in section 4(1)—

*published cumulative impact assessment*, for Division 5 of Part 4—see section 72A.

*related authorisation*, for Division 5 of Part 4—see section 72A.

*relevant licence*, for Division 5 of Part 4—see section 72A.

*relevant stakeholders*, for Division 5 of Part 4—see section 72A.

*social impact duty*, for Division 5 of Part 4—see section 72A.

#### **[2] Part 4, Division 1A Temporary freeze on licences and other authorisations in prescribed precincts**

Omit the Division.

#### **[3] Section 48 Community impact**

Insert after section 48(5)(a)—

- (a1) any published cumulative impact assessment that applies to the area in which the premises the subject of the application are located, and

#### **[4] Part 4, Division 5**

Insert after Division 4—

### **Division 5 Cumulative impact assessments**

#### **72A Definitions**

In this Division—

*published cumulative impact assessment* means a cumulative impact assessment published under section 72E.

*related authorisation* means an extended trading authorisation for a relevant licence.

*relevant licence* means a licence of a type prescribed by the regulations for this Division.

*relevant stakeholders*, for a cumulative impact assessment, means the following—

- (a) the local consent authority,  
(b) the local police,  
(c) the Secretary of the Ministry of Health,  
(d) another person the Authority considers representative of—  
(i) holders of the type of relevant licence to which the assessment applies, or  
(ii) businesses and residents in the area to which the assessment relates,  
(e) another person, or class of persons, prescribed by the regulations.

**social impact duty**, for the Authority, means the duty under section 48(5) to ensure that the overall social impact of the granting of a licence or authorisation will not be detrimental to the well-being of the local or broader community.

#### **72B Preparation of cumulative impact assessment**

- (1) This section applies if, because of the number of relevant licences or related authorisations in force for an area, the Authority considers that granting any further relevant licences or related authorisations for premises in the area is likely to be inconsistent with the Authority's social impact duty.

**Note.** See section 59(3) which provides that an application for approval to remove a licence to other premises is to be dealt with and decided by the Authority as if it were an application for the granting of a licence for the other premises.

- (2) The Authority may prepare a document (a **cumulative impact assessment**) in relation to the cumulative impact of the granting of licences or authorisations for premises in that area.
- (3) In this section—  
**area** means a local government area, or part of a local government area, prescribed by the regulations.

#### **72C Contents of cumulative impact assessment**

- (1) A cumulative impact assessment must include the following—
- (a) the reasons the Authority considers that granting any further relevant licences or related authorisations for premises in the area is likely to be inconsistent with the Authority's duty under section 48(5) to ensure that the overall social impact of the granting of a licence or authorisation will not be detrimental to the well-being of the local or broader community,
  - (b) details of the evidence on which the Authority has formed that opinion,
  - (c) a map showing the area the subject of the assessment,
  - (d) any other information prescribed by the regulations.
- (2) A cumulative impact assessment may relate to—
- (a) all relevant licences and related authorisations for premises in an area, or
  - (b) only relevant licences or related authorisations, or classes of relevant licences or related authorisations, specified in the assessment, or
  - (c) only classes of premises specified in the assessment.
- (3) A cumulative impact assessment may also include guidance about other types of approvals in relation to an existing relevant licence that it considers are likely to have an overall social impact in the area to which the assessment applies that is detrimental to the well-being of the local or broader community, including—
- (a) approval of changes to the specified boundaries of the licensed premises, within the meaning of section 94, if the change in boundaries would increase the floor space of the licensed premises, or
  - (b) approval of a variation to the conditions of the licence if the variation would extend the trading hours of the licensed premises.

#### **72D Consultation with relevant stakeholders**

After preparing a draft cumulative impact assessment, the Authority must—

- (a) consult about the draft assessment with relevant stakeholders for the assessment, and
- (b) give the stakeholders a reasonable period in which to provide feedback about the assessment.

**72E Publication of cumulative impact assessment**

If, after consulting with relevant stakeholders, the Authority still considers the cumulative impact assessment is necessary the Authority must publish it on a publicly accessible government website.

**72F Review of cumulative impact assessment**

- (1) The Authority must, at least every 2 years, review each cumulative impact assessment that is in force.
- (2) The first review of a cumulative impact assessment must be completed not later than 12 months after the assessment is published.
- (3) A review of a cumulative impact assessment must include consultation with relevant stakeholders for the assessment.

**72G Variation of cumulative impact assessments**

- (1) The Authority may, at any time, vary a cumulative impact assessment.
- (2) However, the Authority may vary a cumulative impact assessment in relation to a matter mentioned in section 72C(1) only if the Authority has—
  - (a) consulted with relevant stakeholders for the assessment about the proposed variation, and
  - (b) given the stakeholders a statement explaining the reasons for the proposed variation, and
  - (c) given the stakeholders a reasonable period in which to provide feedback about the proposed variation.
- (3) If the Authority varies a cumulative impact assessment it must publish, on a publicly accessible government website—
  - (a) a copy of the assessment as varied, and
  - (b) if a statement was prepared explaining the reasons for the variation—the statement.

**72H Revocation of cumulative impact assessments**

- (1) The Authority may revoke a cumulative impact assessment if the Authority no longer considers that granting further relevant licences or related authorisations for premises in the area to which the assessment applies is likely to be detrimental to the well-being of the local or broader community.
- (2) However, before revoking the cumulative impact assessment the Authority must consult with relevant stakeholders for the assessment.
- (3) If, after considering the views of relevant stakeholders, the Authority revokes the cumulative impact assessment it must publish, on a publicly accessible government website, a statement—
  - (a) that the assessment has been revoked, and
  - (b) that includes information about why the assessment is no longer necessary.

## 2.2 Liquor Regulation 2018

[1] **Clause 123**

Omit the clause.

[2] **Clauses 123A and 123B**

Insert after clause 123—

**123A Relevant licences for cumulative impact assessments—section 72A of Act, definition of “relevant licence”**

- (1) For the purposes of Division 5 of Part 4 of the Act, a relevant licence is any of the following licences—
  - (a) a hotel licence, other than a hotel licence used for the purpose of operating a tourist accommodation establishment,
  - (b) a club licence,
  - (c) an on-premises licence that relates to a public entertainment venue, other than a cinema, theatre or excluded live music and performance venue,
  - (d) an on-premises licence that is endorsed with an authorisation referred to in section 24(3) of the Act,
  - (e) a packaged liquor licence.
- (2) In this clause—

*excluded live music and performance venue*—

  - (a) means a music hall, concert hall, dance hall or other licensed premises or space with a market orientation towards live music, live performances or creative or cultural uses, but
  - (b) does not include premises that do not provide significant employment for musicians, performers or artists.

**123B Areas for cumulative impact assessment**

A local government area, or a part of a local government area, mentioned in Schedule 3A is prescribed for the purposes of the definition of *area* in section 72B(3) of the Act.

[3] **Schedule 3A**

Insert after Schedule 3—

### **Schedule 3A Areas for cumulative impact assessments**

City of Sydney local government area

## **Schedule 3 Amendments of Liquor Act 2007 and regulation for same day liquor deliveries**

### **3.1 Liquor Act 2007 No 90**

#### **[1] Section 4 Definitions**

Insert in alphabetical order in section 4(1)—

*same day delivery*, for Division 1B of Part 6—see section 114E.

*same day delivery provider*, for Division 1B of Part 6—see section 114E.

#### **[2] Section 99 Responsible sale, supply, service or promotion of liquor**

Omit section 99(2)(c). Insert instead—

- (c) requirements for licensees, managers and other persons engaged in the sale, supply, service or promotion of liquor or other related activities to undergo courses of training or otherwise demonstrate the necessary knowledge to promote responsible practices in engaging in the activities,

#### **[3] Sections 114(2) and (3) and 127(1)**

Insert “or by other electronic means” after “site” wherever occurring.

#### **[4] Section 114 Sale of liquor through internet or by other communication media**

Omit section 114(3)(b)(iii). Insert instead—

- (iii) if the delivery is made on a day after the day the order is taken—in accordance with the customer’s instructions, or
- (iv) if the order was sold through an internet site or by other electronic means—to another adult person nominated by the person who placed the order.

#### **[5] Section 114(5)(c)**

Insert at the end of section 114(5)(b)—

, and

- (c) for a licensee who was a same day delivery provider in relation to the supply of the liquor—had, before the supply occurred, complied with section 114P in relation to the person responsible for delivery of the liquor.

#### **[6] Section 114(6)(c)**

Insert at the end of section 114(6)(b)—

, and

- (c) for a person who was a same day delivery provider in relation to the supply of the liquor—had, before the supply occurred, complied with section 114P in relation to the person responsible for delivery of the liquor.

#### **[7] Part 6, Division 1B**

Insert after Division 1A—

## **Division 1B Same day liquor deliveries**

### **114E Definitions**

In this Division—

*same day delivery*—see section 114F.

*same day delivery provider*—see section 114G.

### **114F Meaning of “same day delivery”**

- (1) In this Division, a *same day delivery* means the delivery of packaged liquor, under a commercial arrangement, to a person in New South Wales on the same day it is purchased by retail, irrespective of the State or Territory in which the sale is made.
- (2) The regulations may prescribe circumstances in which a delivery of packaged liquor is not a same day delivery.

### **114G Meaning of “same day delivery provider”**

- (1) In this Division, a *same day delivery provider* means a licensee or other person conducting a business or undertaking who, as part of that business or undertaking—
  - (a) states or otherwise indicates, whether by way of advertisement or otherwise, that the licensee or other person will supply liquor for same day delivery in New South Wales, and
  - (b) either—
    - (i) supplies the liquor by way of same day delivery, or
    - (ii) engages an employee or agent to supply the liquor by way of same day delivery.
- (2) The regulations may prescribe circumstances in which a licensee or other person is not a same day delivery provider.

