



New South Wales

# Liquor Amendment (Reviews) Bill 2017

## 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 2007* and other gaming and liquor legislation to implement miscellaneous reforms arising out of the Callinan review and various departmental reviews. Some of the reforms arising out of the reviews were implemented by the *Liquor Amendment Regulation 2016* and this Bill implements most of the remainder of those reforms.

The Bill makes the following amendments:

- (a) to modify the “3 strikes” disciplinary scheme so that, in the case of licensed premises other than a club, a strike will be incurred by the licensee or manager of the licensed premises rather than in respect of the licence,
- (b) to authorise the Independent Liquor and Gaming Authority (*ILGA*) rather than the Secretary of the Department of Industry (the *departmental Secretary*) to suspend a licence if liquor is sold to a minor on the licensed premises,
- (c) to enable provisions (including special licence conditions) relating to the Kings Cross precinct to be consolidated with the provisions currently relating to the Sydney CBD Entertainment precinct (referred to as *prescribed precincts* in the Liquor Act),
- (d) to extend (until 1 June 2018) the freeze on the granting of liquor licences and other authorisations for premises situated in a prescribed precinct and to modify the operation of the freeze provisions,
- (e) to provide that fees and charges payable under the gaming and liquor legislation (including monetary penalties imposed by ILGA in connection with disciplinary action and any duty or levy required to be paid under the *Casino Control Act 1992*) are to be paid to the departmental Secretary,

- (f) to make other amendments of a minor, administrative or consequential nature.

## 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 appointed by proclamation. However, the amendments providing for the payment to the departmental Secretary of fees and other money under the gaming and liquor legislation will commence on 1 July 2017.

## Schedule 1 Amendment of Liquor Act 2007 No 90

### Modification of licence freeze in prescribed precincts

**Schedule 1 [7]** extends (until 1 June 2018) the period (the *freeze period*) during which the granting of licences, various other liquor-related authorisations and development consents in respect of premises situated in a prescribed precinct (*subject premises*) is to be restricted. **Schedule 1 [4]–[6], [8] and [14]** are consequential amendments.

**Schedule 1 [9]–[13] and [15]–[18]** also modify the operation of the licence freeze as follows:

- (a) by removing the prohibition on the granting of a producer/wholesaler licence for subject premises,
- (b) by removing provisions that prevent ILGA from taking certain action in respect of subject premises (such as granting authorisations or changing the boundary of premises) if that action may (or is likely to) result in an increase in the number of people who enter the precinct in which the premises are situated principally to consume alcohol,
- (c) by providing that ILGA is no longer prevented from approving the removal of a producer/wholesaler licence to subject premises.

**Schedule 1 [19]–[21] and [48]** remove obsolete or redundant provisions.

### Consolidation and modification of provisions relating to prescribed precincts

**Schedule 1 [28]** removes provisions relating to the Kings Cross precinct that are currently replicated in the Liquor Act in the provisions relating to prescribed precincts. The regulations currently prescribe the Sydney CBD Entertainment precinct as a precinct and the intention is to do the same for the Kings Cross precinct. The amendments made by **Schedule 1 [1], [3], [23], [25], [29]–[32], [39], [45] and [46]** are consequential on the Kings Cross precinct being treated as a prescribed precinct and on the consolidation of the existing separate provisions relating to the 2 precincts.

**Schedule 1 [34]** provides that the departmental Secretary, rather than the Minister, may exempt the licensee of a high risk venue in a prescribed precinct from the patron ID scanning requirement under section 116E (1) (a) of the Liquor Act and approve the form and manner of making an application for such an exemption.

**Schedule 1 [35]** provides that the departmental Secretary may exempt the licensee of a high risk venue from the patron ID scanning requirement only if the Secretary is satisfied that the exemption is unlikely to result in an increase in the level of alcohol-related violence or anti-social behaviour or other alcohol-related harm in the prescribed precinct in which the high risk venue is situated.

**Schedule 1 [36]** provides that a temporary banning order may prohibit a person from entering or remaining on any licensed premises in a prescribed precinct. However, **Schedule 1 [37]** provides that the prohibition does not include licensed restaurants that are not high risk venues and do not trade after midnight.

**Schedule 1 [40]** makes it clear that the regulations may authorise the departmental Secretary to declare by order in writing any specified part of premises situated in a prescribed precinct to be subject to the special licence conditions that apply to licensed premises in a prescribed precinct.

### **Modification of 3 strikes disciplinary scheme**

**Schedule 1 [44]** substitutes Part 9A of the Liquor Act to modify the basis on which strikes are incurred in relation to licensed premises and to make other changes to the way in which the 3 strikes scheme operates. The new Part has the following new features:

- (a) the list of offences committed on licensed premises that may attract a strike will still include breaching licence conditions but will be limited to those conditions that restrict the trading hours of licensed premises or prohibit patrons from entering licensed premises at certain times,
- (b) in the case of licensed premises other than club premises, strikes are incurred by the licensee or manager of the premises and no longer attach to the licence,
- (c) in the case of club premises, any strike will continue to be incurred on the licence,
- (d) any decision to impose a strike or to take remedial action in respect of a strike (which includes imposing licence conditions) will be made by ILGA rather than the departmental Secretary,
- (e) any such decision by ILGA will be reviewable by NCAT,
- (f) the licensee or manager of licensed premises may also apply to ILGA for a review of its decision to impose a strike,
- (g) the licence conditions that may be imposed if a strike is incurred will include conditions relating to the employment of persons as the licensee or manager of the licensed premises.

### **Miscellaneous amendments**

**Schedule 1 [2] and [33]** update references as a consequence of past administrative changes.

**Schedule 1 [24]** provides that the fee for the approval by ILGA of the removal of a licence to other premises is to be paid to the departmental Secretary.

