

# Liquor Regulation 2008

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New South Wales

## Status Information

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**
  - [Liquor Amendment \(Kings Cross Plan of Management\) Act 2012 No 91](#) (not commenced — to commence on 7.12.2012)
  - [Liquor Amendment \(Kings Cross\) Regulation 2012 \(594\)](#) (LW 30.11.2012) (not commenced — to commence on 7.12.2012)

### Authorisation

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# Liquor Regulation 2008



New South Wales

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# Liquor Regulation 2008



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Liquor Regulation 2008*.

### 2 Commencement

This Regulation commences on 1 July 2008.

### 3 Definitions

(1) In this Regulation:

**existing licence** has the same meaning as in Part 2 of Schedule 1 to the Act.

**existing registered club** has the same meaning as in clause 93 of Schedule 2 to the *Registered Clubs Act 1976*.

**former Act** means the *Liquor Act 1982*.

**former Board** means the Liquor Administration Board constituted by section 72 of the former Act.

**licence-related authorisation** means any of the following:

- (a) an extended trading authorisation,
- (b) a drink on-premises authorisation,
- (c) any other authorisation that may be granted by the Authority under Part 3 of the Act (other than a licence),
- (d) a minors area authorisation,
- (e) a minors functions authorisation.

**multi-function limited licence** means a limited licence authorising the sale or supply of liquor as part of, or in connection with, more than one function.

**single function limited licence** means a limited licence authorising the sale or supply of liquor as part of, or in connection with, one (but not more than one) function.

**special occasion extended trading authorisation** means an extended trading authorisation of the kind referred to in section 49 (5) (b) of the Act.

**the Act** or **the new Act** means the [Liquor Act 2007](#).

(2) Notes included in this Regulation do not form part of this Regulation.

## Part 2 Application fees

### 4 Application fees generally

- (1) The application fees payable for the purposes of the Act are the fees specified in Schedule 1 (except as provided by clause 5).
- (2) The amount of the fee payable for an application is the amount specified under the heading “Total” in relation to the application concerned.
- (3) If an application:
  - (a) is refused by the Authority, or
  - (b) is granted by the Authority but is subsequently withdrawn by the applicant before the licence or other authorisation concerned takes effect, or
  - (c) is treated by the Authority as having been withdrawn,the fee that has been paid in connection with the application is to be refunded to the applicant, except for any amount specified under the heading “Processing component” (which is taken to be a fee to cover the costs incurred by the Authority in processing the application concerned).

### 5 Other application fees

- (1) **Variation of extended trading authorisation** For the purposes of section 51 (10) of the Act, the application fee to vary an extended trading authorisation is:
  - (a) if the variation involves an increase in trading hours—the same fee as the application fee specified in Part 2 of Schedule 1 for an extended trading authorisation covering the same period as the period that is the subject of the application for the variation, or
  - (b) if the variation involves a reduction in trading hours under the authorisation—\$50.
- (2) **Removal of licence to other premises** For the purposes of section 59 (2) (b) of the Act, the application fee for approval to remove a licence to other premises is the same fee as the licence application fee specified in Part 1 of Schedule 1 for the particular type



of licence concerned.

## **Part 3 Provisions relating to applications**

### **Division 1 Advertising requirements**

#### **6 Definitions**

(1) In this Division:

**application** means any of the following:

- (a) an application for a licence,
- (b) an application by a licensee for the revocation or variation of a condition of the licence or a condition of a licence-related authorisation,
- (c) an application to vary the business or activity, or the kind of premises, specified in an on-premises licence,
- (d) an application for approval to remove a licence to other premises,
- (e) an application by a licensee for a licence-related authorisation or for the variation of a licence-related authorisation,
- (f) an application to carry on business on temporary premises.