### **114H Restrictions on same day deliveries**

A same day delivery provider must not, as part of a same day delivery, supply liquor if the liquor—

- (a) is stored for sale at premises within New South Wales, and
- (b) is not sold under a licence.

Maximum penalty—100 penalty units.

**Note.** The operation of this provision does not affect the operation of other provisions in this Act that may require a person to obtain a liquor licence to sell liquor in New South Wales.

### **114HA Age to be verified when agreement made for same day delivery**

- (1) A same day delivery provider must, at the time the agreement for the same day liquor delivery is entered into—
  - (a) use an accredited identity service provider to verify the person entering into the agreement is at least 18 years of age if it is the first time the person has entered into an agreement with the provider, or
  - (b) use another process, that meets at least the minimum standard prescribed by the regulations, to verify the person’s age.

Maximum penalty—50 penalty units.

- (2) For a second or subsequent occasion on which a person intends to enter into an agreement with a same day delivery provider for the delivery of liquor, the provider must, before entering into the agreement, require the person to undergo a form of authentication prescribed by the regulations.  
Maximum penalty—50 penalty units.
- (3) In this section—  
**accredited identity service provider** means an identity service provider who has been accredited under the Trusted Digital Identity Framework published by the Digital Transformation Agency on behalf of the Commonwealth.

**114I Evidence of identity and age required for same day deliveries**

- (1) A same day delivery provider must not make a same day delivery to a person, or permit an employee or agent to make a same day delivery for the provider, unless the person produces evidence of the person's identity and age in a way that complies with the requirements prescribed by the regulations.  
Maximum penalty—50 penalty units.
- (2) The regulations may prescribe requirements in relation to the making and keeping of records about evidence of a person's identity and age produced under subsection (1).

**114J Liquor not to be supplied to intoxicated person**

- (1) A person must not, as part of a liquor delivery, supply liquor to an intoxicated person.  
Maximum penalty—100 penalty units.
- (2) It is a defence to a prosecution under subsection (1) for the person who delivered the liquor if it is proved that at the time of the alleged offence the person did not know, and could not reasonably be expected to have known, that the person was delivering liquor.  
**Example.** A courier delivers a package on behalf of an interstate retailer and is unaware the delivery includes liquor.
- (3) In this section—  
**liquor delivery** means—
  - (a) a same day delivery, or
  - (b) another delivery of packaged liquor, under a commercial arrangement, to a person in New South Wales after it is purchased by retail, irrespective of the State or Territory in which the sale is made.

**114K Liquor not to be supplied in alcohol-free zones, alcohol prohibited areas or restricted alcohol areas**

- (1) A person must not, as part of a same day delivery, supply liquor in a public place within—
  - (a) an alcohol-free zone, or
  - (b) an alcohol prohibited area, or
  - (c) a restricted alcohol area.  
Maximum penalty—30 penalty units.  
**Note.** This subsection does not prevent liquor being supplied as part of a same day delivery to a person in residential or commercial premises in a zone or area mentioned in paragraph (a)–(c).
- (2) In this section—

*alcohol-free zone* has the same meaning as in the *Local Government Act 1993*.

*alcohol prohibited area* means an area declared to be an alcohol prohibited area under section 632A of the *Local Government Act 1993*.

*restricted alcohol area* means an area declared to be a restricted alcohol area under Division 2.

**114L Cut-off time for deliveries**

- (1) A person must not deliver liquor that has been advertised for same day delivery during the period—
  - (a) starting at—
    - (i) on a Sunday—11 pm, and
    - (ii) on any other day of the week—midnight, and
  - (b) ending at 9 am.Maximum penalty—100 penalty units.
- (2) The regulations may prescribe deliveries of packaged liquor to which this section does not apply.

**114M Records to be kept about refusal to deliver liquor**

- (1) A same day delivery provider must keep a record of a same day delivery that the provider, or an employee or agent of the provider, refuses to make on the grounds that—
  - (a) by making the delivery the provider, employee or agent would be—
    - (i) selling or supplying liquor to a minor in contravention of section 117, or
    - (ii) supplying liquor to an intoxicated person in contravention of section 114J, or
  - (b) at the time of the delivery, the provider, employee or agent was unable to verify the person proposing to accept the delivery was the adult person specified to receive the delivery in the written instructions given by the licensee under section 114(3).Maximum penalty—30 penalty units.
- (2) A same day delivery provider must, if asked by a police officer or inspector—
  - (a) make a record kept under subsection (1) available for inspection by the police officer or inspector, and
  - (b) allow the police officer or inspector to take a copy of the record.Maximum penalty—30 penalty units.
- (3) A same day delivery provider must keep a record mentioned in subsection (1) for at least 1 year after the day on which the delivery to which the record relates was to have been made.  
Maximum penalty—30 penalty units.

**114N Employees and agents not to be penalised for refusal to deliver in particular circumstances**

- (1) This section applies to an employee or agent of a same day delivery provider who makes same day deliveries on behalf of the provider.
- (2) The same day delivery provider must ensure the employee or agent does not suffer any financial penalty for refusing to make a same day delivery on the grounds that—



- (a) by making the delivery the provider, employee or agent would be—
  - (i) selling or supplying liquor to a minor in contravention of section 117, or
  - (ii) supplying liquor to an intoxicated person in contravention of section 114J, or
- (b) at the time of the delivery, the employee or agent was unable to verify the person proposing to accept the delivery was the adult person specified to receive the delivery in the written instructions given by the licensee under section 114(3).

Maximum penalty—50 penalty units.

- (3) It is a defence to a prosecution for an offence under this section if it is proved that—
  - (a) a direction or agreement under which the employee or agent makes same day deliveries on behalf of the same day delivery provider sets out an alternative place for delivery of the liquor, and
  - (b) the employee or agent did not take reasonable steps to deliver the liquor to that place.
- (4) In this section—  
**financial penalty** includes any action that has a financial impact including, for example, withholding or delaying payment or a loss of hours of employment.

#### **114O Self-exclusion**

- (1) A person (the **participant**) may ask a same day delivery provider to enter into an agreement (a **self-exclusion agreement**) with the participant under which the participant agrees to be prevented from having liquor delivered by the same day delivery provider to the participant.
- (2) A self-exclusion agreement must comply with the requirements prescribed by the regulations.
- (3) The same day delivery provider must—
  - (a) enter into a self-exclusion agreement with the participant, and
  - (b) comply with the agreement.

Maximum penalty—30 penalty units.

- (4) If a same day delivery provider sells or advertises liquor through an internet site or by other electronic means for same day delivery, the provider must ensure that—
  - (a) the internet site or other electronic means provides a way for a person to enter into a self-exclusion agreement with the provider, and
  - (b) any person accessing the internet site or other electronic means would reasonably be expected to be alerted to the ability to enter into a self-exclusion agreement.

Maximum penalty—30 penalty units.

- (5) No civil or criminal liability is incurred by the same day delivery provider for an act done, or omitted to be done, in good faith and in accordance with this section, in relation to the participant.

#### **114P Training of persons making same day deliveries**

- (1) A same day delivery provider must not make a same day delivery, or permit an employee or agent to make a same day delivery for the provider, unless the

provider, employee or agent has the training, that is reasonably practicable, to ensure liquor delivered by the provider, employee or agent as part of a same day delivery is supplied responsibly.

Maximum penalty—50 penalty units.

- (2) Without limiting subsection (1), a same day delivery provider may—
  - (a) provide an employee or agent of the provider with the training, or
  - (b) confirm the employee or agent has been provided with the training by another person.
- (3) For the purposes of subsection (1), training to ensure liquor delivered by same day delivery providers, and employees and agents, is supplied responsibly must include information that is part of a training program that—
  - (a) is developed and approved by the Secretary and published on a publicly accessible Government website, and
  - (b) complies with any minimum requirements for the training prescribed by the regulations under subsection (4)(a).
- (4) The regulations may provide for further matters relating to the training of same day delivery providers and providers' employees or agents, including, for example—
  - (a) the minimum requirements for the training, and
  - (b) requirements about testing knowledge of information that is part of the training, and
  - (c) the provision by the Secretary of training for the purposes of this section.
- (5) In this section—

*training* includes information, instruction and supervision.

**114Q Same day delivery providers liable for acts of employees and agents**

- (1) This section applies if an employee or agent of a same day delivery provider contravenes—
  - (a) this Division, or
  - (b) a regulation made for the purposes of this Division.
- (2) The same day delivery provider is taken to have also contravened the provision and is liable to the penalty for a contravention of that provision.
- (3) Subsection (1) does not apply if the same day delivery provider has—
  - (a) ensured the employee or agent has the training referred to in section 114P, and
  - (b) kept records that demonstrate the provider has complied with paragraph (a).

**114R Review of regulation of liquor deliveries**

- (1) The Minister is to review the operation of this Act in relation to the following—
  - (a) same day deliveries,
  - (b) other liquor deliveries,
  - (c) the requirement to provide evidence of age and identity for same day deliveries and other liquor deliveries.