**Schedule 1 [26]** provides that persons who are agents (or acting on behalf) of a hotelier are, along with employees and hotel residents, authorised to be in the bar area of the hotel after closing time. The amendment made by **Schedule 1 [27]** removes an unnecessary provision relating to the offence committed by hoteliers if unauthorised persons are in the bar area after closing time.

**Schedule 1 [38]** inserts a missing conjunction.

**Schedule 1 [41]** provides that ILGA, rather than the departmental Secretary, may suspend a licence if liquor is sold to a minor on the licensed premises. **Schedule 1 [42]** provides that any such decision to suspend a licence is reviewable by NCAT.

**Schedule 1 [43]** provides that any monetary penalty or costs ordered by ILGA in connection with disciplinary action under Part 9 of the Liquor Act is to be paid to the departmental Secretary.

**Schedule 1 [47]** contains savings and transitional provisions consequential on the enactment of the proposed Act. In particular, any strikes incurred under Part 9A of the Liquor Act before the substitution of that Part by the proposed Act are revoked.

## **Schedule 2      Amendment of other gaming and liquor legislation**

**Schedule 2** contains amendments to certain gaming and liquor legislation:

- (a) to ensure that fees and charges (including monetary penalties imposed by ILGA and any duty or levy payable under the *Casino Control Act 1992*) are payable to the departmental Secretary and to provide that the departmental Secretary may recover, as a debt, any such money that is payable to the Secretary under the gaming and liquor legislation, and
- (b) to update references as a consequence of recent administrative changes, and
- (c) to make other amendments of an administrative or consequential nature.



New South Wales

# Liquor Amendment (Reviews) Bill 2017

## Contents

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	Page
1 Name of Act	2
2 Commencement	2
<b>Schedule 1</b> <b>Amendment of Liquor Act 2007 No 90</b>	<b>3</b>
<b>Schedule 2</b> <b>Amendment of other gaming and liquor legislation</b>	<b>18</b>



New South Wales

# Liquor Amendment (Reviews) Bill 2017

No. , 2017

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## **A Bill for**

An Act to amend the *Liquor Act 2007* following certain reviews of that Act; and for other purposes.

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

**1 Name of Act**

This Act is the *Liquor Amendment (Reviews) Act 2017*.

**2 Commencement**

- (1) This Act commences on a day or days to be appointed by proclamation except as provided by subsection (2).
- (2) The following provisions of this Act commence on 1 July 2017:
  - (a) Schedule 1 [24] and [43],
  - (b) Schedule 2.1 [1]–[7],
  - (c) Schedule 2.2 [3] and [4],
  - (d) Schedule 2.3,
  - (e) Schedule 2.4.

## Schedule 1 Amendment of Liquor Act 2007 No 90

<b>[1] Section 4 Definitions</b>	2
Omit paragraph (c) of the definition of <i>manager</i> in section 4 (1). Insert instead:	3
(c) in the case of a high risk venue within the meaning of section 116B—a person appointed by the licensee, in accordance with licence conditions imposed by the regulations under section 116I, to be present in the venue in accordance with those conditions.	4 5 6 7
<b>[2] Section 4 (1), definition of “Secretary”</b>	8
Omit “Trade and Investment, Regional Infrastructure and Services”.	9
Insert instead “Industry”.	10
<b>[3] Section 4A Meaning of “Kings Cross precinct”</b>	11
Omit section 4A (2).	12
<b>[4] Sections 20B (2) and 49A (1), note</b>	13
Omit “freeze precinct” and “non-freeze precinct” wherever occurring.	14
Insert instead “prescribed precinct” and “non-prescribed precinct”, respectively.	15
<b>[5] Section 20B Trading hours for small bars</b>	16
Omit section 20B (5).	17
<b>[6] Part 4, Division 1A, heading</b>	18
Insert “in prescribed precincts” after “authorisations”.	19
<b>[7] Section 47A Definitions</b>	20
Omit section 47A (1), (2) and (2A). Insert instead:	21
(1) In this Division:	22
<i>freeze period</i> means the period ending on 1 June 2018 or such earlier or later date as may be prescribed by the regulations.	23 24
<i>subject premises</i> means any premises situated wholly or partly in a prescribed precinct.	25 26
(2) A regulation made after the substitution of this subsection by the <i>Liquor Amendment (Reviews) Act 2017</i> that extends the freeze period has effect only if it is made before the end of the freeze period.	27 28 29
<b>[8] Section 47AB Premises excluded by regulations</b>	30
Omit “that are situated in a prescribed precinct”.	31
<b>[9] Section 47B Restrictions on granting new licences</b>	32
Omit section 47B (1) (e) and (2).	33
<b>[10] Section 47C</b>	34
Omit the section. Insert instead:	35
<b>47C Restrictions on granting extended trading authorisations</b>	36
During the freeze period:	37

