

[Act 1999 No 63]



New South Wales

Liquor Amendment Bill 1999

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* as follows:

- (a) to extend the permissible trading hours during the millennium celebration period for licensed premises selling liquor for consumption on the premises to permit trading from normal opening time on Friday 31 December 1999 to Monday 3 January 2000, subject to certain additional controls,
 - (b) to introduce a new category of liquor licence (a community liquor licence) for communities that have been left with no hotel or liquor outlet because of hotel closures or removals,
 - (c) to allow nightclubs to trade on a Sunday night where the Monday is a public holiday for the same hours as on a Saturday night,
 - (d) to allow a nightclub to operate as a “dine-or-drink” venue at a time that it is required to be operated as a restaurant,
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- (e) to provide for the extension of the licensed premises of a restaurant or nightclub to include a self-contained accommodation apartment complex that provides motel-style accommodation and that is managed and operated with the restaurant or nightclub forming part of the complex, so that liquor can be supplied under the licence to guests staying in apartments in the complex,
- (f) to remove the requirement that the toilets of a licensed restaurant be for the exclusive use of patrons for those restaurants where the toilets are located outside of the licensed area of the restaurant,
- (g) to remove the requirement that a restaurant have at least 50 seats to be licensed and to insert a requirement that the Licensing Court be satisfied that the premises will be operated as a bona fide restaurant,
- (h) to clarify provisions relating to caterer's licences to ensure that only bona fide catering businesses can obtain a caterer's liquor licence and to clarify the requirement that liquor supplied under a caterer's licence must be supplied and consumed with or as ancillary to the consumption of food,
- (i) to ensure that a retail liquor store licence cannot be granted for a mixed business unless the liquor operation is adequately separated from the rest of the business, and to require in addition that such a licence is not to be granted for a service station or convenience store unless there is no other take-away liquor service reasonably available in the neighbourhood and the grant of the licence will not encourage drink-driving or other liquor-related harm,
- (j) to introduce new offences concerned with fraudulent manufacture and use of proof of age cards and tampering with proof of age cards,
- (k) to increase the monetary penalty for offences concerning unauthorised sale of liquor,
- (l) to enable a minor in the company of a responsible adult to pass through (but not stop in) a restricted area of a hotel to gain entry to non-restricted areas of the hotel,
- (m) to omit as a ground of objection to the grant of a minors function authority for a nightclub a requirement that relates to the physical layout of hotels,
- (n) to limit the existing prohibition on a person letting or subletting the right to supply services on licensed premises so that it will apply only to liquor and gaming-related services that are prescribed by the regulations,
- (o) to make minor changes to update terminology consequent on changes to development approval provisions,
- (p) to make consequential amendments and to enact savings and transitional provisions.

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 except for some amendments that are to commence on assent.

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

Schedule 1 Amendments

Millennium celebration period trading hours

Schedule 1 [19] and [68] extend the trading hours for hotels, licensed restaurants, nightclubs, Australian wine licences, Governor's licences and section 74A licences during the millennium celebration period so that those venues will be able to trade from their normal opening time on Friday 31 December 1999 to their normal closing time on Monday 3 January 2000. Venues will have to close for at least one hour between 3 am and 7 am on the Saturday, Sunday and Monday. Extra controls are put in place to ensure the orderly and safe conduct of trade and the Commissioner of Police and the Director of Liquor and Gaming are given special powers to give directions to licensees and managers to minimise harm associated with misuse and abuse of liquor.

Community liquor licences

Schedule 1 [1], [9], [10], [11], [20], [22], [31] and [37] provide for the grant of a new category of liquor licence to be called a community liquor licence. A community liquor licence will authorise the retail sale of liquor for consumption on or off the premises. Such a licence will only be able to be granted to a person on behalf of a non-proprietary association for the benefit of a non-metropolitan community that has been left without hotel facilities because of the closure or removal of a hotel. The licence will be subject to special conditions to ensure the responsible sale, supply and service of liquor on the premises. Trading hours will be fixed by the Licensing Court.

Schedule 1 [25] (proposed section 49B) provides that a community liquor licence may not be granted unless the court is satisfied that:

- (a) the premises are not in a metropolitan area, and

- (b) the premises will have proper facilities for the sale, supply and consumption of liquor, and
- (c) there is no hotel operating in or in the vicinity of the neighbourhood that will be served by the licence, due to hotel closure or removal, and
- (d) there are no hotel-like facilities available to the community, and
- (e) there is support in the community for the grant of the licence, and
- (f) the licence will not cause undue disturbance to the neighbourhood.