- (2) The review under subsection (1)(a) must include consideration of whether—
  - (a) the policy objectives of the Act in relation to same day deliveries, including rapid delivery, remain valid, and
  - (b) the terms of this Division remain appropriate for securing the objectives.
- (3) The review under subsection (1)(b) must include consideration of—
  - (a) emerging trends and technologies relevant to liquor deliveries that are not same day deliveries, and
  - (b) any additional harm minimisation measures that may be appropriate for the liquor deliveries, and
  - (c) the use of direct and social media marketing and the collection of consumer data to target vulnerable communities.
- (4) The review under subsection (1)(c) must include consideration of whether additional evidence of age requirements are needed for liquor deliveries that are not same day deliveries.
- (5) A review under this section is to be undertaken as soon as practicable after—
  - (a) for a review under subsection (1)(a) and (b)—2 years after the commencement of this section, and
  - (b) for a review under subsection (1)(c)—1 year after the commencement of this section.
- (6) A report on the outcome of a review under this section is to be tabled in each House of Parliament within—
  - (a) for a review under subsection (1)(a) and (b)—6 months after the end of the period of 2 years, and
  - (b) for a review under subsection (1)(c)—6 months after the end of the period of 1 year.

**[8] Section 159 Regulations**

Insert after section 159(2)(f1)—

- (f2) requirements for licensees, managers and other persons engaged in the sale, supply, service or promotion of liquor or other related activities to undergo courses of training or otherwise demonstrate the necessary knowledge to promote responsible practices in engaging in the activities,
- (f3) matters relating to same day deliveries of liquor under Division 1B of Part 6,
- (f4) matters relating to the recording and reporting of data about alcohol sales or deliveries by same day delivery providers, including, for example, requirements relating to—
  - (i) the type of records to be kept, and
  - (ii) the frequency with which providers must provide reports,

**3.2 Liquor Regulation 2018**

**[1] Part 7B**

Insert after Part 7—

## **Part 7B Same day liquor deliveries**

### **107D Circumstances that are not same day deliveries**

For the purposes of section 114F(2) of the Act, the following deliveries of packaged liquor are not a same day delivery—

- (a) a delivery of packaged liquor sold, whether by wholesale or retail, to a person authorised to sell liquor,
- (b) a delivery of packaged liquor that—
  - (i) forms part of a sale of food designed to be delivered with a hamper, and
  - (ii) in which the volume of the packaged liquor is not more than 1.5 litres.

### **107E Evidence of age and identity**

For the purposes of section 114I(1) of the Act, the evidence of identity and age is—

- (a) an evidence of age document, or
- (b) if a person would reasonably believe the person who is taking delivery of the liquor is over the age of 18 years—a signed declaration that states—
  - (i) the person's name, and
  - (ii) that the person is of or above the age of 18 years.

### **107F Self-exclusion agreement**

For the purposes of section 114O of the Act, a self-exclusion agreement must provide for a participant to agree to be prevented from having liquor delivered by the same day delivery provider to the participant—

- (a) for the period specified in the agreement, or
- (b) permanently.

### **107G Training for same day delivery providers, employees and agents of same day delivery providers**

- (1) For the purposes of section 114P of the Act, the minimum requirements for the training are that the training provides the same day delivery provider, employee or agent with an understanding of the following—
  - (a) the obligations for responsibly delivering alcohol under the Act and other State laws,
  - (b) how to responsibly serve alcohol in the context of delivering liquor, including how to recognise intoxication and reduce the risk of supply of liquor to minors,
  - (c) how to ensure the provider's, employee's or agent's own safety in delivering liquor.
- (2) For the purposes of section 114P(4)(b), the training must require a same day delivery provider, employee or agent to—
  - (a) complete a test, approved by the Secretary, that demonstrates the provider's, employee's or agent's knowledge of the information that is part of the training, and
  - (b) register the provider's, employee's or agent's completion of the training and test on an online system approved by the Secretary.

**[2] Schedule 6 Penalty notice offences**

Insert in appropriate order—

Section 114H	\$1,100
Section 114I(1)	\$550
Section 114J	\$550
Section 114K(1)	\$330
Section 114L(1)	\$1,100
Section 114M(1)	\$330
Section 114M(2)	\$330
Section 114M(3)	\$330
Section 114N(2)	\$550
Section 114O(3)	\$330
Section 114O(4)	\$330
Section 114P(1)	\$1,100
Section 117(5B)	\$1,100

## **Schedule 4      Miscellaneous amendments of Liquor Act 2007 and regulation**

### **4.1    Liquor Act 2007 No 90**

#### **[1]    Section 3 Objects of Act**

Insert “, and the operation of licensed premises,” after “consumption of liquor” in section 3(2)(c).

#### **[2]    Section 3(2)(c)**

Omit “life.”. Insert instead—

life,

- (d) the need to support employment and other opportunities in the—
  - (i) live music industry, and
  - (ii) arts, tourism, community and cultural sectors.

#### **[3]    Section 4 Definitions**

Insert in alphabetical order in section 4(1)—

*dedicated live music and performance venue*—see section 3A.  
*minors authorisation*, for a small bar—see section 122A.

#### **[4]    Section 3A**

Insert after section 3—

##### **3A    Meaning of dedicated live music and performance venue**

For the purposes of this Act, a *dedicated live music and performance venue* means licensed premises that are on a list of live music and performance venues—

- (a) kept by the Secretary for the purposes of this section in accordance with the regulations, and
- (b) published on an appropriate government website.

#### **[5]    Section 12 Standard trading period for certain licensed premises**

Omit “(1)(a)” from section 12(1B). Insert instead “(1)(b)”.

#### **[6]    Section 12(1B)**

Omit “10 pm”. Insert instead “midnight on a Sunday that falls on 24 or 31 December”.

#### **[7]    Section 12A**

Insert after section 12—

##### **12A    Extended hours for dedicated live music and performance venues**

- (1) This section applies to dedicated live music and performance venues located in—
  - (a) the area for which the City of Sydney is constituted, or
  - (b) a special entertainment precinct.

- (2) The trading period for licensed premises to which this section applies is extended by 30 minutes after the time that would otherwise apply to the premises under—
  - (a) section 12, or
  - (b) an extended trading authorisation that applies to the premises.
- (3) The extension under subsection (2) is subject to the condition that, on any night of the week on which the licensed premises trade for the additional 30 minutes, a live music performance or other arts and cultural event of at least 45 minutes duration must be held or provided after 8 pm on the premises.
- (4) To avoid any doubt, to the extent of any inconsistency between this section and a relevant condition that applies to the licensed premises, this section prevails.
- (5) In this section—

*dedicated live music and performance venue* has the meaning prescribed by the regulations.

*relevant condition* means a condition of a type referred to in section 116I(2)(c) and (2)(d).

*special entertainment precinct* has the same meaning as in the *Local Government Act 1993*, section 202.

**12B Records to be kept about extended hours for dedicated live music and performance venues**

- (1) If the trading period for licensed premises is extended under section 12A, it is a condition of the licence that the licensee keep a record of each live music performance or other arts and cultural event held or provided on the licensed premises.
- (2) A record under subsection (1) is to be kept in the form and way approved by the Secretary.
- (3) The licensee of licensed premises must, if asked by a police officer or inspector—
  - (a) make a record kept under subsection (1) available for inspection by a police officer or inspector, and
  - (b) allow a police officer or inspector to take copies of the record.

**[8] Section 14 Authorisation conferred by hotel licence**

Omit section 14(4A). Insert instead—

- (4A) An extended trading authorisation must not authorise the sale of liquor for consumption away from the licensed premises—
  - (a) on a Sunday that does not fall on 24 or 31 December—after 11 pm, and
  - (b) on any other day—after midnight.

**[9] Section 17 Hotel licence—miscellaneous conditions**

Insert after section 17(2)—

- (2A) To avoid doubt, subsection (2)—
  - (a) does not prevent a hotel being closed to the general public because it has been booked for a private function including, for example, a wedding or party, but

- (b) does not allow it to be closed to the general public for use as a members-only premises or club, or for other exclusive use on a recurrent basis.

**[10] Section 18 Authorisation conferred by club licence**

Omit section 18(3A). Insert instead—

- (3A) An extended trading authorisation must not authorise the sale of liquor for consumption away from the licensed premises—
  - (a) on a Sunday that does not fall on 24 or 31 December—after 11 pm, and
  - (b) on any other day—after midnight.

**[11] Section 20A Authorisation conferred by small bar licence**

Omit “retail on the licensed premises for consumption on the licensed premises only.”  
Insert instead—

retail on the licensed premises—

- (a) for consumption on the premises, or
  - (b) as house-made cocktails in sealed containers for consumption away from the premises.
- (2) In this section—
- house-make cocktails*, in relation to licensed premises—
    - (a) means alcoholic beverages that are mixed on the licensed premises, but
    - (b) does not include cocktails that are pre-mixed away from the licensed premises for the licensee to sell by retail.

**[12] Section 20B Trading hours for small bars**

Omit “In the case of a small bar that is situated in an area that is not a prescribed precinct, an” from section 20B(2).

Insert instead “An”.

**[13] Section 20B(2), note**

Omit the note. Insert instead—

**Note.** Small bars may apply for longer trading periods under section 49A.

**[14] Section 20B(3) and (4)**

Omit the subsections. Insert instead—

- (3) Despite subsection (1), the times when liquor may be sold for consumption on the licensed premises for a small bar on a restricted trading day are—
  - (a) between midnight and 5 am, if authorised by an extended trading authorisation, and
  - (b) between noon and 10 pm.

**[15] Section 20C Small bar licence—miscellaneous conditions**

Insert after section 20C(2)—

- (2A) To avoid doubt, subsection (2)—
  - (a) does not prevent a small bar being closed to the general public because it has been booked for a private function including, for example, a wedding or party, but



- (b) does not allow it to be closed to the general public for use as a members-only premises or club, or for other exclusive use on a recurrent basis.

**[16] Section 22 Primary purpose test**

Insert after section 22(2)—

- (2A) To remove any doubt, subsection (2) applies in relation to—
  - (a) an on-premises licence that specifies the kind of business or activity carried out on the licensed premises, and
  - (b) an on-premises licence that specifies the kind of licensed premises to which the licence relates.

