

Passed by both Houses



New South Wales

# Liquor Legislation Amendment Bill 2010

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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, , 2010*



New South Wales

## **Liquor Legislation Amendment Bill 2010**

Act No , 2010

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An Act to amend the *Liquor Act 2007* to give effect to certain measures set out in the Government's action plan entitled "Hassle Free Nights"; 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 Legislation Amendment Act 2010*.

**2 Commencement**

This Act commences on the date of assent to this Act.

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## Schedule 1 Amendment of Liquor Act 2007 No 90

### [1] Section 4 Definitions

Omit the definition of *accord area* from section 4 (1).

### [2] Section 4 (1)

Insert in alphabetical order:

*community event liquor accord*—see section 136A.

*liquor accord* means a local liquor accord, precinct liquor accord or community event liquor accord.

*precinct liquor accord*—see section 136A.

### [3] Section 47A Definitions

Omit “24 June 2010” from paragraph (b) of the definition of *freeze period* in section 47A (1).

Insert instead “24 June 2011”.

### [4] Section 54 Director-General may impose, vary or revoke licence conditions

Insert after section 54 (1):

(1A) The conditions that may be imposed by the Director-General on a licence include, but are not limited to, conditions:

- (a) prohibiting the sale or supply of liquor on the licensed premises before 10 am or after 11 pm (or both), and
- (b) restricting the trading hours of, and public access to, the licensed premises.

### [5] Section 54 (2)

Omit the subsection. Insert instead:

(2) The Director-General may, on application by the licensee or the Commissioner of Police or on the Director-General’s own initiative:

- (a) vary or revoke a licence condition that has been imposed by the Director-General under this section or any other provision of this Act, or
- (b) vary or revoke a licence condition:
  - (i) relating to the trading hours of any licensed premises, or

- (ii) relating to licensed premises situated wholly or partly in the precinct to which a precinct liquor accord applies or in an area to which a community event liquor accord applies,  
that has been imposed (or taken to have been imposed) by the Authority.

**[6] Section 54 (3)**

Omit “that has been imposed by the Director-General under this or any other section of this Act”.

Insert instead “otherwise than on the application of the licensee”.

**[7] Section 54 (4)**

Omit “imposed by the Director-General under this section or any other provision of this Act”.

**[8] Section 54 (5)**

Omit “This section”.

Insert instead “Except in the case of a condition imposed under subsection (1A) or in the case of the variation or revocation of a condition referred to in subsection (2) (b), this section”.

**[9] Section 76 Self-exclusion of patrons from licensed premises**

Omit “a party to a local” from section 76 (4).

Insert instead “participating in a”.

**[10] Section 77 Non-voluntary exclusion of persons from licensed premises**

Omit “134) of a local” from section 77 (2) (e).

Insert instead “134 or 136D) of a”.

**[11] Section 77 (13)**

Insert after section 77 (12):

- (13) Nothing in this or any other section of this Act operates to limit any other right a person has to refuse to admit a person to, or to turn a person out of, licensed premises.

**[12] Sections 81 (2) (e) and 159 (2) (f)**

Omit “local” wherever occurring.

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[13] **Part 8, heading**

Omit “**Local liquor accords**”. Insert instead “**Liquor accords**”.

[14] **Part 8, Division 1, heading**

Insert before section 131:

**Division 1      Local liquor accords**

[15] **Section 131 Definitions**

Omit “In this Part”. Insert instead “For the purposes of this Act”.

[16] **Section 131, definition of “accord area”**

Omit the definition.

[17] **Sections 131 (paragraph (b) of definition of “local liquor accord”) and 132**

Omit “this Part” wherever occurring. Insert instead “this Division”.

[18] **Section 135 Approval, variation and termination of local liquor accord**

Omit “accord area” from section 135 (3).

Insert instead “area to which the accord is to apply”.

[19] **Sections 135 (4) and 136 (1)**

Omit “an accord area” wherever occurring.

Insert instead “the area to which a local liquor accord applies”.

[20] **Part 8, Division 2**

Insert after section 136:

**Division 2      Precinct liquor accords and community event liquor accords**

**136A    General provisions**

(1) For the purposes of this Act, a *precinct liquor accord* or a *community event liquor accord* is a set of measures, approved by the Director-General under this Division, that aim to do either or both of the following:

(a) to minimise or prevent alcohol-related violence or anti-social behaviour, or other alcohol-related harm, in the precinct or area to which the relevant liquor accord applies,

- (b) to protect and support the good order or amenity of any such precinct or area in connection with issues arising from the presence of, or any proposed increase in the number of, licensed premises in that precinct or area.
  - (2) Each of the following persons or bodies may, in accordance with arrangements established by the Director-General, participate in a precinct liquor accord or community event liquor accord (including the development of a proposed liquor accord):
    - (a) the licensee for any licensed premises situated in the precinct or area to which the accord applies or is to apply,
    - (b) the Commissioner of Police,
    - (c) a local council,
    - (d) persons who are running businesses or commercial operations in the precinct or area to which the accord applies or is to apply,
    - (e) a community representative (as approved by the Director-General) for the precinct or area to which the accord applies or is to apply,
    - (f) such other persons or bodies as the Director-General considers appropriate.
- Note.** Licensees can be required to participate in a liquor accord. See section 136E.
- (3) A precinct liquor accord or community event liquor accord does not require the agreement of the accord participants to the measures provided for by the accord.