(a)	an extended trading authorisation may only be granted in relation to subject premises if it authorises the sale or supply of liquor on the premises for a special occasion that takes place on a specified date and not on a regular basis, and	1 2 3 4
(b)	an extended trading authorisation applying to subject premises must not be varied so as to increase the trading hours of the premises.	5 6
<b>[11]</b>	<b>Section 47D Restrictions on varying or revoking licence conditions</b>	7
	Omit “This subsection does not, however, prevent the granting of an extended trading authorisation as referred to in section 47C (c).” from section 47D (1).	8 9
<b>[12]</b>	<b>Section 47D (2)</b>	10
	Omit the subsection. Insert instead:	11
(2)	Without limiting the operation of subsection (1), the Authority must not, during the freeze period, take action under any other provision of this Act to vary or revoke the conditions to which a licence is subject, being a licence to which this section applies that is held in respect of subject premises, if the Authority is satisfied that the variation or revocation of the condition is likely to result in an increase in the patron capacity of the premises.	12 13 14 15 16 17
<b>[13]</b>	<b>Section 47E Restrictions on granting authorisations under section 24 (3)</b>	18
	Omit section 47E (2).	19
<b>[14]</b>	<b>Sections 47F (1) and 47G (3)</b>	20
	Omit “freeze precinct” wherever occurring. Insert instead “prescribed precinct”.	21
<b>[15]</b>	<b>Section 47F Restrictions on approving licence removals</b>	22
	Omit section 47F (1) (e).	23
<b>[16]</b>	<b>Section 47F (2) and (3)</b>	24
	Omit the subsections. Insert instead:	25
(2)	During the freeze period, the Authority must not approve the removal of an on-premises licence (other than an on-premises licence that relates to a public entertainment venue) or a producer/wholesaler licence to subject premises from premises that are not situated in the prescribed precinct in which the subject premises are situated if the Authority is satisfied that the patron capacity of the subject premises will be more than the patron capacity of the premises from which the licence would be removed.	26 27 28 29 30 31 32
(3)	<b>Removal of licence between premises in same prescribed precinct</b>	33
	During the freeze period, the Authority must not approve the removal of a licence, being a licence to which this subsection applies, to subject premises from other premises situated in the same prescribed precinct in which the subject premises are situated if the Authority is satisfied that the patron capacity of the subject premises will be more than the patron capacity of the premises from which the licence would be removed.	34 35 36 37 38 39
<b>[17]</b>	<b>Section 47G Restrictions on changing boundaries of premises</b>	40
	Omit section 47G (1). Insert instead:	41
(1)	During the freeze period, the Authority must not change the specified boundaries (as referred to in section 94) of subject premises to which this subsection applies if the Authority is satisfied that the change in the	42 43 44

	boundaries of the premises is likely to result in an increase in the patron capacity of the subject premises.	1 2
<b>[18]</b>	<b>Section 47H Restrictions on licence conditions imposed by Secretary</b>	3
	Omit section 47H (1). Insert instead:	4
	(1) During the freeze period, the Secretary must not, except in such cases as the Secretary considers appropriate, impose a condition on a licence, or vary or revoke any condition of a licence, being a licence to which this section applies that is held in respect of subject premises, if the Secretary is satisfied that the condition, or the variation or revocation of the condition, is likely to result in an increase in the patron capacity of the premises.	5 6 7 8 9 10
<b>[19]</b>	<b>Section 47I Restrictions on granting development consent in relation to subject premises</b>	11 12
	Omit section 47I (3). Insert instead:	13
	(3) This section does not apply to or in respect of an application for development consent to carry out development on subject premises for the purposes of a restaurant.	14 15 16
<b>[20]</b>	<b>Section 47I (9)</b>	17
	Omit the definition of <i>relevant introduction date</i> .	18
<b>[21]</b>	<b>Section 47J Regulations</b>	19
	Omit section 47J (d).	20
<b>[22]</b>	<b>Section 54 Secretary may impose, vary or revoke licence conditions</b>	21
	Omit “116A or 116I in respect of a licence relating to premises in the Kings Cross precinct or a prescribed precinct, respectively” from section 54 (1AA).	22 23
	Insert instead “116I in respect of a licence relating to premises in a prescribed precinct”.	24
<b>[23]</b>	<b>Sections 54 (2) (b) (iii) and 152 (1) (n1)</b>	25
	Omit “the Kings Cross precinct or” wherever occurring.	26
<b>[24]</b>	<b>Section 59 Removal of licence to other premises</b>	27
	Omit “the Authority” from section 59 (7) (a). Insert instead “the Secretary”.	28
<b>[25]</b>	<b>Section 91 Responsibilities and liabilities in relation to licensed premises</b>	29
	Omit “sections 116A (2) (i) and” from section 91 (1A). Insert instead “section”.	30
<b>[26]</b>	<b>Section 104 Person in bar area or certain other areas of hotel outside trading hours</b>	31
	Omit section 104 (2) (a). Insert instead:	32
	(a) a resident of the hotel or an employee or agent of, or a person acting on behalf of, the hotelier, or	33 34
<b>[27]</b>	<b>Section 104 (5) (d)</b>	35
	Omit the paragraph.	36
<b>[28]</b>	<b>Part 6, Division 3 Kings Cross precinct</b>	37
	Omit the Division.	38

<b>[29] Section 116B Interpretation</b>	1
Omit the definitions of <i>prescribed precinct</i> and <i>relevant licensed premises</i> from section 116B (1).	2 3
<b>[30] Section 116C Prescribed precincts</b>	4
Omit section 116C (2).	5
<b>[31] Section 116C (3) (a)</b>	6
Omit “(other than premises situated in the Kings Cross precinct)”.	7
<b>[32] Section 116C (4)</b>	8
Omit “An area”. Insert instead “Except in the case of the Kings Cross precinct, an area”.	9
<b>[33] Section 116C (4)</b>	10
Omit “the Office of Liquor, Gaming and Racing”.	11
Insert instead “Liquor and Gaming NSW, Department of Industry”.	12
<b>[34] Section 116E High risk venues—licence conditions relating to ID scanning</b>	13
Omit “Minister” from section 116E (7) and (10) wherever occurring.	14
Insert instead “Secretary”.	15
<b>[35] Section 116E (9)</b>	16
Omit the subsection. Insert instead:	17
(9) The Secretary may exempt the licensee of a high risk venue from the patron ID scanning requirement only if the Secretary is satisfied that the exemption is unlikely to result in an increase in the level of alcohol-related violence or anti-social behaviour or other alcohol-related harm in the prescribed precinct in which the high risk venue is situated.	18 19 20 21 22
<b>[36] Section 116F Temporary banning orders—licensed premises in prescribed precinct and adjacent precincts</b>	23 24
Omit “relevant” wherever occurring.	25
<b>[37] Section 116F (6)</b>	26
Insert after section 116F (5):	27
(6) A reference in this section to licensed premises does not include a reference to a licensed restaurant that is not authorised to trade after midnight on any day of the week unless it is a high risk venue.	28 29 30
<b>[38] Section 116G Long-term banning orders—high risk venues</b>	31
Insert “or” after “the licence,” in section 116G (3) (a1) (ii).	32
<b>[39] Section 116G (9)</b>	33
Omit the subsection. Insert instead:	34
(9) In subsection (3) (a):	35
<i>public place</i> includes a place:	36
(a) of public resort open to or used by the public as of right, or	37
(b) for the time being:	38