**[17] Section 23 On-premises licence must specify business/activity or kind of licensed premises**

Insert after section 23(6)—

- (7) The regulations may provide for requirements in relation to the business or activity carried out on licensed premises that are a licensed restaurant.

**[18] Section 26 Authorisation to sell liquor for consumption away from licensed premises in special circumstances**

Omit section 26(3A). Insert instead—

- (3A) An authorisation must not authorise the sale of liquor for consumption away from the licensed premises—
  - (a) on a Sunday that does not fall on 24 or 31 December—after 11 pm, and
  - (b) on any other day—after midnight.

**[19] Section 28 Certain licensed premises must be open to general public**

Insert after section 28(2)—

- (2A) To avoid doubt, subsection (2)—
  - (a) does not prevent a restaurant or public entertainment venue to which an on-premises licence applies being closed to the general public because it has been booked for a private function including, for example, a wedding or party, but
  - (b) does not allow it to be closed to the general public for use as a members-only premises or club, or for other exclusive use on a recurrent basis.

**[20] Section 29 Authorisation conferred by packaged liquor licence**

Omit “10 pm” from section 29(1)(b). Insert instead “midnight”.

**[21] Section 29(3A)**

Omit the subsection. Insert instead—

- (3A) An extended trading authorisation must not authorise the sale of liquor for consumption away from the licensed premises—
  - (a) on a Sunday that does not fall on 24 or 31 December—after 11 pm, and
  - (b) on any other day—after midnight.

**[22] Section 45 Decision of Authority in relation to licence applications**

Insert after section 45(6)—

- (7) In deciding whether or not to grant a licence, the Authority must consider whether, if the licence were granted, it would provide employment in, or other opportunities for, any of the following—
- (a) the live music industry,
  - (b) the arts sector,
  - (c) the tourism sector,
  - (d) the community or cultural sector.

**[23] Section 48 Community impact**

Omit “application.” from section 48(1)(b). Insert instead—

application, and

- (c) whether the granting of the application would provide employment in, or other opportunities for, any of the following—
- (i) the live music industry,
  - (ii) the arts sector,
  - (iii) the tourism sector,
  - (iv) community or cultural sector.

**[24] Section 48 Community impact**

Insert after paragraph (e) of the definition of *relevant application* in section 48(2)—

- (e1) an application for an extended trading authorisation in relation to a small bar licence (but only if the authorisation will result in trading on a regular basis at any time between 2 am and 5 am),

**[25] Section 48(3B)(c)**

Omit the paragraph. Insert instead—

- (c) an application for an extended trading authorisation for a small bar, other than if the authorisation would result in trading on a regular basis at any time between 2 am and 5 am,

**[26] Section 48(3B)(d)**

Insert “, other than if the variation would result in trading on a regular basis at any time between 2 am and 5 am” after “small bar”.

**[27] Section 49 Extended trading authorisation—general provisions**

Insert after section 49(4)(a)—

- (b) a specified period between 10 pm and 11 pm on a Sunday.

**[28] Section 49A Extended trading authorisation—small bars**

Omit “that are not in a prescribed precinct” from the note to section 49A(1).

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

Insert after section 51(1)(e)—

- (f) a minors authorisation.

**[30] Section 73 Prevention of excessive consumption of alcohol on licensed premises**

Omit section 73(4) and (5). Insert instead—

- (4) If an intoxicated person is on licensed premises other than a vessel, the licensee is taken to have permitted intoxication on the licensed premises unless the licensee proves that—
- (a) the licensee, and the licensee's employees or agents—
    - (i) refused to serve the person liquor after becoming aware the person was intoxicated, and
    - (ii) asked the person to leave the premises, and
    - (iii) if the person did not leave the premises immediately after being asked to leave or refused to leave—contacted, or attempted to contact, a police officer for help in removing the person from the premises, or
  - (b) the licensee, and the licensee's employees and agents, took the steps to prevent intoxication on the licensed premises set out in the guidelines issued under subsection (5A), or
  - (c) the intoxicated person did not consume liquor on the licensed premises.
- (5) If an intoxicated person is on a vessel to which an on-premises licence relates, the licensee is taken to have permitted intoxication on the vessel unless—
- (a) the licensee proves that—
    - (i) the person was not intoxicated when the person boarded the vessel, and
    - (ii) the licensee, and the licensee's employees and agents, refused to serve the person liquor after becoming aware the person was intoxicated, and
    - (iii) the licensee, or the licensee's employee or agent, contacted, or attempted to contact, a police officer for help in removing the person from the vessel, and
    - (iv) if the licensee, or the licensee's employee or agent, contacted a police officer, the licensee and the licensee's employees and agents followed the police officer's instructions, or
  - (b) the licensee proves that the licensee, and the licensee's employees and agents, took the steps set out in the guidelines issued under subsection (5A) to prevent intoxication on the vessel, or
  - (c) the licensee proves that the intoxicated person did not consume liquor on the vessel.

**[31] Section 79 Making of complaint**

Insert after section 79(5)—

- (6) This section does not apply to a complaint if—
- (a) it is a complaint of a type prescribed by the regulations, and
  - (b) the local consent authority for the licensed premises has—
    - (i) a local plan to deal with complaints of that type, and
    - (ii) has, by written notice given to the Secretary, notified the Secretary that it will be dealing with complaints of that type.

**[32] Section 116B Interpretation**

Insert after section 116B(4)—

- (4A) However, the Secretary, when designating premises as a high risk venue, must not take into account the presence of a dance floor or area ordinarily used by patrons for dancing.

**[33] Section 117 Offences relating to sale or supply of liquor to minors**

Insert after section 117(5A)—

- (5B) Despite subsection (4), a licensee or another person who is delivering packaged liquor on behalf of a licensee or other person that has sold the liquor by retail, irrespective of the State or Territory in which the sale is made, must not supply the packaged liquor to a minor.

Maximum penalty—100 penalty units or 12 months imprisonment or both.

- (5C) It is a defence to a prosecution under subsection (5B) if it is proved that—
- (a) the person to whom the liquor was sold or supplied was of or above the age of 14 years, and
  - (b) before the liquor was sold or supplied to the person the defendant was provided with an evidence of age document
    - (i) that may reasonably be accepted as applying to the person, and
    - (ii) proving that the person was of or above the age of 18 years.

- (5D) It is also a defence to a prosecution under subsection (5B) for the person who delivered the liquor if it is proved that at the time of the alleged offence the person did not know, and could not reasonably be expected to have known, that the person was delivering liquor.

**Example.** A courier delivers a package on behalf of an interstate retailer and is unaware the delivery includes liquor.

**[34] Section 122A**

Insert after section 122—

**122A Minors in small bars**

- (1) The Authority may, on application by the holder of a small bar licence, grant an authorisation (a **minors authorisation**) to enable minors to enter and remain in a small bar.
- (2) A minors authorisation for a small bar authorises minors to enter and remain in the small bar—
  - (a) for the purpose, or in the circumstances, decided by the Authority and stated in the authorisation, and

**Note.** The Authority may require minors to be in the company of a responsible adult at all times, or during certain times, as a condition of a minors authorisation.
  - (b) between—
    - (i) opening time, and
    - (ii) the time, not later than midnight, decided by the Authority and stated in the minors authorisation.
- (3) An application for a minors authorisation must—
  - (a) be made in the form and manner approved by the Authority, and
  - (b) be accompanied by—
    - (i) the fee, if any, prescribed by the regulations, and
    - (ii) any information or particulars prescribed by the regulations, and

- (c) comply with any other requirements prescribed by the regulations or imposed by the Authority.
- (4) In deciding the application, the Authority must—
  - (a) have regard to any relevant matters prescribed by the regulations, and
  - (b) refuse to grant the minors authorisation if a mandatory ground for refusing the application prescribed by the regulations applies to the application.

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

Omit section 123(1)(b1). Insert instead—

- (b1) enter or remain in a small bar between 10 am and 10 pm—
  - (i) unless—
    - (A) the minor is in the company of a responsible adult, and
    - (B) meals are regularly provided on the licensed premises at times between opening time and 10 pm when liquor is sold or supplied, and
    - (C) any other requirements prescribed by the regulations are being complied with, or
  - (ii) unless—
    - (A) there is a minors authorisation in force for the small bar, and
    - (B) the minor is in the small bar during the times, and for the purposes or in the circumstances, stated in the authorisation, or
- (b2) enter or remain in a small bar between 10 pm and midnight unless—
  - (i) there is a minors authorisation in force for the small bar, and
  - (ii) the minor is in the small bar during the times, and for the purposes or in the circumstances, stated in the authorisation, or
- (b3) enter or remain in a small bar—
  - (i) during any period of extended trading between midnight and 5 am on any day of the week, or
  - (ii) during any time that the Authority, by written order given to the licensee, has declared the small bar off-limits to minors, or

**[36] Section 123(2)(c)**

Insert at the end of section 123(2)(b)—

- , or
- (c) the minor has entered, or is on, the licensed premises for a purpose, or in circumstances, approved by the Authority and specified in the licence under section 124(3)(c).

**[37] Section 123(5A)**

Insert after section 123(5)—

- (5A) It is a defence to a prosecution for an offence under subsection (1)(b1) if it is proved that the defendant believed on reasonable grounds that a minors authorisation was in force at the relevant time to enable minors to enter or remain in the small bar without being in the company of a responsible adult.

