

[Act 1996 No 84]



New South Wales

Liquor Amendment (Nightclub Licences and Trading Hours) Bill 1996

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Liquor Act 1982*:

- (a) to replace the current scheme that enables the Licensing Court to approve of restaurant licensees selling liquor during late trading hours in conjunction with entertainment by introducing a new category of licence (nightclub licence), and
- (b) to enable hoteliers in the Oxford Street–Darlinghurst area and in the Kosciusko National Park to apply for the same trading hours as hoteliers in the central Sydney and Kings Cross areas, and
- (c) to place further requirements on on-licences for theatres.

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

Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

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

Schedule 1 Amendments

Nightclub licences

At present, a restaurant licensee may only sell or supply liquor with a meal unless approval is given by the Licensing Court to sell or supply liquor as ancillary to entertainment. The approval by the Licensing Court allows the restaurant to sell or supply liquor as ancillary to entertainment between 11 pm on one day and 3 am on the following day and is endorsed on the restaurant licence. The amendments remove the provisions relating to those late trading entertainment endorsements on restaurant licences and introduce a new category of licence to be called a nightclub licence. (See Schedule 1 [5], [12] and [14])

A nightclub licence will allow premises to trade with the same sort of conditions as a restaurant. Before 8 pm (or 10 pm on restricted trading days) liquor will be able to be sold, whether or not at a table, but only as ancillary to a meal served at a table. After 8 pm on normal trading days, liquor will also be able to be sold as ancillary to entertainment so long as at least a light meal is available on the premises. The closing hours for licensed premises will be as follows (with some exceptions for certain public holidays):

- 3 am for premises situated in the City of Sydney, Kings Cross and Oxford Street–Darlinghurst areas
- 3 am on Monday to Saturday and midnight on Sunday for other premises situated in the areas described as the Sydney, Newcastle and Wollongong metropolitan areas and the New South Wales central coast
- midnight for premises situated outside those areas unless the Licensing Court grants an extension of trading hours.

(See Schedule 1 [9] and [14])

The fees for the grant of an application for a nightclub licence will be:

- \$60,000 for premises situated in the City of Sydney, Kings Cross and Oxford Street–Darlinghurst areas
- \$40,000 for premises situated in the Sydney, Newcastle and Wollongong metropolitan areas and the New South Wales central coast
- \$10,000 for any other area.

(See Schedule 1 [21] and [22])

The holder of a nightclub licence with a normal closing hour of midnight will be able to apply for an extension of trading hours to 3 am on any day except certain public holidays and Sundays. The holder of a nightclub licence for premises in the Kosciusko National Park will also be able to apply for an extension of trading hours from midnight on a Sunday to 3 am the following day. The fee for an extension of trading hours will be \$10,000. (See Schedule 1 [14] and [23])

An applicant for a nightclub licence will have to establish that the public benefit resulting from the granting of the licence will outweigh the costs to the public. The Licensing Court must also be satisfied that the granting of the licence will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood in which the premises are situated and that the premises have appropriate facilities to function as a restaurant if trading is intended on the premises during a period when liquor may only be sold or supplied with a meal. (See Schedule 1 [20])

An objection to the granting of a nightclub licence may be made on the grounds that the costs to the public in granting the licence will outweigh the benefit to the public. (See Schedule 1 [15]–[18])

The amendments apply certain offences that exist in relation to hotel and restaurant premises to premises covered by a nightclub licence, for example, offences relating to the presence of minors on the premises. (See Schedule 1 [24]–[30] and [32])

Schedule 1 [1]–[3], [6]–[8], [13] and [31] contain consequential amendments.

On-licences for theatres

The amendments place further requirements on on-licences for theatres by requiring that the relevant premises are primarily used for entertainments of the stage or for cinematographic entertainment, or both, and that they have proper facilities to operate as a theatre. (See Schedule 1 [19])

Trading hours for hotels

The amendments enable hoteliers in the area described generally as the Oxford Street–Darlinghurst area and in the Kosciusko National Park to apply to trade for extended hours in the same way as hoteliers in the City of Sydney and Kings Cross areas. (See Schedule 1 [10] and [34])

Schedule 1 [4] and [11] contain consequential amendments.

Savings and transitional provisions

A late trading entertainment endorsement on a restaurant licence will cease to operate on the commencement of the amendments unless the endorsement was granted on an application made before 1 October 1996.

In cases where the application for the endorsement was made before 1 October 1996, the endorsement will cease to operate 6 months after the commencement of the amendments or, if application is made during that 6 months for a nightclub licence, when the application for the nightclub licence is determined or 6 months from the making of the application (whichever is earlier). The holder of such an existing restaurant licence who applies for a nightclub licence will be obliged to comply with all the new requirements relating to applications for nightclub licences, but if the application is made within 6 months after the commencement of the amendments the holder will not have to establish that the public benefit in granting the licence will outweigh the costs to the public. Also, objections on certain grounds will not be able to be made against such applications.

If an existing restaurant licence with a late trading entertainment endorsement for which application was made before 1 October 1996 extends to motel premises and an application is made in the 6-month period after the commencement of the amendments for a nightclub licence for the premises, the current provisions relating to the sale or supply of liquor in motel rooms and guest areas and at functions in the motel will continue to apply.

Provision is included to enable the trading hours for certain premises in tourist areas and in the Kosciusko National Park to be extended to reflect current trading hours for those premises, but not past 6 am.

The amendments contain other savings and transitional provisions consequent on the removal of late trading entertainment endorsements on restaurant licences.

(See Schedule 1 [33])