(i)	used for a public purpose, or	1
(ii)	open to access by the public, whether on payment or otherwise, or	2 3
(c)	open to access by the public by the express or implied permission of the owner of the place, whether the place is or is not always open to the public.	4 5 6
	<b>relevant premises</b> means any of the following:	7
(a)	licensed premises,	8
(b)	premises declared under section 3 of the <i>Restricted Premises Act 1943</i> to be premises to which Part 2 of that Act applies,	9 10
(c)	premises on which the activities of a criminal group (within the meaning of Division 5 of Part 3A of the <i>Crimes Act 1900</i> ) are carried out.	11 12 13
<b>[40]</b>	<b>Section 116I Regulatory controls for licensed premises in prescribed precincts</b>	14
	Insert after section 116I (4):	15
(4A)	The regulations may also authorise the Secretary to declare, by order in writing, any specified part of licensed premises situated in a prescribed precinct to be premises to which the conditions prescribed by the regulations under this section apply.	16 17 18 19
<b>[41]</b>	<b>Section 130C Suspension of licence for first offence</b>	20
	Omit “Secretary” wherever occurring. Insert instead “Authority”.	21
<b>[42]</b>	<b>Section 130F</b>	22
	Insert after section 130E:	23
<b>130F</b>	<b>Administrative review by NCAT of decision by Authority to suspend licence</b>	24
(1)	A licensee may apply to the Civil and Administrative Tribunal for an administrative review under the <i>Administrative Decisions Review Act 1997</i> of the decision by the Authority under section 130C to suspend the licence.	25 26 27
(2)	Part 2 of Chapter 3 of the <i>Administrative Decisions Review Act 1997</i> does not apply to an application to the Civil and Administrative Tribunal for an administrative review of a decision by the Authority under section 130C.	28 29 30
<b>[43]</b>	<b>Section 141 Disciplinary powers of Authority</b>	31
	Insert after section 141 (2):	32
(2A)	Any monetary penalty or costs ordered to be paid under subsection (2) are payable to the Secretary.	33 34
<b>[44]</b>	<b>Part 9A</b>	35
	Omit the Part. Insert instead:	36
	<b>Part 9A Disciplinary action—3 strikes</b>	37
	<b>Division 1 Preliminary</b>	38
<b>144A</b>	<b>Part 9 not affected</b>	39
	This Part does not limit the operation of Part 9.	40

#### 144B Definitions

- (1) In this Part:
- business owner**, in relation to a licence, means an owner of the business carried on under the licence.
- prescribed offence** means an offence against any of the following provisions of this Act or any other provision of this Act or the regulations that is prescribed by the regulations for the purposes of this definition:
- (a) 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,
  - (b) section 11 (2) (breach of licence conditions), but only in respect of a condition imposed under:
    - (i) Division 4 of Part 6, or
    - (ii) Division 2 or 3 of this Part, or
    - (iii) Schedule 4,that restricts the trading hours of licensed premises or prohibits patrons from entering licensed premises at certain times,
  - (c) section 73 (1) (a) or (b) (permitting intoxication or indecent, violent or quarrelsome conduct),
  - (d) section 73 (2) (selling or supplying liquor to an intoxicated person),
  - (e) section 74 (1) (b) or (2) (permitting the sale, possession or use of a prohibited plant or drug),
  - (f) section 75 (3) (failure to comply with a direction given by the Secretary),
  - (g) section 82 (6) (failure to comply with a short-term closure order),
  - (h) section 84 (7) (failure to comply with a long-term closure order),
  - (i) section 102A (2) (failure to comply with a notice issued by the Secretary),
  - (j) section 117 (1), (2) or (8) (selling or supplying liquor to a minor or allowing such sale or supply),
  - (k) section 149 (licensees and managers liable for act of employees etc) in respect of a contravention of section 73 (2), 75 (3) or 117 (1) or (2).
- remedial action** means any action that the Authority is authorised to take under section 144F, 144G or 144J.
- reviewable decision** means a decision (including a decision to impose a condition on a licence) made by the Authority under this Part.
- (2) A reference in this Part to the licensee or manager of licensed premises includes a reference to a former licensee or manager of licensed premises.