**neighbouring premises**, in relation to an application, means:

- (a) any building situated on land that is within 50 metres of the boundary of the premises to which the application relates, or
- (b) if a category B CIS (as referred to in clause 10 (3)) is required to accompany the application—any building situated on land that is within 100 metres of the boundary of the premises to which the application relates, or
- (c) any building situated on land adjoining the boundary of the land on which the premises to which the application relates are or will be situated (or that would be land adjoining that boundary if it were not for a road separating the land).

(2) In this Division, a reference to the premises to which an application relates is, in the case of an application for approval to remove a licence to other premises, a reference to the premises to which it is proposed to remove the licence.

#### **7 Occupiers of neighbouring premises to be notified of application**

(1) The occupier of neighbouring premises must be notified by an applicant of the making of an application.

(1A) The notice may be given before the making of the application but must be given no

later than 2 working days after the application is made.

- (2) The notice must be in the form, and be given in the manner, approved by the Authority.
- (3) This clause applies in relation to a licence-related authorisation only if it is:
  - (a) an extended trading authorisation (other than a special occasion extended trading authorisation), or
  - (b) a drink on-premises authorisation, or
  - (c) an authorisation under section 24 (3) of the Act.
- (4) This clause does not apply in relation to an application for:
  - (a) a producer/wholesaler licence, or
  - (b) a limited licence.

#### **8 Other persons to be notified of application**

- (1) Each of the following must be notified by an applicant of the making of an application:
  - (a) the local police,
  - (b) the local consent authority,
  - (c) if the premises to which the application relates are, or will be, situated within 500 metres of the boundary of another local government area—the local consent authority for that other area,
  - (d) if the premises to which the application relates are, or will be, situated on Crown land within the meaning of the *Crown Lands Act 1989*—the Minister administering that Act,
  - (e) if the application is a relevant application as referred to in section 48 (2) of the Act—each of the other relevant stakeholders referred to in clause 11 (2) or (3) (as the case requires),
  - (f) any other person or body (including any class of person or body) that the Authority has advised the applicant must be notified.
- (1A) The notice may be given before the making of the application but must be given no later than 2 working days after the application is made.
- (2) The notice must be in the form, and be given in the manner, approved by the Authority.
- (3) This clause does not apply in relation to an application that is of a class determined by

the Authority as a class of application that may be made by means of an electronic system approved by the Authority.

## **9 Notice relating to application to be fixed to premises**

- (1) If an application is made to the Authority, a notice relating to the application that is in the form approved by the Authority must, within 2 working days of making the application, be fixed by the applicant to the premises to which the application relates.
- (2) The notice must be fixed to the premises until such time as the application is determined by the Authority.
- (3) If premises have not been erected, the requirement to fix a notice relating to an application may be satisfied by fixing the notice to a notice board erected on the land on which it is proposed to erect the premises.
- (4) A notice is not fixed to premises or land in accordance with this clause unless:
  - (a) it is fixed to the premises or land in such a position that it is legible to members of the public passing the premises or land, and
  - (b) if the Authority has directed that it also be fixed in another specified position—it is also fixed in that other position.
- (5) This clause applies in relation to a licence-related authorisation only if it is:
  - (a) an extended trading authorisation, or
  - (b) a drink on-premises authorisation, or
  - (c) an authorisation under section 24 (3) of the Act.
- (6) This clause does not apply in relation to an application for a limited licence.

## **Division 2 Community impact statements**

### **10 Categories of CIS**

- (1) A community impact statement (**CIS**) that is required to accompany a relevant application (as referred to in section 48 (2) of the Act) is to be a category A CIS or a category B CIS as determined in accordance with this clause.
- (2) A **category A CIS** is required if the relevant application is:
  - (a) an application for a packaged liquor licence that is limited to the sale of liquor only by means of taking orders over the telephone or by facsimile or mail order, or through an Internet site, or
  - (b) (Repealed)