**136B Director-General may approve liquor accords for designated precincts**

- (1) The Director-General may:
  - (a) designate a precinct as being a precinct to which a proposed precinct liquor accord is to apply, and
  - (b) approve a precinct liquor accord for the designated precinct, and
  - (c) vary, at any time, the terms of a precinct liquor accord.
- (2) The designated precinct to which a precinct liquor accord applies or is to apply must be shown on a map that is made publicly available in such manner as the Director-General considers appropriate.

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- (3) The Director-General may approve a precinct liquor accord for a designated precinct only if the Director-General is satisfied that:
- (a) in the precinct there is, or there is a potential for, a significant risk of harm to members of the public associated with the misuse and abuse of liquor (including harm arising from violence or other anti-social behaviour), and
  - (b) the measures to be provided for by the accord are necessary:
    - (i) to prevent harm to members of the public associated with the misuse and abuse of liquor in the precinct (including harm arising from violence or other anti-social behaviour), or
    - (ii) to protect and support the good order or amenity of the precinct in connection with issues arising from the presence of, or any proposed increase in the number of, licensed premises in the precinct.
- (4) The Director-General may terminate a precinct liquor accord at any time by notice in writing given to the persons or bodies participating in the accord.

**136C Director-General may approve liquor accords for community events**

- (1) The Director-General may:
- (a) designate a community event as being an event to which a proposed community event liquor accord is to apply, and
  - (b) approve a community event liquor accord for that designated event, and
  - (c) vary, at any time, the terms of a community event liquor accord.
- (2) A community event liquor accord applies during the period, and to the area, specified in the accord. Any such period may include a period before or after the designated community event takes place and the area to which the accord applies may comprise more than one specified area (whether or not those areas are contiguous).
- (3) In approving a community event liquor accord, the Director-General is to make publicly available, in such manner as



the Director-General considers appropriate, each of the following:

- (a) the name or description of the community event to which the accord relates,
  - (b) the period during which the accord is to apply,
  - (c) a map showing the area to which the accord is to apply.
- (4) The Director-General may approve a community event liquor accord for a community event only if the Director-General is satisfied that:
- (a) in the area in which the accord is to apply there is, or there is a potential for, a significant risk of harm to members of the public associated with the misuse and abuse of liquor (including harm arising from violence or other anti-social behaviour), and
  - (b) the measures to be provided for by the accord are necessary:
    - (i) to prevent harm to members of the public associated with the misuse and abuse of liquor in the area in which the accord is to apply (including harm arising from violence or other anti-social behaviour), or
    - (ii) to protect and support the good order or amenity of that area in connection with issues arising from the presence of, or proposed increase in the number of, licensed premises in that area.

**136D    Content of precinct and community event liquor accords**

- (1) A precinct liquor accord or community event liquor accord may include such measures as the Director-General considers are necessary:
  - (a) to minimise or prevent alcohol-related violence or anti-social behaviour or other alcohol-related harm in the precinct or area to which the accord applies, or
  - (b) to protect and support the good order or amenity of any such precinct or area in connection with issues arising from the presence of, or proposed increase in the number of, licensed premises in the precinct or area concerned.
- (2) The Director-General must give notice of the terms of a precinct liquor accord or community event liquor accord, and of any variation to the terms of such an accord:
  - (a) to each licensee who is required to participate in the accord, and

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- (b) to such other participants in the accord as the Director-General considers appropriate.
  - (3) Without limiting the measures that may be included in a precinct liquor accord or community event liquor accord, any such accord may include measures requiring a licensee to do any one or more of the following:
    - (a) to cease serving liquor (including take-away liquor) on the licensed premises during such times as are specified in the accord,
    - (b) to restrict the public's access to the licensed premises in a manner and to the extent provided by the accord,
    - (c) to restrict the use of glass containers on the licensed premises,
    - (d) to maintain an incident register,
    - (e) to install and operate closed-circuit television or any other security device on the licensed premises,
    - (f) to provide security staff in or about the licensed premises.
  - (4) The provisions of section 134 (2) and (3) apply to or in respect of a precinct liquor accord or community event liquor accord in the same way as those provisions apply to or in respect of a local liquor accord (except that section 134 (2) applies as if the reference to a person entering into a local liquor accord were a reference to a person or body participating in a precinct liquor accord or community event liquor accord).