#### 144C Committing prescribed offence

- (1) For the purposes of this Part, a person commits a prescribed offence if:
- (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 respect of 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, if:	1
(a)	the conviction is overturned on appeal, or	2
(b)	the person elects, after an amount is paid under the penalty notice, to have the offence dealt with by a court, or	3 4
(c)	the penalty notice, or the penalty notice enforcement order to the extent that it applies to the penalty notice, is withdrawn or annulled,	5 6
	any strike under this Part that is based on the conviction, penalty notice or enforcement order is revoked and any remedial action taken as the result of the strike ceases to have effect.	7 8 9
(3)	Prescribed 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 prescribed offence.	10 11 12
<b>Division 2</b>	<b>Strikes incurred by licensees or managers of licensed premises other than club premises</b>	13 14
<b>144D</b>	<b>Division does not apply to club premises</b>	15
	A reference in this Division to licensed premises does not include a reference to club premises.	16 17
<b>144E</b>	<b>Strikes incurred by licensees or managers of licensed premises</b>	18
(1)	A first strike is incurred by a person who is the licensee or manager of licensed premises if:	19 20
(a)	the person commits a prescribed offence, and	21
(b)	no other strike is in force against the person when the offence was committed, and	22 23
(c)	the Authority decides to impose the first strike because of the seriousness of any harm that may have resulted from, or been associated with, the commission of the offence.	24 25 26
(2)	A second strike is incurred by a person who is the licensee or manager of licensed premises if:	27 28
(a)	the person commits a prescribed offence, and	29
(b)	1 strike was in force against the person when the offence was committed, and	30 31
(c)	the Authority decides to impose the second strike because of the seriousness of any harm that may have resulted from, or been associated with, the commission of the offence.	32 33 34
(3)	A third strike is incurred by a person who is the licensee or manager of licensed premises if:	35 36
(a)	the person commits a prescribed offence, and	37
(b)	2 strikes were in force against the person when the offence was committed, and	38 39
(c)	the Authority decides to impose the third strike after taking the following into account:	40 41
(i)	the seriousness of any harm that may have resulted from, or been associated with, the commission of the offence,	42 43
(ii)	any other matter that may be prescribed by the regulations.	44

<b>144F Remedial action against licensee or manager of licensed premises</b>	1
(1) If the licensee or manager of licensed premises incurs 1 strike that is in force, the Authority may, by order in writing, require the person to undertake such courses of training or instruction as the Authority considers appropriate for the purposes of managing or reducing the risks that contributed to the commission of the prescribed offence in respect of which the strike was incurred.	2 3 4 5 6
(2) If the licensee or manager of licensed premises incurs 2 strikes that are in force, the Authority may do any one or more of the following:	7 8
(a) take any action specified in subsection (1),	9
(b) reprimand the person,	10
(c) order the person to pay, within the time specified in the order, a monetary penalty not exceeding 5 penalty units.	11 12
(3) If the licensee or manager of licensed premises incurs 3 strikes that are in force, the Authority may do any one or more of the following:	13 14
(a) take any action specified in subsection (1) or (2),	15
(b) by order in writing, disqualify (permanently or for a specified period) the person from being the licensee or manager of any licensed premises.	16 17
(4) Any monetary penalty ordered to be paid under this section is payable to the Secretary.	18 19
<b>144G Remedial action—imposition of licence conditions</b>	20
(1) <b>Remedial action for 1 strike</b>	21
If a person who is the licensee or manager of licensed premises incurs 1 strike that is in force, the Authority may impose conditions on the licence that relate to any one or more of the following:	22 23 24
(a) the use of plans of management and incident registers in respect of the licensed premises,	25 26
(b) the prohibition of the use of glass or other breakable containers on the licensed premises,	27 28
(c) the engagement of persons to promote the responsible service of alcohol on the licensed premises,	29 30
(d) the notification of persons, by the licensee, that the strike has been incurred,	31 32
(e) any other matter that may be prescribed by the regulations.	33
(2) <b>Remedial action for 2 strikes</b>	34
If a person who is the licensee or manager of licensed premises incurs 2 strikes that are in force, the Authority may impose conditions on the licence that relate to any one or more of the following:	35 36 37
(a) in the case where the licence is held by a corporation—the persons who may be appointed as a manager of the licensed premises,	38 39
(b) the implementation of security measures in respect of the licensed premises,	40 41
(c) the prohibition of the sale or supply of liquor on the licensed premises before 10 am or after 11 pm (or both),	42 43
(d) the prohibition of patrons entering the licensed premises at certain times,	44 45

(e)	the prohibition of the sale or supply of certain types of liquor on the licensed premises (including liquor with a high alcohol content or liquor that is intended to be consumed rapidly such as a shot),	1 2 3
(f)	the prohibition of certain types of entertainment on the licensed premises,	4 5
(g)	any matter referred to in subsection (1),	6
(h)	any other matter that may be prescribed by the regulations.	7
(3)	<b>Remedial action for 3 strikes</b>	8
	If a person who is the licensee or manager of licensed premises incurs 3 strikes that are in force, the Authority may do any one or more of the following:	9 10
(a)	by order in writing, suspend the licence for up to 12 months,	11
(b)	by order in writing, cancel the licence and disqualify (for up to 12 months) any of the following persons from being granted a licence in respect of the premises to which the cancelled licence related (the <i>subject premises</i> ):	12 13 14 15
(i)	any person who was a business owner under the cancelled licence at the time the prescribed offence resulting in the third strike being incurred was committed,	16 17 18
(ii)	any close associate of any such business owner,	19
(c)	impose a condition on the licence, or any subsequent licence issued in respect of the subject premises, that a person who is disqualified under paragraph (b) must not be employed or otherwise engaged as an employee or agent of the licensee or manager of those premises,	20 21 22 23
(d)	impose a condition on the licence relating to any matter referred to in subsections (1) and (2),	24 25
(e)	impose, vary or revoke any other condition on the licence that is not inconsistent with this Act.	26 27
<b>144H</b>	<b>Authority may impose other conditions in certain circumstances</b>	28
(1)	If, in relation to licensed premises, the Authority is satisfied that:	29
(a)	there is or has been a practice of terminating the employment of persons as the licensee or manager of the premises primarily for the reason of avoiding remedial action being taken in respect of the licence as a result of strikes incurred by such persons, and	30 31 32 33
(b)	there has been, with the subsequent employment of any person as the licensee or manager of the premises, no improvement in managing or reducing the risks that contributed to the commission of the prescribed offences in respect of which those strikes were incurred,	34 35 36 37
	the Authority may impose conditions on the licence to limit the practice referred to in paragraph (a) or to manage or reduce the risk of the commission of prescribed offences on the licensed premises.	38 39 40
(2)	The conditions that the Authority may impose under this section include conditions relating to the employment of a person as the licensee or manager of the licensed premises.	41 42 43