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

Omit section 124(1)(b1). Insert instead—

- (b1) enters a small bar between 10 am and 10 pm and—
  - (i) there is not a minors authorisation in force for the small bar and—
    - (A) the minor is not in the company of a responsible adult, or
    - (B) meals are not regularly provided on the licensed premises at times between opening time and 10 pm when liquor is sold or supplied, or
    - (C) any other requirements prescribed by the regulations are not complied with, or
  - (ii) there is a minors authorisation in force for the small bar but the minor is in the small bar other than during the times, and for the purposes or in the circumstances, stated in the authorisation, or
- (b2) enters a small bar between 10 pm and midnight and—
  - (i) there is not a minors authorisation in force for the small bar, or
  - (ii) there is a minors authorisation in force for the small bar but the minor is in the small bar other than during the times, and for the purposes or in the circumstances, stated in the authorisation, or
- (b3) enters a small bar—
  - (i) during any period of extended trading between midnight and 5 am on any day of the week, or
  - (ii) during any time that the Authority, by written order given to the licensee, has declared the small bar off-limits to minors, or

**[39] Section 124(2)(b1)–(b3)**

Omit section 124(2)(b1). Insert instead—

- (b1) is in a small bar between 10 am and 10 pm and—
  - (i) there is not a minors authorisation in force for the small bar and—
    - (A) the minor is not in the company of a responsible adult, or
    - (B) meals are not regularly provided on the licensed premises at times between opening time and 10 pm when liquor is sold or supplied, or
    - (C) any other requirements prescribed by the regulations are not complied with, or
  - (ii) there is a minors authorisation in force for the small bar but the minor is in the small bar other than during the times, and for the purposes or in the circumstances, stated in the authorisation, or
- (b2) is in a small bar between 10 pm and midnight and—
  - (i) there is not a minors authorisation in force for the small bar, or
  - (ii) there is a minors authorisation in force for the small bar but the minor is in the small bar other than during the times, and for the purposes or in the circumstances, stated in the authorisation, or
- (b3) is in a small bar—
  - (i) during any period of extended trading between midnight and 5 am on any day of the week, or
  - (ii) during any time that the Authority, by written order given to the licensee, has declared the small bar off-limits to minors, or

**[40] Section 124(3A)**

Insert after section 124(3)—

- (3A) The regulations may prescribe purposes for which, or circumstances in which, the Authority must refuse to grant an approval under subsection (3)(c).

**[41] Section 125 Responsible adult not to leave minor unaccompanied on licensed premises**

Insert “, small bar” after “while in a hotel” in section 125(1).

**[42] Section 159 Regulations**

Insert before section 159(2)(g)—

- (f4) conditions of licences in relation to the entertainment that may be provided, or the way in which entertainment may be provided, on licensed premises or areas adjacent to licensed premises, including the revocation of the conditions,

**[43] Section 163**

Insert after section 162—

**163 Reporting on licensing and planning alignment**

- (1) The Parliament considers it a priority to—
- (a) streamline the process for obtaining development consents under the *Environmental Planning and Assessment Act 1979* and licences under this Act for proposed licensed premises, including providing a single, integrated application process under the *Environmental Planning and Assessment Act 1979* and this Act for licensed premises, and
  - (b) develop further licensing incentives to encourage licensed premises to program live entertainment including—
    - (i) events at which one or more persons are engaged to play or perform live or pre-recorded music, and
    - (ii) performances at which the performers, or some of the performers, are present in person.
- (2) The Minister must, jointly with the Minister responsible for administering the *Environmental Planning and Assessment Act 1979*, establish a process to address Parliament’s priority as set out in subsection (1)(a).
- (3) The Minister must also develop incentives, to address Parliament’s priority as set out in subsection (1)(b), including, for example, additional extended trading hours or reduced fees.
- (4) The Minister must, within 6 months after the commencement of this section, give a report to the Presiding Officer of each House of Parliament about the Minister’s progress in addressing each of the priorities set out in subsection (1).
- (5) A copy of a report given to the Presiding Officer of a House of Parliament under subsection (4) must be laid before the House within 5 sitting days of the House after it is received by the Presiding Officer.

**[44] Part 12**

Insert after Part 11—

## Part 12 Special provisions relating to COVID-19 pandemic

### 164 Purpose

- (1) The purpose of this Part is to introduce temporary measures during the period of the COVID-19 pandemic to allow local councils to encourage the use of outdoor space for outdoor dining and performance to assist with social distancing measures.
- (2) It is intended that this Part operate in addition to the *Roads Act 1993*, Part 9, Division 1, which also provides for the use of roads for food or drink premises.
- (3) However, to the extent of any inconsistency between this Part and the *Roads Act 1993*, Part 9, Division 1, this Part prevails during the period of the COVID-19 pandemic.

### 165 Definitions

In this Part—

**area**, for a local council, means the area for which the local council is constituted.

**classified road** has the same meaning as in the *Roads Act 1993*.

**footway** has the same meaning as in the *Roads Act 1993*.

**local council** means a council under the *Local Government Act 1993*.

**prescribed period** means the period—

- (a) starting on the commencement of this section, and
- (b) ending on the day that is 12 months after the commencement.

**public open space** has the same meaning as in the *Roads Act 1993*.

**roads authority** has the same meaning as in the *Roads Act 1993*.

### 166 Local councils to have temporary powers to encourage use of outdoor space

- (1) During the prescribed period—
  - (a) a local council may decide, by notice published on its website—
    - (i) to temporarily allow the use of a footway or public open space associated with any of the following to be used as an outdoor dining area, extension of foyer space or a performance space—
      - (A) licensed premises or other lawful food and drink premises,
      - (B) entertainment, arts or cultural venue, or
    - (ii) to temporarily allow parking spaces within the local council's area to be used as an outdoor dining area, extension of foyer space or performance space, or
    - (iii) to temporarily close a road, for which it is the roads authority, for use as an outdoor dining area, extension of foyer space or performance space, or
    - (iv) to temporarily close a classified road, with the concurrence of Transport for NSW, for use as an outdoor dining area, extension of foyer space or performance space, or
    - (v) to temporarily vary a development consent or a development consent condition to allow outdoor performance, and
  - (b) if the council allows use of pathways, public open space, roads or other premises for a purpose mentioned in paragraph (a), the use is taken to be exempt development specified for the purposes of *State*



*Environmental Planning Policy (Exempt and Complying Development Codes) 2008.*

- (2) A local council may make a decision referred to in subsection (1) only if the council has—
- (a) given the Minister at least 7 days notice that the council wants to trial outdoor dining and performance to assist with social distancing measures and invited the Minister to respond to the proposal, and
  - (b) given 7 days notice of its intention to make the decision—
    - (i) by publishing a notice about the proposed decision on the council's website, and
    - (ii) to the following persons—
      - (A) if the proposed decision relates to licensed premises—the Authority and the Commissioner of Police,
      - (B) if the proposed decision relates to a road for which the council is the roads authority—the Commissioner of Police and Transport for NSW,
      - (C) if the proposed decision relates to a classified road—the Commissioner of Police and Transport for NSW, and Transport for NSW has agreed to the road closure.
- (3) A decision referred to in subsection (1)—
- (a) has effect subject to a provision of an Act, regulation or other instrument that provides for noise attenuation for licensed premises or other premises, and
  - (b) has effect for the purposes of sections 126 and 127 of the *Roads Act 1993* as if it were an approval granted under section 125 of that Act, and
  - (c) has effect despite any provision of the *Roads Act 1993*, the *Transport Administration Act 1988* or another Act, or a regulation or instrument made under an Act, that requires local councils to submit traffic management plans or consult with local traffic committees.

**167 Repeal of Part**

This Part is repealed at the beginning of the day that is 12 months after the day it commences.

**[45] Schedule 1 Savings and transitional provisions**

Insert after clause 66—

**67 Trading hours for small bars**

- (1) This clause applies to a small bar licence if, immediately before the commencement—
- (a) the licence was in force for a small bar in a prescribed precinct, and
  - (b) the licensed premises were authorised to trade until midnight.
- (2) From the commencement of this clause, an extended trading authorisation under section 49A is taken to be in force authorising the sale or supply of liquor for consumption on the licensed premises between midnight and 2 am on any day of the week.

#### **68 Extended trading authorisation for Sundays**

- (1) This clause applies to licensed premises or a part of licensed premises (*relevant premises*) that, immediately before the commencement—
  - (a) were premises to which section 12(1B) of this Act applied, and
  - (b) were authorised to trade until 10 pm.
- (2) However, this clause does not apply to relevant premises if the licence was, immediately before the commencement, subject to a condition—
  - (a) imposed before 24 February 2014, requiring the premises to cease trading at or before 10 pm on any day, other than a Sunday that does not fall on 24 or 31 December or a restricted trading day, or
  - (b) imposed on or after 24 February 2014, requiring the premises to cease trading before 10 pm on any day, other than a Sunday that does not fall on 24 or 31 December or a restricted trading day, or
  - (c) imposed before 14 January 2020, requiring the premises to cease trading before 10 pm on any Sunday, other than a Sunday that falls on 24 or 31 December or a restricted trading day.
- (3) From the commencement of this clause, an extended trading authorisation under section 49(4) is taken to be in force authorising the sale or supply of liquor on relevant premises for consumption away from the licensed premises between 10 pm and 11 pm on a Sunday that does not fall on 24 or 31 December or a restricted trading day.

#### **69 Standard trading hours**

- (1) This clause applies to licensed premises or a part of licensed premises (*relevant premises*) to which section 12(1B) of this Act applies if the licence for the relevant premises—
  - (a) was granted, or subject to a variation of trading hours, between the period starting on 16 December 2016 and ending immediately before the commencement of this clause, and
  - (b) was subject to a condition that required the relevant premises to cease the sale or supply of liquor for consumption away from the licensed premises at 10 pm on any day other than a Sunday.
- (2) From the commencement of this clause, the standard trading period as set out in section 12(1)(a) and (1B), as amended by the amending Act, applies to the licence as if the licence had been granted or varied after the commencement of this clause.