- (c) an application under section 59 of the Act for approval to remove a licence referred to in paragraph (a) to other premises, or
  - (d) (Repealed)
  - (e) an application for an extended trading authorisation in relation to an on-premises licence if the authorisation operates to authorise the sale of liquor (otherwise than to the residents of the licensed premises and their guests) at any time between 5 am and 10 am or between 10 pm and midnight on a Sunday, or
  - (f) an application for an authorisation under section 24 (3) of the Act, or
  - (g) an application that is required by the Authority under paragraph (f) of the definition of **relevant application** in section 48 (2) of the Act to be accompanied by a category A CIS.
- (3) A **category B CIS** is required if the relevant application is:
- (a) an application for a hotel licence, or
  - (b) an application for a club licence, or
  - (c) an application for a packaged liquor licence (other than a licence that is limited to the sale or supply of liquor through an Internet site), or
  - (d) an application for a on-premises licence that relates to a public entertainment venue other than a cinema or a theatre, or
  - (e) an application for an extended trading authorisation in relation to a licence referred to in paragraphs (a)-(d), or
  - (f) an application under section 59 of the Act for approval to remove a licence referred to in paragraphs (a)-(d) to other premises, or
  - (g) an application for an extended trading authorisation in relation to an on-premises licence if the authorisation operates to authorise the sale of liquor at any time between midnight and 5 am, or
  - (h) an application for an extended trading authorisation in relation to a producer/wholesaler licence if the authorisation operates to authorise the sale of liquor by retail (otherwise than to the residents of the licensed premises and their guests) at any time between midnight and 5 am, or
  - (i) an application that is required by the Authority under paragraph (f) of the definition of **relevant application** in section 48 (2) of the Act to be accompanied by a category B CIS.

#### **10A CIS to address matters relating to gambling activities in hotels during extended**

### **trading periods**

In the case of an application for an extended trading authorisation in relation to a hotel licence, the matters to be addressed by a CIS are to include matters relating to gambling activities on the licensed premises during the period that the authorisation is proposed to be in force.

### **11 Preparation of CIS—consultation requirements**

- (1) In preparing a CIS, the applicant must provide each relevant stakeholder with a notice, in the form and manner approved by the Authority, containing information about the relevant application and the process by which the stakeholder is able to consult with the applicant on the relevant application.
- (2) In the case of a category A CIS, the relevant stakeholders are as follows:
  - (a) the local consent authority,
  - (b) if the premises to which the relevant application relates are, or will be, situated within 500 metres of the boundary of another local government area—the local consent authority for that other area,
  - (c) the local police,
  - (d) such other stakeholders as are determined by the Authority.
  - (e) (Repealed)
- (3) In the case of a category B CIS, the relevant stakeholders are as follows:
  - (a) the local consent authority,
  - (b) if the premises to which the relevant application relates are, or will be, situated within 500 metres of the boundary of another local government area—the local consent authority for that other area,
  - (c) the local police,
  - (d) the Department of Health,
  - (e) the Department of Community Services,
  - (f) the Roads and Traffic Authority,
  - (g) the recognised leaders or representatives of the local Aboriginal community (if any) in the area,
  - (h) the occupier of any neighbouring premises as referred to in clause 6,
  - (i) such other stakeholders as are determined by the Authority.

- (4) Without limiting subclause (3), the relevant stakeholders include, in the case of an application for an extended trading authorisation in relation to a hotel licence, any organisation located in the local government area in which the hotel is situated that receives funding from the Responsible Gambling Fund under the *Casino Control Act 1992* for the specific purpose of providing gambling-related counselling or treatment services.

## **Division 3 General**

### **12 Submissions in relation to applications**

- (1) Any person may make a submission to the Authority in relation to any application that is made to the Authority under the Act.
- (2) Any such submission must:
  - (a) specify details of the application to which the submission relates, and
  - (b) be made within 30 days of the date on which the application was made, or such shorter period as the Authority may determine in any particular case.
- (3) In the case of an application for:
  - (a) a limited licence, or
  - (b) a special occasion extended trading authorisation, or
  - (c) an authorisation under section 14 (6) of the Act (relating to hotel functions on other premises), or
  - (d) a drink on-premises authorisation that is, in the opinion of the Authority, of a temporary nature,submissions must be made within 14 days of the date on which the application was made, or such shorter period as the Authority may determine in any particular case.
- (4) Despite subclauses (2) and (3), the Authority may, in such cases as the Authority thinks fit, extend the period in which persons may make submissions in relation to any particular application or class of applications.