<b>Division 3</b>	<b>Strikes incurred on club licences</b>	1
<b>144I</b>	<b>Incurring strikes—club licences</b>	2
(1)	A first strike is incurred on a club licence if:	3
(a)	the manager of the club premises commits a prescribed offence, and	4
(b)	no other strike is in force in respect of the licence, and	5
(c)	the Authority decides to impose the strike because of the seriousness of any harm that may have resulted from, or been associated with, the commission of the offence.	6 7 8
(2)	A second strike is incurred on a club licence if:	9
(a)	the manager of the club premises commits a prescribed offence, and	10
(b)	one strike was in force in respect of the licence when the offence was committed, and	11 12
(c)	the Authority decides that a second strike should be incurred because of the seriousness of any harm that may have resulted from, or been associated with, the commission of the offence.	13 14 15
(3)	A third strike is incurred on a club licence if:	16
(a)	the manager of the club premises commits a prescribed offence, and	17
(b)	2 strikes were in force in respect of the licence when the offence was committed, and	18 19
(c)	the Authority decides to impose the third strike after taking the following into account:	20 21
(i)	the seriousness of any harm that may have resulted from, or been associated with, the commission of the offence,	22 23
(ii)	any other matter that may be prescribed by the regulations.	24
<b>144J</b>	<b>Remedial action—imposition of licence conditions</b>	25
(1)	<b>Remedial action for one strike</b>	26
	If one strike is incurred on a club licence and the strike is in force, the Authority may impose conditions on the licence that relate to any one or more of the following:	27 28 29
(a)	the use of plans of management and incident registers in respect of the club premises,	30 31
(b)	the prohibition of the use of glass or other breakable containers on the club premises,	32 33
(c)	the engagement of persons to promote the responsible service of alcohol at the club premises,	34 35
(d)	the notification of persons, by the licensee, that the strike or strikes have been incurred,	36 37
(e)	requiring the manager of the club premises or the members of the governing body of the club to undergo training,	38 39
(f)	any other matter that may be prescribed by the regulations.	40
(2)	<b>Remedial action for 2 strikes</b>	41
	If 2 strikes are incurred on a club licence and the strikes are in force, the Authority may impose conditions on the licence that relate to any one or more of the following:	42 43 44

(a)	the persons who may be appointed as a manager of the club premises,	1
(b)	the implementation of security measures in respect of the club premises,	2
(c)	the prohibition of the sale or supply of liquor on the club premises before 10 am or after 11 pm (or both),	3 4
(d)	the prohibition of patrons entering the club premises at certain times,	5
(e)	the prohibition of the sale or supply of certain types of liquor on the club premises (including liquor with a high alcohol content or liquor that is intended to be consumed rapidly such as a shot),	6 7 8
(f)	the prohibition of certain types of entertainment on the club premises,	9
(g)	any matter referred to in subsection (1),	10
(h)	any other matter that may be prescribed by the regulations.	11
(3)	<b>Remedial action for 3 strikes</b>	12
	If 3 strikes are incurred on a club licence and the strikes are in force, the Authority may do any one or more of the following:	13 14
(a)	by order in writing, disqualify (permanently or for a specified period) a person who held any of the following positions at the time the prescribed offence resulting in the third strike being incurred was committed from holding any of those positions:	15 16 17 18
	(i) secretary of the club,	19
	(ii) manager of any of the premises of the club,	20
	(iii) member of the governing body of the club,	21
(b)	by order in writing, disqualify (permanently or for a specified period) any such person from being the secretary of any other registered club, holding any licence or being appointed to manage any other licensed premises,	22 23 24 25
(c)	by order in writing, appoint a person to administer the affairs of the club who, on appointment and until the Authority orders otherwise, has, to the exclusion of any other person or body of persons, the functions of the governing body of the club,	26 27 28 29
(d)	impose a condition on the club licence that a person who is disqualified under paragraph (a) must not be employed or otherwise engaged as an employee or agent of the club or of the manager of any of the club's premises,	30 31 32 33
(e)	impose a condition on the club licence relating to any matter referred to in subsections (1) and (2),	34 35
(f)	impose, vary or revoke any other condition on the club licence that is not inconsistent with this Act.	36 37
	<b>Division 4 General provisions</b>	38
<b>144K</b>	<b>Commencement and expiration of strikes</b>	39
(1)	A strike comes into force on the day on which the strike is imposed by the Authority.	40 41
(2)	Unless sooner revoked under this Part, a strike expires on the third anniversary of the day on which it comes into force.	42 43
(3)	The expiration of a strike does not affect the continued operation of any remedial action taken as a result of the strike.	44 45

