

[Act 2000 No 62]



New South Wales

# Liquor and Registered Clubs Legislation Amendment Bill 2000

## Explanatory note

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

## Overview of Bill

The objects of this Bill are:

- (a) to amend the *Liquor Act 1982* with respect to:
    - (i) the scope and conditions of function licences, and
    - (ii) the trading hours of licensed premises, particularly in relation to the millennium and the centenary of Federation celebrations, and
    - (iii) the grant of special event licences, and
    - (iv) the grant of restaurant licences and the service of liquor in restaurants, and
    - (v) the manner of payment of fees for the grant of licences, and
  - (b) to amend the *Liquor Act 1982* and the *Registered Clubs Act 1976* with respect to the penalties for offences, the sale of undesirable liquor products and the terms of local liquor accords, and
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- (c) to amend the *Registered Clubs Act 1976* with respect to the testing of poker machines in relation to standards adopted by the Liquor Administration Board, and
- (d) to amend the *Liquor and Registered Clubs (Olympic and Paralympic Games) Act 1999* with respect to extended trading hours during the Games period.

## Outline of provisions

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

**Clause 2** provides for the commencement of the proposed Act. The amendments made by the proposed Act commence on a day or days to be appointed by proclamation, except for:

- (a) the amendments to the *Liquor and Registered Clubs (Olympic and Paralympic Games) Act 1999*, and
- (b) amendments made to the *Liquor Act 1982* concerning social impact assessments in connection with authorities to keep gaming machines and savings and transitional provisions,

which commence on the date of assent to the proposed Act.

**Clause 3** is a formal provision giving effect to the amendments to the *Liquor Act 1982* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments to the *Registered Clubs Act 1976* set out in Schedule 2.

**Clause 5** is a formal provision giving effect to the amendments to the *Liquor and Registered Clubs (Olympic and Paralympic Games) Act 1999* set out in Schedule 3.

## Schedule 1 Amendment of Liquor Act 1982

### Function licences

**Schedule 1 [1] and [2]** amend the definition of *function* in section 4 of the Act, to remove any doubt that competitions of a non-sporting nature, such as a “trivia night”, and events held for charitable and other fundraising purposes, as well as for mere entertainment, are within the meaning of the expression. The object is to ensure that a function licence may be granted for the purposes of such events.

**Schedule 1 [4]** amends section 18 of the Act to make it clear that a hotelier providing liquor at a function is not permitted to sell liquor that is to be taken away for later consumption and that, in general, the provisions of the Act governing a function licence apply in such circumstances.

**Schedule 1 [15]** amends section 42B of the Act in order to streamline the process for obtaining a temporary function licence. The amendment allows the licence to be granted without the need for an investigation and report by the Director of Liquor and Gaming, if the licensee satisfies certain conditions in relation to liquor harm minimisation. **Schedule 1 [21]** makes a consequential amendment.

**Schedule 1 [17]** amends section 51A of the Act in relation to the kind of function at which liquor may be served by a racing club under the authority of a permanent on-licence (function). The amendment allows liquor to be served at functions on days when a betting auditorium is operated by the club, or lawful betting takes place there, even though no races actually take place.

### **Local liquor accords**

A local liquor accord is an agreement or arrangement between licensees and/or registered clubs in a locality by which the participants take measures in relation to alcohol service, trading hours, access to premises and other aspects of liquor trading that are designed to eliminate or reduce alcohol-related harm.

**Schedule 1 [3]** inserts a definition of the term into section 4 of the Act. The definition is slightly wider than the definition currently contained in section 104E of the Act, better reflecting the scope of the accords. The new definition does not affect the validity of the terms of an accord, which must in every case be consistent with the provisions of the Act.

### **Special event licences**

**Schedule 1 [5]** inserts a new section 18A into the Act, which permits the Minister to authorise the issue of a licence to sell liquor during a special event. The conditions attached to the licence are determined by the Minister. Where such a licence is granted in respect of premises that are already licensed, the existing licence may be suspended. **Schedule 1 [3]** inserts a definition of the term *special event licence* into section 4 of the Act. **Schedule 1 [6]** and **[7]** make consequential amendments.

### **Restriction of access to licensed premises**

**Schedule 1 [8]** amends section 20 of the Act to allow the imposition of conditions on licences that provide for limitation of trading hours and limitation of public access after certain hours.

**Schedule 1 [28]** amends section 104 of the Act to permit a member of the Liquor Administration Board to impose similar conditions on licences as a result of a conference convened to investigate a complaint of disturbance of the quiet and good order of a neighbourhood.