### **13 Referral of licence applications to Director**

The Authority is not, under section 42 of the Act, required to refer an application for a single function limited licence to the Director.

### **14 Advertising of other applications**

- (1) If an application (other than an application to which Division 1 applies) is made to the Authority, the Authority may require the application to be advertised in such manner

as the Authority considers appropriate.

- (2) The Authority may refuse to determine any such application unless it has been advertised in accordance with any requirement.

### **15 Applications for certain licence-related authorisations**

- (1) This clause applies in relation to an application for any of the following:
- (a) an extended trading authorisation (other than a special occasion extended trading authorisation),
  - (b) a drink on-premises authorisation,
  - (c) an authorisation under section 24 (3) of the Act.
- (2) An application to which this clause applies must demonstrate, to the satisfaction of the Authority, that:
- (a) practices are in place, and will remain in place, at the licensed premises to which the application relates that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and
  - (b) if development consent under the *Environmental Planning and Assessment Act 1979* (or an approval under Part 3A or Part 5.1 of that Act) is required to use the licensed premises in accordance with the licence-related authorisation concerned—the required consent or approval is in force.

### **16 Information relating to persons interested in licensee's business**

Section 41 of the Act does not apply in relation to an application for a limited licence.

## **Part 4 Licences and licensed premises—miscellaneous provisions**

### **17 General bar licence—other forms of gambling prohibited**

It is a condition of a general bar licence that the licensed premises cannot be used:

- (a) to conduct a totalizator, or to conduct any betting activity, under the authority of a licence granted under the *Totalizator Act 1997*, or
- (b) to conduct a public lottery (within the meaning of the *Public Lotteries Act 1996*) authorised under that Act.

#### **Note—**

Keno is a form of public lottery.

### **18 On-premises licence—excluded premises**

For the purposes of section 21 of the Act, premises that operate primarily as premises providing entertainment by way of amusement machines (such as pinball machines or video games), pool tables, games of poker using playing cards or juke boxes are prescribed:

- (a) as premises in respect of which an on-premises licence must not be granted, or
- (b) if an on-premises licence has been granted for the premises—as premises in respect of which the authorisation conferred by the licence does not apply.

### **19 On-premises licence—authorisations allowing liquor to be sold without another product or service**

- (1) An authorisation under section 24 (3) of the Act is subject to the following conditions:
  - (a) a notice, in the form approved by the Authority, relating to the authorisation and its effect must be displayed at or near every entrance by which members of the public may enter the licensed premises in such a manner and in such a position that a person coming in by the entrance would reasonably be expected to be alerted to its contents,
  - (b) the other product or service referred to in section 24 (1) of the Act must be available on the premises at all times while the authorisation operates to allow liquor to be sold or supplied otherwise than with, or ancillary to, the product or service,
  - (c) the licensee must, on a monthly basis, record the total liquor sales during that month and the total sales of the other product or service during that month, and make each such record available for inspection by a police officer or inspector on request,
  - (d) liquor may not be sold or supplied under the authorisation at any time when the primary purpose of the business or activity carried out on the licensed premises is, at that particular time, the sale or supply of liquor.
- (2) In the case of an authorisation under section 24 (3) of the Act that is, as provided by Schedule 1 to the Act, a continuation of a dine-or-drink authority under the former Act, the condition referred to in subclause (1) (a) does not apply in relation to the licensed premises concerned until after 31 December 2008.

### **20 On-premises licence—authorisation to trade on premises other than licensed premises**

- (1) In this clause:

**relevant authorisation** means an authorisation under section 25 (6) of the Act to sell liquor on premises other than the licensed premises to which an on-premises



licence relates.