<b>144L</b>	<b>Provisions relating to conditions under this Part</b>	1
(1)	In imposing a condition under this Part, the Authority may (but is not required to) specify a period for which the condition is to apply.	2 3
(2)	The Authority may, at any time, vary or revoke a condition imposed under this Part.	4 5
(3)	If a period for which a condition under this Part is to apply is not specified, the condition remains in force until revoked by the Authority.	6 7
<b>144M</b>	<b>Requirements relating to making of reviewable decisions</b>	8
(1)	The Authority must, in making a reviewable decision:	9
(a)	notify the following persons in writing that the Authority is deciding the matter and invite those persons to make a submission within a specified period of at least 21 days:	10 11 12
(i)	the licensee or manager in respect of whom the decision relates,	13
(ii)	if the decision is whether a second or third strike should be imposed—each interested person in the business carried on under the licence concerned (but only if the person’s name has been provided to the Authority under section 41 or 55) and the owner of the licensed premises,	14 15 16 17 18
(iii)	any other person prescribed by the regulations, and	19
(b)	take into account any submissions received before the end of the specified period from any of the following:	20 21
(i)	a person referred to in paragraph (a),	22
(ii)	the NSW Police Force,	23
(iii)	Liquor and Gaming NSW, Department of Industry, and	24
(c)	take into account each of the following to the extent that the Authority considers it to be relevant to the decision:	25 26
(i)	whether the licensed premises were declared premises within the meaning of Schedule 4 when the offences that caused a strike are alleged to have been committed,	27 28 29
(ii)	the size and patron capacity of the licensed premises and how this may impact on the ability of the licensee or manager to prevent the commission of prescribed offences,	30 31 32
(iii)	the history and nature of the commission of prescribed offences by the licensee or manager,	33 34
(iv)	the history and nature of violent incidents that have occurred in connection with the licensed premises,	35 36
(v)	whether other action would be preferable,	37
(vi)	whether there have been changes to the persons who are the licensee, manager or business owner,	38 39
(vii)	whether there have been changes to the business practices in respect of the business carried on under the licence,	40 41
(viii)	any other matter prescribed by the regulations.	42
(2)	Subsection (1) does not prevent the Authority from taking into account any other matter that the Authority considers relevant to the proper making of a reviewable decision.	43 44 45
(3)	The Authority must, as soon as practicable after making a reviewable decision, give notice in writing of the decision, the reasons for the decision and any right	46 47

	of review in respect of the decision to each person that is required to be notified by the Authority under subsection (1) (a) in respect of the decision.	1 2
(4)	A submission provided to the Authority under subsection (1) (b) (i) may not be used for the purposes of prosecuting an offence under this Act.	3 4
(5)	The regulations may prescribe guidelines setting out how the matters referred to in subsection (1) (c) are to be taken into account by the Authority.	5 6
<b>144N</b>	<b>Administrative review by NCAT</b>	7
(1)	An application to the Civil and Administrative Tribunal for an administrative review under the <i>Administrative Decisions Review Act 1997</i> of a reviewable decision may be made by a person who is required to be notified of the decision under section 144M.	8 9 10 11
(2)	Any such application is to be made no later than 21 days after the person receives the notification.	12 13
(3)	Part 2 of Chapter 3 of the <i>Administrative Decisions Review Act 1997</i> does not apply to an application to the Civil and Administrative Tribunal for an administrative review of a reviewable decision.	14 15 16
(4)	An application for a review operates to stay the reviewable decision unless the Civil and Administrative Tribunal otherwise directs.	17 18
(5)	The operation of any remedial action taken in respect of a strike is suspended during any time that the decision to impose the strike is stayed.	19 20
(6)	In determining an application for review under this section, the Civil and Administrative Tribunal must take into account any matter that was required to be taken into account in making the reviewable decision that is the subject of the review.	21 22 23 24
<b>144O</b>	<b>Review by Authority of decision to impose strike</b>	25
(1)	If the Authority imposes a strike under Division 2 or 3, the licensee or manager in respect of whom the strike relates may, after the period of 6 months following the date on which the strike was imposed, apply to the Authority for a review of its decision to impose the strike.	26 27 28 29
(2)	An application under this section must be accompanied by the fee prescribed by the regulations.	30 31
(3)	In determining an application for a review under this section, the Authority may:	32 33
	(a) confirm its decision to impose the strike, or	34
	(b) revoke the strike.	35
(4)	The Authority may decide to revoke the strike only if the Authority is satisfied that:	36 37
	(a) the licensee or manager in respect of whom the strike relates has complied with any remedial action imposed by the Authority in relation to the strike, and	38 39 40
	(b) the licensee or manager has implemented measures, or undertaken a course of training or instruction, to manage or reduce the risks that contributed to the commission of the prescribed offence in respect of which the strike was imposed, and	41 42 43 44



(a)	the end of the period referred to in paragraph (a) of that definition (as in force before its substitution by the amending Act), and	1 2
(b)	the substitution of that definition by the amending Act.	3
<b>56</b>	<b>Prescribed precincts</b>	4
(1)	Anything done under Division 3 of Part 6 of this Act (including, without limitation, any approval or order given or made under that Division) that, immediately before the repeal of that Division by the amending Act, had effect under that Division is taken to have been done, and to have effect, under Division 4 of Part 6 of this Act.	5 6 7 8 9
(2)	Without limiting subclause (1), the Kings Cross precinct ID scanner system approved by the Secretary under Division 3 of Part 6 of this Act is, on the repeal of that Division by the amending Act, taken to have been approved by the Secretary under Division 4 of Part 6 of this Act as the prescribed precinct ID scanner system in respect of the Kings Cross precinct.	10 11 12 13 14
(3)	This clause is subject to the regulations.	15
<b>57</b>	<b>3 strikes scheme under Part 9A</b>	16
(1)	Any strike incurred under Part 9A of this Act and in force immediately before the substitution of that Part by the amending Act is revoked.	17 18
(2)	However, the revocation of an existing strike by this clause does not affect the continued operation of any remedial action taken under Part 9A in respect of the strike before the commencement of this clause. Part 9A, as in force immediately before the substitution of that Part by the amending Act, continues to apply in relation to the taking of any such existing remedial action as if that Part had not been substituted by the amending Act.	19 20 21 22 23 24
(3)	A strike may be imposed under Part 9A (as substituted by the amending Act) only in respect of offences committed after the commencement of that substitution.	25 26 27
<b>[48]</b>	<b>Schedule 5 Freeze precincts</b>	28
	Omit the Schedule.	29