#### **70 Certain live entertainment conditions cease to have effect**

- (1) This clause applies to any of the following conditions (a *live entertainment condition*) of a licence that are in force immediately before the commencement—
  - (a) a condition that restricts the genre of music that may be played or performed on the licensed premises,
  - (b) a condition that restricts the number of musicians or live entertainment acts that may perform on the licensed premises,
  - (c) a condition that restricts what type of instruments may be played on the licensed premises,
  - (d) a condition that restricts the performance of original music,

- (e) a condition that restricts a stage for live performers from facing a particular direction,
  - (f) a condition that restricts decorations, including, for example, mirror balls, or lighting used by musicians,
  - (g) a condition that prohibits live music, live entertainment or the amplification of a musical instrument at all times or across the entire licensed premises,
  - (h) a condition that prohibits or restricts the presence or use of a dance floor or another area ordinarily used for dancing.
- (2) From the commencement of this clause, the live entertainment condition ceases to have effect.
- (3) However, despite subclause (2), the Secretary may impose a condition relating to noise abatement on a licence if—
- (a) the Secretary receives a written complaint from—
    - (i) an occupier of neighbouring premises of the licensed premises, or
    - (ii) the local consent authority for the licensed premises, or
    - (iii) the Commissioner of Police, and
  - (b) the Secretary is satisfied the quiet and good order of the neighbourhood of the licensed premises are being unduly disturbed as a result of the conditions mentioned in subclause (1) ceasing to have effect.
- (4) Section 80 does not apply to a complaint referred to in subclause (3)(a).
- (5) To remove any doubt, this clause does not affect another condition that may impact on entertainment that is provided on the licensed premises, or an area adjacent to the premises.
- Example.** A condition relating to noise abatement
- (6) In this clause—  
***neighbouring premises*** has the meaning given by the regulations.

#### **71 Entertainment conditions not to be imposed**

- (1) From the commencement of this clause, an entertainment condition may not be imposed on a licence.
- (2) However, subclause (1) does not apply to—
- (a) an entertainment condition imposed in response to a complaint made under section 79, or
  - (b) an entertainment condition relating to adult entertainment of a sexual nature.
- (3) From the commencement of this clause, a live entertainment condition may not be imposed on a licence.
- (4) However, subclause (3) does not apply to a live entertainment condition relating to adult entertainment of a sexual nature.
- (5) To remove any doubt, this clause does not prevent an entertainment condition in force immediately before the commencement of this clause being varied or revoked.
- (6) In this clause—  
***entertainment condition*** means a condition of a licence that has the effect of limiting—

- (a) the entertainment that may be provided on licensed premises or an area adjacent to licensed premises, or
- (b) the way in which entertainment may be provided on licensed premises or an area adjacent to licensed premises.

*live entertainment condition* means a condition referred to in clause 70(1).

## 4.2 Liquor Regulation 2018

### [1] Clause 3 Definitions

Insert after clause 3(1)—

- (1A) For the purposes of this Regulation, references to *sound* and *noise* are taken to have the same meaning.

### [2] Clause 7B

Insert after clause 7A—

#### 7B Exemption from particular fees

- (1) A licensee is exempt from the requirement under section 53(3)(b) or 54(2A)(b) of the Act to pay a fee in relation to an application made under section 53(2)(a) or 54(2) to vary or revoke a prescribed live music condition.
- (2) In this clause—  
*prescribed live music condition*, for a licence, means a condition of the licence that—
  - (a) prohibits or limits the playing of amplified music at licensed premises, or
  - (b) prohibits or restricts the playing or performing of live music, live music entertainment or live entertainment—
    - (i) in all or part of the licensed premises, or
    - (ii) at all times of the day or particular times of the day.

### [3] Clause 27 Categories of CIS

Insert “or by other electronic means” after “site” wherever occurring in clause 27(2)(a) and (3)(d).

### [4] Part 3, Division 4, Subdivisions 1 and 2

Insert before clause 36—

#### Subdivision 1 Interim small bar authorisations

##### 35A Issue of interim small bar authorisation to applicants for small bar licence

- (1) A person who applies for a small bar licence is, when the application is made, to be issued with an interim small bar authorisation by the Secretary if—
  - (a) the application is made online, and
  - (b) the application is not required to be accompanied by a community impact statement under section 48 of the Act, and
  - (c) the application is, except to the extent provided by this clause, made in accordance with sections 40 and 41 of the Act, and
  - (d) any planning approval required to use the premises for the purposes of a small bar is in force, and

- (e) the application for the planning approval was subject to a public consultation process under the *Environmental Planning and Assessment Act 1979* and indicated that the premises are intended to operate as a small bar.
- (2) However, the applicant is not to be issued with an interim small bar authorisation in respect of the premises to which the application relates if—
  - (a) any interim small bar authorisation issued under this clause in respect of the premises has been revoked during the period of 12 months before the date on which the licence application is made, or
  - (b) an application for a small bar licence in respect of the premises has been refused during that 12-month period.
- (3) The Secretary may, by notice in writing to the applicant, require the applicant to provide any information the Secretary requires in relation to the matters referred to in subclause (1).
- (4) If the applicant does not comply with a request by the Secretary under subclause (3) within 30 days from the giving of the notice, the Secretary may revoke the interim small bar authorisation issued to the applicant.
- (5) The Secretary may issue an applicant with an interim small bar authorisation if—
  - (a) the applicant's application for a small bar licence was made in accordance with the Act but not determined before the commencement of this clause, and
  - (b) any planning approval required to use the premises for the purposes of a small bar is in force, and
  - (c) the application for the planning approval was subject to a public consultation process under the *Environmental Planning and Assessment Act 1979* that indicated that the premises were intended to operate as a small bar.
- (6) An interim small bar authorisation is to be in the form approved by the Secretary.

**35B Effect of interim small bar authorisation**

- (1) While an interim small bar authorisation is in force, the person to whom the authorisation is issued, and any employee or agent of that person, is exempt from section 7 of the Act to the extent that the section prohibits the person, employee or agent from selling liquor on the premises to which the authorisation relates.
- (2) Subclause (1) is subject to the following requirements—
  - (a) the sale of liquor on the premises to which the authorisation relates and the operation of those premises must comply with the licence conditions under the Act and this Regulation that would apply in relation to the premises if they were a small bar,
  - (b) any person selling liquor on the premises to which the authorisation relates must hold a recognised competency card with a current RSA endorsement under Part 5,
  - (c) for an interim small bar authorisation issued under clause 35A(5), liquor cannot be sold on the premises unless the local police and the local consent authority have been given at least the following period of notice before trading starts—

- (i) 2 days,
  - (ii) the longer period stated in the authorisation.
- (3) For the purposes of the Act and this Regulation, while an interim small bar authorisation is in force—
  - (a) the premises to which the authorisation relates are taken to be licensed premises, and
  - (b) the person to whom the authorisation is issued is taken to be the licensee of those premises.
- (4) Subclause (3) does not apply in relation to Division 3 of Part 4 of the Act or to any other provisions of the Act or this Regulation that the Secretary may determine by written order.
- (5) The 6-hour closure period under section 11A of the Act that, in accordance with subclause (2)(a), applies to the premises to which an interim small bar authorisation relates is the period from 4 am to 10 am.

### **35C Period of authorisation**

- (1) Unless the authorisation is revoked by the Secretary, an interim small bar authorisation continues to be in force until the licence application in relation to which the authorisation was issued is determined by the Authority in accordance with the Act.
- (2) The Secretary may revoke an interim small bar authorisation at any time if the Secretary is satisfied that—
  - (a) the requirements or other matters referred to in clause 35A(1) or (5) were not complied with, or were not applicable to the licence application, at the time the authorisation was issued, or
  - (b) any requirement referred to in clause 35B(2) has not been complied with in respect of the premises to which the authorisation relates.

## **Subdivision 2 Other miscellaneous matters**

### **[5] Clause 36 Issue of interim restaurant authorisation to applicants for restaurant licence**

Omit “2 days notice before trading commences.” from clause 36(7)(c).

Insert instead—

at least the following notice before trading starts—

- (i) 2 days,
- (ii) the longer period stated in the authorisation.

### **[6] Clause 44A**

Insert after clause 44—

#### **44A Neighbouring premises for live entertainment—Schedule 1 to the Act**

For the purposes of the definition of *neighbouring premises* in clause 70(4) of Schedule 1 to the Act, neighbouring premises has the same meaning as in clause 20(1) of this Regulation.

### **[7] Clause 50 Sale or supply of liquor to minors prohibited (licensed premises)**

Omit clause 50(1). Insert instead—

- (1) A licensee must, in accordance with this clause, display a notice on the licensed premises that informs a person on or at the premises that it is against the law to sell or supply alcohol to, or to obtain alcohol on behalf of, a person under the age of 18 years.

Maximum penalty—20 penalty units.

**[8] Clauses 50(2), 52(3) and 54(4)**

Omit “Authority and be obtained from Liquor & Gaming NSW, Department of Industry” wherever occurring.

Insert instead “Secretary and published on a website maintained by Liquor & Gaming NSW, Department of Customer Service”.

**[9] Clause 50(3)**

Omit the subclause. Insert instead—

- (3) The notice must—
- (a) be clearly legible and in good condition, and
  - (b) be prominently displayed—
    - (i) in the case of premises where liquor is sold at a bar or counter—  
at the bar or counter, in a manner and position so that a person standing at the bar or counter would reasonably be expected to be alerted to its contents, and
    - (ii) in the case of premises where liquor is not sold at a bar or counter but is otherwise sold—at or near every entrance by which members of the public may enter the premises, in a manner and position so that a person coming in by the entrance would reasonably be expected to be alerted to its contents.