- (2) A relevant authorisation may be granted by the Authority only for the purposes of authorising the licensee to sell liquor:
  - (a) in the case of a licensee who carries on a commercial catering business—on any premises in respect of which the licensee provides catering services, or
  - (b) to a person who is participating in a commercial tour operated by the licensee or a related corporation of the licensee.
- (3) A relevant authorisation is subject to the condition that food of a nature and quality consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied on any premises in accordance with the authorisation.
- (4) A relevant authorisation is, on the commencement of this Regulation, taken to be in force in relation to an existing caterer's licence that is, under Schedule 1 to the Act, converted to an on-premises licence that relates to a catering service. Any such relevant authorisation authorises the licensee to sell liquor, at any time when liquor is authorised to be sold or supplied under the licence, on any premises in respect of which the licensee provides catering services.
- (5) A relevant authorisation that is, or is taken to be, held by a licensee who carries on a commercial catering business is subject to the following conditions:
  - (a) the licensee must give written notice of any proposal to provide catering services at a function to be held under the authorisation to the local police and the local council for the area in which the function is to be held,
  - (b) the notice must include the following details:
    - (i) the address of the premises on which the function is to be held,
    - (ii) the name of the occupier of those premises,
    - (iii) the nature of the function,
    - (iv) the number of persons for whom catering services are to be provided at the function,
    - (v) the date on which, and the hours during which, the function is to be held,
  - (c) the notice must be given not less than 14 days before the date on which the function is to be held,
  - (d) the licensee must not sell or supply liquor on any premises in respect of which an application by any person for any of the following has been refused by the Authority within the previous 2 years:

- (i) a licence,
- (ii) the removal of a licence to those premises,
- (iii) an extended trading authorisation.

**21 On-premises licence—authorisation to sell liquor for consumption away from licensed premises**

- (1) An authorisation under section 26 of the Act to sell liquor for consumption away from the premises to which an on-premises licence relates may be granted by the Authority only if:
  - (a) the licence is held by or on behalf of a non-proprietary association and the Authority is satisfied that the licensed premises promote tourism or industry in the local area in which the premises are situated, or
  - (b) the licensed premises are situated in or on a facility that is under the control or management of a public authority (whether or not the licence is held by or behalf of the public authority).
- (2) An authorisation under section 26 of the Act is subject to the following conditions:
  - (a) in the case of licensed premises referred to in subclause (1) (a)—liquor may only be sold for consumption away from the premises if it has been produced in the local area in which the premises are situated,
  - (b) in the case of licensed premises referred to in subclause (1) (b)—liquor may only be sold for consumption away from the premises if it is a souvenir liquor product of the public authority concerned,
  - (c) in the case of an authorisation in force immediately before the commencement of the [Liquor Amendment \(Takeaway Souvenir Liquor Sales\) Regulation 2010](#)—liquor may only be sold under the authorisation between 10 am and 10 pm.
- (2A) An authorisation under section 26 of the Act cannot authorise the sale of liquor between midnight and 5 am.
- (3) An authorisation under section 26 of the Act cannot be granted if the premises to which the on-premises licence relates are a vessel, an aircraft or any moving vehicle.
- (4) An existing Governor’s licence that is, under Schedule 1 to the Act, converted to an on-premises licence is taken to be endorsed with an authorisation under section 26 of the Act if the sale of liquor for consumption away from the licensed premises was authorised under the former Act.
- (5) For the purposes of subclause (2) (b), liquor is a **souvenir liquor product** of a public authority only if:

- (a) the bottle or other container in which the liquor is contained is, with the permission of the public authority, marked with the name, logo or other distinguishing feature of the public authority or the facility in or on which the licensed premises are situated, and
  - (b) it is promoted primarily as a souvenir of the public authority or that facility, and
  - (c) it is sold or made available for sale with the permission of the public authority.
- (6) In this clause:

**facility** means a facility (including any building or land) that is operated or used for a cultural, sporting, recreational, educational or scientific purpose.