**Schedule 1 [29]** amends section 104E of the Act to allow the terms of a local liquor accord to make similar provision.

**Schedule 1 [9]** and **[27]** make consequential amendments to sections 23 and 103 of the Act.

### **Trading hours of licensed premises**

**Schedule 1 [10]** and **[47]–[50]** amend section 23AF of the Act and Schedule 6 to the Act. These provisions were inserted into the Act last year to extend the trading hours of licensed premises over the period from 31 December 1999 to 3 January 2000. The amendments here extend trading hours for the period from 30 December 2000 to 3 January 2001.

**Schedule 1 [11]** amends section 25 of the Act in relation to the trading hours of hotels. Currently the section permits the Licensing Court to vary trading hours for a “special occasion”. The amendment defines the term for the purposes of determining applications under the section for a variation of trading hours.

**Schedule 1 [12]** makes a similar amendment to section 32 of the Act in relation to the trading hours of restaurants.

**Schedule 1 [13]** and **[14]** amend section 35 of the Act in relation to the trading hours of a vessel. The object is to make it clear that liquor may be served on the vessel from up to one hour before it commences a journey, and for up to 30 minutes after completing one, as long as it is not stationed at its berth or allowing persons other than passengers and crew to come aboard.

### **Restaurants**

**Schedule 1 [18]** amends section 53 of the Act, which regulates the grant of restaurant licences. The amendment dispenses with the requirement for the licensing court to be satisfied of the standard of rest room facilities at premises proposed for a restaurant. Instead, it will be enough for the court to be satisfied that the facilities meet local council requirements.

**Schedule 1 [35]** amends section 131 of the Act to make it lawful for restaurant patrons to take away wine that they bought at the restaurant and opened, but did not finish drinking there.

### **Instalment plan for certain licences**

**Schedule 1 [20]** inserts a new section 55A into the Act, which allows the fee for the grant of a licence to be paid by instalments in the case of a hotelier's licence, an off-licence to sell liquor by retail or a nightclub licence. The instalment plan is based on current provisions relating to dine-or-drink authorities (section 56 (9)). **Schedule 1 [19]** makes a consequential amendment.

### **Use of licensed premises**

**Schedule 1 [23]–[26]** amend section 101 of the Act, which contains miscellaneous conditions regulating the use of licensed premises. Currently any lease of the right to supply services in licensed premises is prohibited unless the Liquor Administration Board gives its permission. The effect of the amendments is that the Board's permission will not be required unless the services concerned are liquor-related or gaming-related. The requirement for the Board's permission is, however, extended to contracts or arrangements entered into in respect of the premises for prescribed liquor-related or gaming-related services.

### **Underage drinking and use of gaming machines**

**Schedule 1 [31]** amends sections 115 and 117D of the Act to increase the penalty for underage drinking and underage use of gaming machines from 5 to 10 penalty units.

### **Proof of age cards**

**Schedule 1 [33]** repeals section 117EA of the Act, which currently contains only a definition of *proof of age card*, and replaces it with a new section that regularises the issue of these cards by the Roads and Traffic Authority by conferring express power on the Authority to issue them. **Schedule 1 [3]** inserts a definition of the term *proof of age card* into section 4 of the Act as a consequence of the repeal of the existing section 117EA.

### **Sale of undesirable liquor products**

**Schedule 1 [34]** inserts a new section 117I into the Act, which allows regulations to be made declaring a liquor product to be an undesirable liquor product and prohibits the sale of such a product to any person on licensed premises. The products in question include ones that are thought to have a special appeal to minors or to be easily confused with confectionery.

### **Social impact assessment of gaming devices**

**Schedule 1 [39]–[43]** amend Division 1A of Part 11 of the Act to make it clear that so much of any application for the removal of a hotelier’s licence that relates to an authority to keep gaming machines is to be dealt with in every case by the Liquor Administration Board, rather than the Licensing Court.

**Schedule 1 [44]** amends section 171E of the Act in relation to the exhibition of social impact statements, to provide that, where an application that concerns the keeping of gaming machines at premises that for the time being are still under construction or are not occupied by the applicant, the usual exhibition requirements (which require documents to be posted up at the premises) will not apply. Instead the regulations will prescribe an alternative procedure to be followed in such cases.

### **Other amendments**

**Schedule 1 [3]** inserts a definition of *employee* in section 4 of the Act, to make it clear that the expression includes an independent contractor.

**Schedule 1 [16], [22], [30] and [38]** make minor amendments by way of statute law revision.

**Schedule 1 [32]** amends section 116C of the Act to require any internet site through which liquor is offered for sale to carry prescribed signs concerning sale of liquor to minors and alcohol harm minimisation, and to specify the penalty for the offence created by section 116C (3B).