Schedule 1 [3], [8], [47], [49]–[55] and [65]–[67] are consequential on these amendments. In particular, consequential amendments are made to extend the controls on minors on hotel premises to community liquor licence premises.

Nightclub trading on Sunday nights followed by public holiday

Schedule 1 [21] (proposed section 35C (5) and (6)) allows a nightclub to trade on a Sunday night for the same hours as a Saturday night if the Monday following the Sunday is a public holiday and the Sunday is not a restricted trading day.

Nightclub “dine-or-drink” venues

Schedule 1 [13]–[18] and [30] provide for the grant of nightclub “dine-or-drink” authorities (on the same terms as apply to dine-or-drink authorities for restaurants) to allow nightclubs (at the times that they are being operated as restaurants) to supply liquor otherwise than ancillary to the consumption of a meal at the restaurant.

Schedule 1 [33]–[36] provide that no fee is payable for the endorsement of a nightclub licence with a dine-or-drink authority.

Schedule 1 [6], [38], [39], [45], [46] and [48] make consequential amendments.

Apartment complexes including restaurants or nightclubs

Schedule 1 [4], [7], [21] (proposed section 35C (7) and (8)) and **[29]** provide for the extension of the licensed premises of a restaurant or nightclub to include an apartment complex that comprises self-contained accommodation providing motel-style accommodation that is operated and managed with the restaurant or nightclub. The amendments extend the definition of *motel* in the Act to include such an apartment complex, and amend the provisions applicable to nightclubs so that the licensed premises of a nightclub can be defined to include a motel. Existing provisions allow the licensed premises of a restaurant to be defined to include a motel.

Schedule 1 [32] provides for the fee that is payable for the extension of nightclub premises to include a motel.

Schedule 1 [5], [41] and [42] make consequential amendments.

Restaurants

Schedule 1 [26] removes the existing requirement that a restaurant cannot be licensed unless it has seating for no fewer than 50 diners and replaces it with a requirement that the Licensing Court be satisfied that the premises be operated as a bona fide restaurant.

Schedule 1 [27] removes the requirement that the toilets of a licensed restaurant be for the exclusive use of patrons of those restaurants if the toilets are located outside of the licensed area of the restaurant.

Caterer's licences

Schedule 1 [12] and [28] clarify provisions relating to caterer's licences to ensure that only bona fide catering businesses can obtain a caterer's licence (proposed section 23A (3)) and clarify the requirement that liquor supplied under a caterer's licence must be supplied and consumed with or as ancillary to the consumption of food (proposed section 23A (2)).

Schedule 1 [2] and [40] make consequential amendments.

Retail liquor stores

Schedule 1 [25] (proposed section 49C) imposes special requirements for the grant of a retail liquor store licence on premises where the sale of liquor is not the primary business carried on there. Under these requirements, liquor sales will have to take place in a separate part of the premises where the principal activity is the sale of liquor. In addition, for liquor stores in convenience stores or service stations, the grant of a licence is subject to the additional qualifications that there must be no other take-away liquor service reasonably available in the neighbourhood and the licence must not encourage drink-driving or other liquor-related harm.

Proof of age cards

Schedule 1 [56] creates new offences of manufacturing (proposed section 117EB), giving or lending (proposed section 117EC) and tampering with (proposed section 117ED) proof of age cards.

Schedule 1 [62] makes a consequential amendment.

Sale of liquor without a licence

Schedule 1 [58]–[61] increase from 10 to 50 penalty units (currently \$5,500) the monetary penalty for the offences of unauthorised sale of liquor, unlicensed sale of liquor and unauthorised operation of licensed premises. The offence of a licensee selling or employing another to sell liquor in an unauthorised place has its penalty increased from 5 to 20 (currently \$2,200) penalty units.

Minors passing through restricted area

Schedule 1 [57] inserts a provision that will allow a minor to pass through a restricted area of a hotel in the company of a responsible adult to gain access to another area of the hotel that the minor may lawfully enter.

Minors functions authorities

Schedule 1 [24] limits 2 existing grounds of objection to the grant of a minors functions authority to where the application relates to a hotel. Minors functions authorities can be granted for hotels or nightclubs and the grounds of objection concerned are, because of the differences in the layout of hotels and nightclubs, relevant only to hotels.

Letting the supply of services

Schedule 1 [43] and **[44]** limit the existing prohibition on a person letting or subletting the right to supply services on licensed premises so that it will apply only to liquor and gaming-related services that are prescribed by the regulations.

Other amendments

Schedule 1 [23] makes a minor change to reflect changed procedures for the obtaining of development consent.

Schedule 1 [63] and **[64]** insert consequential savings and transitional provisions.