**public authority** means a statutory body referred to in Schedule 2 to the *Public Finance and Audit Act 1983*.

## 22 Licensed cinemas and theatres

Sections 123–126 of the Act do not apply to or in respect of a licensed public entertainment venue that is a cinema or a theatre.

### 22A Trading past midnight on morning of restricted trading day

Sections 14 (3) and 25 (3) of the Act do not apply to or in respect of licensed premises during any period that the premises would otherwise be authorised to trade in accordance with an extended trading authorisation that is in force in relation to the premises.

## 23 Notice relating to wine shows and producers' markets or fairs

- (1) For the purposes of section 33 (1) (d) and (e) of the Act, the notice required to be given to the Authority and local police by the organiser of a wine show or a producers' market or fair is to be in writing and in the form approved by the Authority.
- (2) It is a condition of a producer/wholesaler licence that the licensee must not sell or supply the licensee's product at a wine show or at a producers' market or fair in accordance with section 33 (1) (d) or (e) of the Act unless the local council in whose area the wine show or market or fair is to be held has been notified, in writing and in the form approved by the Authority, about the wine show or market or fair (as the case requires) at least 7 days before it is held.

## 24 Requirements relating to producers' markets or fairs

The following requirements are prescribed for the purposes of the definition of **producers' market or fair** in section 33 (5) of the Act:

- (a) the market or fair must include a minimum of 10 farmers or primary producers displaying their produce for sale directly to the public,

- (b) the market or fair must be promoted as being a market or fair at which farmers or primary producers display and sell their products directly to the public,
- (c) the primary reason for conducting the market or fair is to enable producers who are displaying their produce to sell directly to the public.

## **25 Wine producers—prescribed percentage of wine that is licensee’s own product**

For the purposes of paragraph (b) of the definition of **licensee’s product** in section 33 (3) of the Act, the prescribed percentage is:

- (a) 50%—in the case of wine that has been produced by or under the direction of the licensee (or a related corporation of the licensee) on the licensed premises or a vineyard related to the licensed premises, or
- (b) 85%—in the case of wine that has been produced on the licensee’s behalf, or under the direction of the licensee or a related corporation of the licensee, from fruit grown on the licensed premises or a vineyard related to the licensed premises.

## **26 Multiple premises of wine producers**

(1) For the purposes of section 35 (2) of the Act, the licensed premises of a wine producer are all located in the same wine region if the premises are all located in one, but not more than one, of the following wine regions (being a wine region that is a geographical indication determined under Division 4 of Part VIB of the [Australian Wine and Brandy Corporation Act 1980](#) of the Commonwealth):

- (a) Murray Darling,
- (b) Perricoota,
- (c) Riverina,
- (d) Swan Hill,
- (e) Cowra,
- (f) Mudgee,
- (g) Orange,
- (h) Hunter,
- (i) Hastings River,
- (j) New England Australia,
- (k) Shoalhaven Coast,
- (l) Southern Highlands,

- (m) Canberra District,
- (n) Gundagai,
- (o) Hilltops,
- (p) Tumbarumba,
- (q) Western Plains.

(2) However, if the licensed premises of a wine producer are not located in any of the wine regions referred to in subclause (1), the licensed premises of the wine producer are, for the purposes of section 35 (2) of the Act, taken to be all located in the same wine region if the premises are all located with 20 kms of each other.

## **27 Incident registers**

For the purposes of section 56 (2) (d) of the Act, any incident that results in a patron of the licensed premises requiring medical assistance is prescribed as an incident that must, if it occurs outside of the standard trading period for the premises, be recorded in the incident register required to be maintained under that section.

## **28 Closure of licensed premises by Authority**

For the purposes of section 84 (5) of the Act, the Authority cannot require the closure of premises for a period of more than 6 months.

