

Act 1994 No. 49

LIQUOR (FURTHER AMENDMENT) BILL 1994

NEW SOUTH WALES



EXPLANATORY NOTE

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

The Registered Clubs (Further Amendment) Bill 1994 is cognate with this Bill.

The object of this Bill is to amend the Liquor Act 1982 to make the following miscellaneous amendments:

Abolition of licence fee on low alcohol liquor

The licence fee payable on low alcohol liquor will be abolished. Low alcohol liquor is defined to mean wine of the grape with an alcohol content of up to 6.5% and other liquor with an alcohol content of up to 3.5%. Currently there is a reduced licence fee of 7% payable on low alcohol beer and the full licence fee of 13% is payable on all other low alcohol liquor. The amendments take effect for the purposes of the 1995 licensing period and so apply to liquor sales during the period 1/7/93 to 30/6/94. As a transitional arrangement for the first year, because records have not been required to be kept for low alcohol liquor (except beer), it is to be presumed that no low alcohol liquor (except beer) has been sold by a licensee during the relevant period unless the licensee can satisfy the Liquor Administration Board otherwise. (See items (1), (9), (11) (a)–(c), (e)–(g) and (12)–(15) of Schedule 1 and proposed clause 23 to be inserted by item (34) of Schedule 1)

Breath analysis instruments

A new provision will be inserted dealing with the use of breath analysis instruments installed on licensed premises. The provision makes evidence of the taking of a test on such an instrument and of the test result inadmissible in civil proceedings against the licensee and in any criminal proceedings. The provision includes safeguards to ensure that breath analysis instruments on licensed premises are correctly serviced and maintained and also requires that a notice be displayed with the instrument warning that its readings are not accepted by the Police or the Courts, and drawing attention to circumstances that may affect its accuracy. (See item (18) of Schedule 1)

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Governor's licences

The provision dealing with Governor's licences will be amended so as to allow the Governor on the recommendation of the Minister to amend any condition to which a Governor's licence is subject (not just those conditions that were imposed by the Governor, as at present) and to require the approval of the Governor (given on the recommendation of the Minister) to the amendment of the conditions of a Governor's licence. The amendments will be taken to have commenced on the date of introduction of this Bill into the Legislative Assembly. (See item (4) of Schedule 1)

Special on-licence applications

The Board will be required to be satisfied that premises that are the subject of an application for a special on-licence are not suitable for any other class of on-licence or any other licence under the Act before the Board can certify the premises as suitable for the special on-licence. (See item (10) (a)–(c) of Schedule 1)

Secrecy

The section dealing with secrecy of information obtained under the Act will be amended to permit disclosure of information to the Minister or to a person who is engaged in the administration of the Act and is authorised by the Minister to receive information under the section. (See item (30) of Schedule 1)

Proof of age cards

A new provision will be inserted to authorise the seizure and confiscation of a proof of age card (issued by the Roads and Traffic Authority) by Police, liquor licensing inspectors, RTA staff and by licensees and their staff on licensed premises and club employees on registered club premises, in circumstances where it is reasonably suspected that the card is being used fraudulently or otherwise unlawfully or is false or misleading as to the age or identity of the person presenting it. (See item (29) of Schedule 1)

Appointment of special inspectors

The section dealing with the appointment of special inspectors will be amended so that the Minister will be responsible for the appointment of special inspectors. Currently special inspectors are appointed by the Chairman of the Liquor Administration Board. (See item (22) of Schedule 1)

Service of summonses by post

A new provision will be inserted to authorise summonses issued under the Act to be served by post. Another new provision will be added to provide for the address to which summonses, notices and other instruments that are served by post under the Act can be posted, to update and expand on existing provisions in this area. (See item (28) of Schedule 1) Consequential amendments will also be made. (See items (7), (8) and (27) of Schedule 1)

Correction of cross-references

Various amendments will be made to correct cross-references. (See items (3) (a), (11) (d) and (23) of Schedule 1)

Regulation making powers

Various regulation making powers in the Act will be amended to make it clear that the powers need not be utilised (so that the non-utilisation of those powers will not limit or negate the operation of the provision concerned). (See items (1) (a), (2), (19) and (31)–(33) of Schedule 1)

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Various regulation making powers that are no longer utilised will be omitted. (See items (5) and (6) of Schedule 1)

Redundant provisions

Various provisions that are no longer utilised or relevant will be repealed. (See items (16), (17), (20) and (24)–(26) of Schedule 1)

Savings and transitional provisions

Savings and transitional provisions that are consequential on the amendments proposed to be made by this Bill will be inserted in Schedule 1. Proposed clause 24 of those provisions continues existing appointments of inspectors (for the purposes of the amendments that will require appointments of special inspectors to be made by the Minister rather than the Chairman of the Liquor Administration Board). Proposed clause 25 provides that the amendments to the Governor's licence provisions extend to apply to existing conditions on those licences but not so as to affect the validity of any existing conditions. Proposed clauses 26–30 contain other minor transitional provisions. (See item (34) of Schedule 1)

Statute law revision

An amendment by way of statute law revision will be made to achieve consistency of expression. (See item (10) (d) of Schedule 1)

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation except for the amendments referred to above concerning Governor's licences and the transitional provision applicable to those amendments, which are taken to have commenced on the date of introduction of this Bill into the Legislative Assembly.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Liquor Act 1982.

Schedule 1 makes the amendments to the Liquor Act 1982 described above.