**[10] Clause 51**

Omit the clause. Insert instead—

**51 Sale or supply of liquor to minors prohibited (Internet site)**

- (1) A licensee who offers liquor for sale through an Internet site or by other electronic means must, in accordance with this clause, display a notice on the site or other electronic means that informs a person accessing the site or electronic means that it is against the law to sell or supply alcohol to, or to obtain alcohol on behalf of, a person under the age of 18 years.

Maximum penalty—20 penalty units.

- (2) The notice must use the wording approved by the Secretary.
- (3) The notice must be prominently displayed on the site or other electronic means—
- (a) at all times while the site or electronic means is accessible, and
  - (b) in lettering big enough, and in a sufficient position, to ensure that a person accessing the site or electronic means would reasonably be expected to be alerted to its contents.

**[11] Clause 52 Minors prohibited in bar areas of hotels and clubs**

Omit clause 52(2). Insert instead—

- (2) A licensee must, in accordance with this clause, display a notice in the bar area of the hotel or club premises concerned which informs a person entering the

area that persons under the age of 18 years are not permitted in the bar area by law.

Maximum penalty—20 penalty units.

**[12] Clause 52(4)**

Omit the subclause. Insert instead—

- (4) The notice must—
  - (a) be clearly legible and in good condition, and
  - (b) be displayed in the manner and place that a person entering the part of the premises in which the notice is displayed would reasonably be expected to be alerted to its contents.

**[13] Clause 53**

Omit the clause. Insert instead—

**53 Minors prohibited in small bars during certain hours**

- (1) A licensee of a small bar who has been granted a minors authorisation must, in accordance with this clause, display a notice on the licensed premises that contains information about the times minors—
  - (a) are permitted on the premises in the company of a responsible adult, and
  - (b) are permitted on the premises without being in the company of a responsible adult, and
  - (c) are not permitted on the premises.Maximum penalty—20 penalty units.
- (2) A licensee of a small bar that regularly provides meals and that has not been granted a minors authorisation must, in accordance with this clause, display a notice on the licensed premises which contains information about—
  - (a) the times minors are permitted on the premises in the company of a responsible adult, and
  - (b) the times minors are not permitted on the premises.Maximum penalty—20 penalty units.
- (3) The licensee of any of the following small bars must, in accordance with this clause, display a notice on the licensed premises which informs persons at the premises that minors are not permitted on the premises during liquor trading hours—
  - (a) a small bar that the Authority has declared off-limits to minors,
  - (b) a small bar that does not regularly provide meals in accordance with the Act or does not have a minors authorisation,
  - (c) a small bar that does regularly provide meals in accordance with the Act but does not wish to allow minors in the company of a responsible adult on the premises.Maximum penalty—20 penalty units.
- (4) The notice must be in the form approved by the Secretary and published on a website maintained by Liquor & Gaming NSW, Department of Customer Service.
- (5) The notice must—
  - (a) be clearly legible and in good condition, and



- (b) be displayed in a manner and in a place that a person entering the licensed premises would reasonably be expected to be alerted to its contents.

**[14] Clause 54 Minors to be accompanied by adult in certain areas of hotels and licensed public entertainment venues**

Omit “cause a notice containing the words specified in subclause (3) to be displayed” wherever occurring in clause 54(1) and (2).

Insert instead “display a notice”.

**[15] Clause 54(3)**

Omit the subclause. Insert instead—

- (3) The notice must inform a person entering the part of the premises in which the notice is displayed that persons under the age of 18 years in the area must be in the company of a responsible adult by law.

**[16] Clause 54(5)**

Omit the subclause. Insert instead—

- (5) The notice must—
  - (a) be clearly legible and in good condition, and
  - (b) be displayed in the manner and place that a person entering the part of the premises in which the notice is displayed would reasonably be expected to be alerted to its contents.

**[17] Clause 55 Breath analysis instruments**

Omit clause 55(b). Insert instead—

- (b) the sign must contain information about the following matters in print of a type size and character that will be clearly legible to a person using the equipment—
  - (i) that the sign contains important information about breath testing,
  - (ii) that readings given by breath analysis instruments are not accepted by Police or the Courts,
  - (iii) that a person’s blood alcohol level can rise for 1 hour or more after a person’s last drink,
- (c) the sign must be in the form approved by the Secretary and published on a website maintained by Liquor & Gaming NSW, Department of Customer Service.

**[18] Clause 103**

Omit the clause. Insert instead—

**103 Persons exempted from patron ID scanning requirements**

Section 116E(1)(a) and (b) of the Act do not apply in relation to—

- (a) minors who are authorised to enter high risk venues, or
- (b) a person who—
  - (i) resides at premises situated at a high risk venue, and
  - (ii) must enter the high risk venue to access the person’s residence.

**[19] Clause 108 “Evidence of age document”**

Insert after clause 108(b)—

- (c) a digital proof of age product issued by Australia Post (known as “digitaliD”) for the purpose of attesting to a person’s identity and age.

**[20] Clauses 117 and 118**

Omit the clauses.

**[21] Clause 130AA**

Insert before clause 130—

**130AA Dedicated live music and performance venues**

- (1) For the purposes of section 3A of the Act, the Secretary may include licensed premises on the list of live music and performance venues if the licensed premises—
  - (a) are a music hall, concert hall, dance hall or other space used primarily for the purpose of live music, live performances or creative or other cultural uses and are licensed under an on-premises licence for a public entertainment venue, or
  - (b) were used to host live music as part of the Great Southern Nights music event.
- (2) The Secretary may decide not to include licensed premises mentioned in subclause (1) 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.
- (3) 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, or have become, premises mentioned in subclause (2)(a)–(c), or
  - (b) the premises do not, or no longer, have a market orientation towards live music, live performances or other creative or cultural uses.
- (4) 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 that the licensed premises are to be removed from the list.
- (5) In this clause—

*assessment year* has the meaning given by clause 8.

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

**Note.** Information about the Great Southern Nights music event is available at [www.greatsouthernights.com.au](http://www.greatsouthernights.com.au).

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

**[22] Clause 130A**

Insert after clause 130—

**130A Certain sound emissions not to be subject of disturbance complaint under Act**

For the purposes of section 79(6) of the Act, section 79 of the Act does not apply to a complaint in relation to sound that is emitted wholly from within licensed premises unless the complaint is made by a person referred to in section 79(3)(b) or (c) of the Act.

**[23] Schedule 1 Fees**

Insert in appropriate order in Part 3—

Application under section 122A(1) for a minors authorisation for a small bar licence	0	1.1	1.1
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**[24] Schedule 6 Penalty notice offences**

Insert after “, (2) or (3)” after “Clause 53(1)”.

**4.3 Environmental Planning and Assessment Act 1979 No 203**

**Section 1.4 Definitions**

Omit from “(a) such” to “regulations” from the definition of *Building Code of Australia*.  
Insert instead—

- (a) the amendments made by the Board and prescribed by the regulations, and
- (b) the variations approved by the Board in relation to New South Wales and prescribed by the regulations, and
- (c) the variations prescribed by the regulations.

**4.4 Environmental Planning and Assessment Regulation 2000**

**Clause 7 Building Code of Australia**

Insert after clause 7(2)—

- (3) Also, the Code mentioned in subclause (1) is varied in relation to small live music or arts venues as follows—
  - (a) Volume One of the Code applies as if, in Schedule 3, paragraph (c)(iii) of the definition of Assembly building were omitted and replaced with—
    - (iii) a sports stadium, sporting or other club—but not including a small live music or arts venue; or
  - (b) Volume One of the Code applies as if, in Schedule 3, after the definition of Sitework, the following definition were inserted—

***small live music or arts venue*** means the whole or part of a Class 6 building that has a rise in storeys of no more than 2—

- (a) in which live music or arts are provided to the public, and
- (b) that has a floor area of not more than 300 square metres.
- (c) Volume One of the Code applies as if, at the end of the definition of Class 6 in clause A6.6 the following were inserted—
  - A Class 6 building or part of a Class 6 building in which people assemble for entertainment remains a Class 6 building or part of a Class 6 building if it is a *small live music or arts venue*—see the definition of Assembly building in Volume One of the Code.

#### **4.5 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008**

##### **Part 2, Division 1 General Exempt Development Code**

Insert after Subdivision 15AA—

##### **Subdivision 15AB Entertainment associated with food and drink premises**

###### **2.30AC Specified development**

Low impact performance of live music or arts is development specified for this code if it is not carried out in a residential zone.

###### **2.30AD Specified development**

- (1) The standards specified for this development are that the development—
  - (a) must be carried on inside a building, and
  - (b) must not contravene an existing relevant condition of the most recent development consent, other than a complying development certificate, that applies to the premises,
  - (c) must not contravene the *Protection of the Environment Operations Act 1997*, and
  - (d) must not be primarily used for adult entertainment, including, for example, a strip club, and
  - (e) must not be carried on in connection with a proposed change of use of premises.
- (2) In this clause—

*existing relevant condition* means a condition relating to any of the following—

  - (a) the number of persons permitted in the building,
  - (b) hours of operation,
  - (c) noise, other than a condition mentioned in the *Liquor Act 2017*, Schedule 1, clause 70(1),
  - (d) car parking, vehicular movement and traffic generation,
  - (e) loading management of waste,
  - (f) landscaping.