<b>Schedule 2</b>	<b>Amendment of other gaming and liquor legislation</b>	1
		2
<b>2.1</b>	<b>Casino Control Act 1992 No 15</b>	3
<b>[1]</b>	<b>Section 3 Definitions</b>	4
	Insert in alphabetical order in section 3 (1):	5
	<i>Secretary</i> means the Secretary of the Department of Industry.	6
<b>[2]</b>	<b>Section 16 Cost of investigations to be paid by applicant</b>	7
	Omit “the Authority” where secondly occurring in section 16 (1).	8
	Insert instead “the Secretary”.	9
<b>[3]</b>	<b>Sections 26 (1), 114 (1) and (4), 115 (1) and (4), 115A (1) and (4), 119 (5) and 121</b>	10
	Omit “the Authority” wherever occurring. Insert instead “the Secretary”.	11
<b>[4]</b>	<b>Section 35A Cost of investigations into certain major changes</b>	12
	Omit “the Authority” where secondly occurring in section 35A (2).	13
	Insert instead “the Secretary”.	14
<b>[5]</b>	<b>Section 35A (5)</b>	15
	Omit “the Authority” where secondly occurring. Insert instead “the Secretary”.	16
<b>[6]</b>	<b>Section 51 Cost of investigations to be paid by applicant</b>	17
	Omit “the Authority” where secondly occurring in section 51 (1).	18
	Insert instead “the Secretary”.	19
<b>[7]</b>	<b>Section 166A</b>	20
	Insert after section 166:	21
	<b>166A Delegation by Secretary</b>	22
	The Secretary may delegate to any Public Service employee any of the Secretary’s functions under this Act (other than this power of delegation).	23
		24
<b>[8]</b>	<b>Section 168 Prosecution for offences</b>	25
	Omit “of the Department of Justice” wherever occurring in section 168 (4) (d) and (5).	26
<b>2.2</b>	<b>Gaming and Liquor Administration Act 2007 No 91</b>	27
<b>[1]</b>	<b>Section 3 Definitions</b>	28
	Omit “Justice” from the definition of <i>Department</i> . Insert instead “Industry”.	29
<b>[2]</b>	<b>Section 36A Review by Authority of certain decisions</b>	30
	Omit “116AA (4) or” from paragraph (a) (viii) of the definition of <i>reviewable decision</i> in section 36A (1).	31
		32

<b>[3] Section 38B</b>	1
Insert after section 38A:	2
<b>38B Payment of fees under gaming and liquor legislation</b>	3
(1) Any fee required to be paid under the gaming and liquor legislation (including any fee charged or determined by the Authority) is payable to the Secretary.	4 5
(2) Subsection (1) does not limit the operation of any provision of the gaming and liquor legislation that requires fees to be paid to the Secretary.	6 7
<b>[4] Section 40</b>	8
Omit the section. Insert instead:	9
<b>40 Recovery of money due to Secretary</b>	10
(1) Any money due to the Secretary under the gaming and liquor legislation (including any monetary penalty imposed by the Authority or any costs it orders to be paid) may be recovered by the Secretary in a court of competent jurisdiction as a debt due to the Crown.	11 12 13 14
(2) This section does not limit the operation of section 26 of the <i>Casino Control Act 1992</i> .	15 16
<b>2.3 Gaming Machines Act 2001 No 127</b>	17
<b>[1] Whole Act (except where otherwise amended by this Subschedule and clause 7 (2) of Schedule 1)</b>	18 19
Omit “Director-General” wherever occurring. Insert instead “Secretary”.	20
<b>[2] Section 4 Definitions</b>	21
Omit the definition of <i>Director-General</i> . Insert in alphabetical order: <i>Secretary</i> means the Secretary of the Department of Industry.	22 23
<b>[3] Sections 23 (3), 28 (3) and 108 (1)</b>	24
Omit “the Authority” wherever occurring. Insert instead “the Secretary”.	25
<b>[4] Section 36 Approval of LIA by Authority</b>	26
Insert “to the Secretary” after “paid” in section 36 (2).	27
<b>[5] Section 63 Application for declaration of device as approved gaming machine</b>	28
Insert after section 63 (2A):	29
(2B) Any amount required to be paid under subsection (2) or (2A) is payable to the Secretary.	30 31
<b>[6] Section 63 (3)</b>	32
Omit “the Authority” where firstly occurring. Insert instead “the Secretary”.	33
<b>[7] Section 131 Disciplinary powers of Authority</b>	34
Insert after section 131 (2):	35
(2A) Any monetary penalty or costs ordered to be paid under subsection (2) are payable to the Secretary.	36 37

<b>2.4 Registered Clubs Act 1976 No 31</b>	1
<b>[1] Section 57H Disciplinary powers of Authority</b>	2
Insert after section 57H (2):	3
(3) Any monetary penalty or costs ordered to be paid under subsection (2) are payable to the Secretary.	4 5
<b>[2] Section 71A Date of payment by direct deposit</b>	6
Omit “the Authority” wherever occurring. Insert instead “the Secretary”.	7