**Schedule 1 [36]** amends section 135 of the Act to increase the penalty for unlawfully carrying liquor for sale.

**Schedule 1 [37]** amends section 156 of the Act (the general regulation-making power) to make it clear that a regulation prescribing the form of a notice required by the Act to be displayed in licensed premises may provide for the combination of such notices into a single notice.

**Schedule 1 [45]** amends section 175 of the Act as a consequence of the amendment made by Schedule 2 [17].

**Schedule 1 [46] and [47]** enact certain savings, provide for the transitional application of certain amendments made by the proposed Act and enable more such savings and transitional provisions to be made by regulation.

## **Schedule 2 Amendment of Registered Clubs Act 1976**

### **Local liquor accords**

A local liquor accord is an agreement or arrangement between registered clubs and/or licensees under the *Liquor Act 1982* in a locality by which the participants take measures, in relation to alcohol service, trading hours, access to premises and other aspects of liquor trading, that are designed to eliminate or reduce alcohol-related harm.

**Schedule 2 [2]** inserts a definition of the term into section 4 of the Act. The definition is slightly wider than the definition currently contained in section 76A of the Act, better reflecting the scope of the accords. The new definition does not affect the validity of the terms of an accord, which must in every case be consistent with the provisions of the Act.

### **Restriction of access to club premises**

**Schedule 2 [4]** amends section 9A of the Act to authorise the imposition of conditions of registration of a club that provide for limitation of trading hours and limitation of public access after certain hours.

**Schedule 2 [5]** amends section 17AA of the Act to permit a member of the Liquor Administration Board to impose similar conditions as a result of a conference convened to investigate a complaint of disturbance of the quiet and good order of a neighbourhood.

**Schedule 2 [9]** amends section 76A of the Act to permit a local liquor accord to make similar provision.

**Schedule 2 [8]** makes a consequential amendment to section 67A of the Act.

### **Underage drinking and use of gaming machines**

**Schedule 2 [6]** amends section 51 of the Act to increase the penalty for underage drinking and underage use of gaming machines from 5 to 10 penalty units.

### **Sale of undesirable liquor products**

**Schedule 2 [7]** inserts a new section 57C into the Act, which allows regulations to be made declaring a liquor product to be an undesirable liquor product and prohibits the sale of such a product to any person at a registered club. The products in question include ones that are thought to have a special appeal to minors or to be easily confused with confectionery.

### **Poker machine testing facility licences**

**Schedule 2 [17]** amends section 91 of the Act to create a new kind of licence. The poker machine testing facility licence will authorise persons to test poker machines to determine whether they meet technical standards adopted by the Liquor Administration Board. **Schedule 2 [2], [3]** and **[11]–[16]** and **[18]** make amendments that allow the Board to impose conditions on the licence and allow a work permit to be issued while a licence application is pending, and make other consequential amendments.

### **Other amendments**

**Schedule 2 [1]** amends section 4 of the Act to update the definition of *approved plan* as a consequence of amendments made to planning legislation.

**Schedule 2 [2]** inserts a definition of *employee* in section 4 of the Act, to make it clear that the expression includes an independent contractor.

**Schedule 2 [10]** makes a minor amendment by way of statute law revision.

**Schedule 2 [19]** amends Schedule 2 to the Act to enable savings and transitional provisions to be made by regulation.

## **Schedule 3 Amendment of Liquor and Registered Clubs (Olympic and Paralympic Games) Act 1999**

### **Area in which extended trading hours apply**

**Schedule 3 [1]** amends section 9 of the Act to extend the application of the section to the areas controlled by the Darling Harbour Authority and the Sydney Harbour Foreshore Authority. This will allow extended trading hours during the Games period at licensed premises in those areas.

### **Conditions of sale of liquor during extended trading hours**

**Schedule 3 [2]** amends section 9 of the Act to impose new conditions (mainly concerning the responsible service of alcohol) on extended-hours trading within the area to which section 9 (2) applies.



**Disqualification from extended trading rights**

**Schedule 3 [3]** amends section 9 of the Act to provide that if specified action is taken by a member of the Liquor Administration Board on a complaint heard under section 104 of the *Liquor Act 1982* concerning noise and the behaviour of patrons of particular licensed premises in the Sydney CBD during the Games period, the extended trading rights granted under the section cease to apply to the premises.

**Noise control at licensed premises during Games period**

**Schedule 3 [4]** amends section 18 of the Act to allow regulations to be made for control of noise emanating from licensed premises during the Games period.