## 4.6 Standard Instrument (Local Environmental Plans) Order 2006

### Standard instrument, clause 1.2

Insert before clause 1.2(2)(a)—

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,

## 4.7 Local Government Act 1993 No 30

### [1] Chapter 8, Part 3

Insert after section 201—

## Part 3 Special entertainment precincts

### 202 Special entertainment precinct

- (1) This section is about establishing a special entertainment precinct.
- (2) A *special entertainment precinct* is an area in which—
  - (a) amplified music that is played in the area is regulated by or under a law other than the *Liquor Act 2007*, and
  - (b) requirements about noise attenuation apply to certain types of development in the area, and
  - (c) dedicated live music and performance venues are authorised to trade for an additional 30 minutes under the *Liquor Act 2007*, section 12A.
- (3) A council may establish a special entertainment precinct in its area by amending its local environmental plan to identify the special entertainment precinct.
- (4) A special entertainment precinct may consist of—
  - (a) a single premises, or
  - (b) a precinct, streetscape or otherwise defined locality in the council's area.
- (5) If a council establishes a special entertainment precinct, the council must—
  - (a) prepare a plan for regulating noise from amplified music from premises in the special entertainment precinct and publish it on the council's website, and
  - (b) notify the following persons about the special entertainment precinct including, for example, by notice published on its website or a notation on planning certificates for land in the precinct—
    - (i) residents living in the area,
    - (ii) persons moving into the area.
- (6) In this section—

*dedicated live music and performances venue* has the same meaning as in the *Liquor Act 2007*.

*planning certificate* means a certificate under section 10.7 of the *Environmental Planning and Assessment Act 1979*.

**203 Minister's guidelines**

- (1) The Minister may, by notice published on the Department's website, issue, adopt or vary guidelines about—
  - (a) the establishment of special entertainment precincts, and
  - (b) the operation, revocation or suspension of special entertainment precincts.
- (2) A council must act in accordance with a guideline under subsection (1) in exercising its functions under this Part.

## **Schedule 5      Amendment of Gaming and Liquor Administration Act 2007 No 91**

### **[1]    Section 3 Definitions**

Insert in alphabetical order in section 3(1)—

*controlled purchasing operation*—see section 33A.

### **[2]    Section 20A**

Insert after section 20—

#### **20A    Appointment of persons to carry out controlled purchasing operations**

The Secretary may appoint a person who is under the age of 18 years to carry out controlled purchasing operations.

### **[3]    Part 4 Investigation and enforcement powers**

Insert after section 33—

#### **Division 5A    Functions of persons appointed to carry out controlled purchasing operations**

##### **33A    Additional functions**

- (1) Without limiting the functions of an inspector under this Part or other provisions of the gaming and liquor legislation, inspectors and persons appointed under section 20A have the function of carrying out operations (*controlled purchasing operations*) for the purpose of investigating whether a same day delivery provider, or an employee or agent of a provider, is contravening the following provisions of the *Liquor Act 2007*—
  - (a) Part 6, Division 1B,
  - (b) sections 114 and 117.
- (2) For the purposes of carrying out a controlled purchasing operation, a person appointed under section 20A who is under the age of 18 years—
  - (a) may, under the supervision of an inspector, purchase or attempt to purchase liquor as part of a same day delivery, and
  - (b) is not liable for an offence under the *Liquor Act 2007* or any other Act or law for a purchase, or attempted purchase, carried out in accordance with this section.
- (3) In this section—

*same day delivery provider* has the same meaning as in section 114G of the *Liquor Act 2007*.

## Schedule 6 Amendment of Environmental Planning and Assessment Act 1979 No 203

### Schedule 8 Special provisions

Insert before Part 4—

## Part 1 Playing and performing music

### 1 Modifications involving playing and performing music

- (1) A council for a local government area may, by notice published on the council's website, modify development consents for licensed premises by declaring that all conditions of the development consents that are live entertainment conditions do not apply—
  - (a) in the local government area, or
  - (b) in a suburb in the local government area, or
  - (c) to a specified use of land in the local government area or a suburb.
- (2) Before publishing a notice under subclause (1), the council must—
  - (a) publish on the council's website, and in other ways the council considers appropriate, a notice that—
    - (i) states the council proposes to modify the development consent, and
    - (ii) gives details of the conditions that will be affected by the modification, and
    - (iii) invites submissions from the community about the proposed modification within the period, not less than 14 days after the day the notice is published, stated in the notice, and
  - (b) consider any submissions received in accordance with the notice and the impact of the proposed modification on the community.
- (3) The notice is taken to have effect on the day the notice is published, or a later date specified by the notice.
- (4) A condition to which the notice relates ceases to have effect from the time the notice takes effect.
- (5) Section 4.55 does not apply to a modification under this clause.
- (6) In this clause—

**live entertainment condition—**

  - (a) means a condition mentioned in the *Liquor Act 2007*, Schedule 1, clause 70(1)(a)–(h), but
  - (b) does not include a condition relating to noise.



## **Schedule 7      Amendment of Standard Instrument (Local Environmental Plans) Order 2006**

### **Standard instrument**

Insert after clause 5.19—

#### **5.20 Standards that cannot be used to refuse consent—playing and performing music [compulsory]**

- (1) The consent authority must not refuse consent to development in relation to licensed premises on the following grounds—
  - (a) the playing or performance of music, including the following—
    - (i) the genre of music played or performed, or
    - (ii) whether the music played or performed is live or amplified, or
    - (iii) whether the music played or performed is original music, or
    - (iv) the number of musicians or live entertainment acts playing or performing, or
    - (v) the type of instruments played,
  - (b) whether dancing occurs,
  - (c) the presence or use of a dance floor or another area ordinarily used for dancing,
  - (d) the direction in which a stage for players or performers faces,
  - (e) the decorations to be used, including, for example, mirror balls, or lighting used by players or performers.
- (2) The consent authority must not refuse consent to development in relation to licensed premises on the grounds of noise caused by the playing or performance of music, if the consent authority is satisfied the noise may be managed and minimised to an acceptable level.
- (3) In this clause—  
*licensed premises* has the same meaning as in the *Liquor Act 2007*.

## **Schedule 8 Amendment of Roads Act 1993 No 33**

**[1] Part 9, Division 1**

Omit the heading. Insert instead—

### **Division 1 Use of roads for food or drink premises**

**[2] Section 125**

Omit the section. Insert instead—

#### **125 Approval to use road for food or drink premises**

- (1) A roads authority may grant an approval that allows a person who operates food or drink premises adjacent to a public road to use part of the public road for the purposes of the food or drink premises.
- (2) However, a roads authority may not grant an approval in relation to the use of a classified road without the agreement of Transport for NSW.
- (3) A roads authority may grant an approval on the conditions, including conditions about payments in the nature of rent, decided by the roads authority.
- (4) A roads authority may grant an approval for the term decided by the roads authority, but not more than—
  - (a) for an approval for the use of a footway of a public road—7 years, or
  - (b) for an approval for the use of any other part of a public road—12 months.
- (5) A roads authority may terminate, or temporarily suspend, an approval granted by the roads authority under this section—
  - (a) immediately, if in the roads authority’s opinion, it is necessary for safety reasons, or
  - (b) otherwise—if the roads authority has given the holder of the approval at least 7 days written notice.
- (6) Unless sooner terminated, an approval lapses on the earlier of the following—
  - (a) the end of its term,
  - (b) if the part of the public road the subject of the approval ceases to be used for the purposes of food or drink premises, when the use for that purpose ceases.

**[3] Section 126 Authority to erect structures**

Omit section 126(1). Insert instead—

- (1) A roads authority that grants an approval under section 125 may—
  - (a) authorise the holder of the approval to erect, place or maintain structures, furniture or other things in, on or over any part of the road the subject of the approval, or
  - (b) at the request and cost of the holder of the approval, erect, place or maintain structures, furniture or other things in, on or over any part of the road the subject of the approval.

**[4] Section 126(2)**

Omit “council”. Insert instead “roads authority”.

- [5] **Section 126(2)**  
Omit “footway”. Insert instead “public road”.
- [6] **Section 127 Effect of approval**  
Omit “footway for the purposes of a restaurant” from section 127(a).  
Insert instead “public road for the purposes of food or drink premises”.
- [7] **Section 127(b)**  
Omit the paragraph. Insert instead—  
(b) the erection, placement or maintenance of structures, furniture or other things on the public road authorised by the roads authority under section 126(1),
- [8] **Section 248 Evidentiary certificates**  
Omit “of a footway” from section 248(1)(e). Insert instead “of a public road”.
- [9] **Section 248(1)(e)**  
Omit “for a footway restaurant”.  
Insert instead “for food or drink premises under section 125”.
- [10] **Schedule 2 Savings, transitional and other provisions**  
Insert after clause 80—

## **Part 8 Provision consequent on enactment of Liquor Amendment (24-hour Economy) Act 2020**

### **81 Approvals under section 125**

- (1) An approval under section 125 that was in force immediately before the commencement continues in force after the commencement, on the same conditions and for the same term, as if it had been granted after the commencement.
- (2) An application for an approval under section 125 made, but not decided, before the commencement is to be decided under section 125 as if the amendment Act had not commenced.
- (3) In this clause—  
*amendment Act* means the *Liquor Amendment (24-hour Economy) Act 2020*.  
*commencement* means the commencement of this clause.

### **[11] Dictionary**

Omit the definitions of *footway restaurant* and *restaurant*.

Insert instead in alphabetical order—

*food or drink premises* has the same meaning as it has in the Standard Instrument set out in the *Standard Instrument (Local Environmental Plans) Order 2006*.

**Note.** Under the *Standard Instrument (Local Environmental Plans) Order 2006*, *food and drink premises* means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

- (a) a restaurant or cafe,

- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.