**136E Requirement to participate in precinct or community event liquor accord**

- (1) The Director-General may, in the case of licensed premises situated wholly or partly in the precinct to which a precinct liquor accord applies or in the area to which a community event liquor accord applies, impose conditions on the licence, by notice in writing to the licensee, requiring the licensee to participate in the liquor accord for that precinct or area.
- (2) Without limiting subsection (1), if:
  - (a) the sale or supply of liquor after midnight on licensed premises is authorised at least once a week on a regular basis, and
  - (b) the licensed premises are situated wholly or partly in the precinct to which a precinct liquor accord applies or in the area to which a community event liquor accord applies,

it is a condition of the licence that the licensee, on being notified in writing by the Director-General, participate in the liquor accord for that precinct or area.

- (3) For the purposes of this section, *participate* in a liquor accord means participate in the development, implementation and operation of the accord and, without limitation, includes any of the following:
  - (a) developing the measures to be provided for by the accord,
  - (b) complying with those measures to the extent that they apply to the licensee,
  - (c) developing and maintaining the mechanisms and processes that support the operation of the accord,
  - (d) participating in any committee established under the accord.
- (4) Subsection (2) does not, however, operate to require a licensee to participate in a committee established under a liquor accord.
- (5) A reference in this section to a liquor accord includes a reference to a proposed liquor accord and a reference to the precinct or area to which a liquor accord applies includes a reference to the proposed precinct or area to which the accord is to apply.
- (6) Subsection (2) does not apply in relation to a limited licence.

**136F Precinct liquor accord contributions and fund**

- (1) The Director-General may, by direction in writing to any licensee who is required under this Division to participate in a precinct liquor accord, require the licensee to pay a contribution towards the costs associated with the operation of the accord (including any projects or initiatives carried out under the accord).
- (2) The amount of any such contribution is to be determined by the Director-General in accordance with the terms of the accord.
- (3) Any money paid to the Director-General under this section is to be paid into a Precinct Liquor Accord Fund established in the Special Deposits Account. A separate account in that Fund is to be kept for the purposes of each precinct liquor accord.
- (4) The Director-General has the control and management of the Precinct Liquor Accord Fund.
- (5) Money held in any separate account of the Precinct Liquor Accord Fund is to be applied only for the purposes of funding the carrying out of projects and activities under the precinct liquor accord in respect of which the separate account is kept.

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- (6) Any amount required to be paid to the Director-General under this section may, if the amount is not paid within the time specified by the Director-General in the direction to the licensee concerned, be recovered by the Director-General from the licensee as a debt due to the Crown for payment into the Precinct Liquor Accord Fund.

**Note.** Failure to comply with a direction under this section may also constitute grounds for taking disciplinary action against the licensee under Part 9.

**[21] Section 153 Review by Authority of Director-General's decisions**

Omit section 153 (1) (a). Insert instead:

- (a) a decision to impose a condition under section 54 (Director-General may impose, vary or revoke licence conditions),
- (a1) a decision under section 54 to vary or revoke a condition of a licence,

**[22] Section 153 (1) (h1)**

Insert after section 153 (1) (h):

- (h1) a direction under section 136F (Precinct liquor accord contributions and fund),

**[23] Section 153 (4A)**

Insert after section 153 (4):

- (4A) However, in the case of a review of a direction by the Director-General under section 136F, the Authority may vary or revoke the Director-General's decision only if the Authority is satisfied that the amount of the contribution directed to be paid was not determined in accordance with the terms of the relevant precinct liquor accord.

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

Insert at the end of clause 1 (1):

*Liquor Legislation Amendment Act 2010*

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## Schedule 2 Amendment of Local Government Act 1993 No 30

### Section 632A

Insert after section 632:

#### 632A Confiscation of alcohol in certain alcohol prohibited areas

- (1) A police officer or an enforcement officer may seize any alcohol (and the bottle, can, receptacle or package in which it is contained) that is in the immediate possession of a person in an alcohol prohibited area if the officer has reasonable cause to believe that the person:
  - (a) is drinking, or
  - (b) is about to drink, or
  - (c) has recently been drinking,  
alcohol in the alcohol prohibited area.
- (2) Any alcohol or thing seized under this section is, by virtue of the seizure, forfeited:
  - (a) if seized by a police officer—to the State, or
  - (b) if seized by an enforcement officer—to the council that employs the officer.
- (3) Any alcohol seized under this section may:
  - (a) be disposed of immediately by tipping it out of the bottle, can, receptacle or package in which it is contained, or
  - (b) be otherwise disposed of in accordance with directions given by the Commissioner of Police or the council (as the case requires).
- (4) In this section:

***alcohol prohibited area*** means a public place:

  - (a) situated wholly or partly in the precinct to which a precinct liquor accord (within the meaning of the *Liquor Act 2007*) applies or in the area to which a community event liquor accord (within the meaning of that Act) applies, and
  - (b) in which the drinking of alcohol is prohibited by a notice under section 632.

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***enforcement officer*** means an employee of a council authorised in writing by the Commissioner of Police to be an enforcement officer for the purposes of this section.