## **29 Display of name of licensed premises**

- (1) The sign required by section 95 (1) of the Act to appear and be maintained on the front of licensed premises must:
  - (a) appear and be maintained in such a manner that it may be read from the part of a public place to which the front of the premises abuts, and
  - (b) include the name of the licensee, and
  - (c) in the case of a hotel licence that is designated as a general bar licence—indicate that the licence for the premises is a general bar licence, and
  - (d) in the case of an on-premises licence—indicate either the business or activity carried out on the licensed premises or the kind of licensed premises to which the licence relates.
- (2) Subclause (1) (a) and (b) does not apply to the licensed premises of an existing registered club until after 31 December 2009.
- (3) Subclause (1) (d) does not apply to the licensed premises of an on-premises licence that is a continuation of an existing on-licence until after 31 December 2009.

### **30 Licensees required to provide biennial return**

- (1) It is a condition of each licence that the licensee must, in relation to the period beginning 1 January 2010 and ending 31 December 2011 and each subsequent 2-year period, provide the Director-General with a biennial return in accordance with this clause.
- (2) The biennial return is to include such information as may be required in the form approved by the Director-General for the purposes of this clause. The information required to be included may, without limiting the requirements specified in the approved form, relate to the following:
  - (a) the names of persons who, in accordance with section 55 (2) of the Act, are interested in the business, or the conduct of the business, carried out on the licensed premises,
  - (b) contact details of the licensee, any related corporation of the licensee, the manager (if any) of the licensed premises and any other persons having managerial responsibilities in relation to the licensed premises,
  - (c) details of any website operated by or on behalf of the licensee (or a related corporation of the licensee) that promotes the licensed premises.
- (3) The biennial return must:
  - (a) be in the form approved by the Director-General, and
  - (b) comply with any requirements specified in the approved form, and
  - (c) be provided before 31 March in the year immediately following the 2-year period to which the return relates.

### **31 Sale or supply of liquor to minors prohibited—notice to be displayed in licensed premises**

- (1) A licensee must cause a notice that contains the following words to be displayed in the licensed premises in accordance with this clause:

IT IS AGAINST THE LAW TO SELL OR SUPPLY ALCOHOL TO, OR TO OBTAIN ALCOHOL ON BEHALF OF, A PERSON UNDER THE AGE OF 18 YEARS

Maximum penalty: 20 penalty units.
- (2) The notice must be in the form approved by the Authority and be obtained from the NSW Office of Liquor, Gaming and Racing.
- (3) The notice must be prominently displayed:
  - (a) in the case of premises where liquor is sold at a bar or counter—at the bar or

counter, in such a manner and in such a position that a person standing at the bar or counter would reasonably be expected to be alerted to its contents, and

(b) in the case of premises where liquor is not sold at a bar or counter but is otherwise sold—at or near every entrance by which members of the public may enter the premises, in such a manner and in such a position that a person coming in by the entrance would reasonably be expected to be alerted to its contents.

- (4) Despite subclause (1), a notice that complied with clause 33 of the *Liquor Regulation 1996*, as in force immediately before 1 July 2008, may continue to be used until the end of the period of 12 months from that date or until the date the notice is replaced, whichever happens first.
- (5) This clause does not apply in relation to a licensee that is an existing registered club until after 31 December 2008.

### **32 Sale of liquor through Internet site—notice to be displayed**

- (1) A licensee who offers liquor for sale through an Internet site must display on the site, at all times while it is accessible, the following notice in accordance with this clause:

LIQUOR ACT 2007

IT IS AGAINST THE LAW TO SELL OR SUPPLY ALCOHOL TO, OR TO OBTAIN ALCOHOL ON BEHALF OF, A PERSON UNDER THE AGE OF 18 YEARS

Maximum penalty: 20 penalty units.

- (2) The words contained in the notice must be big enough to ensure that a person accessing the Internet site would reasonably be expected to be alerted to the contents of the notice.
- (3) Despite subclause (1), a notice that complied with clause 33A of the *Liquor Regulation 1996*, as in force immediately before 1 July 2008, may continue to be used until the end of the period of 12 months from that date or until the date the notice is replaced, whichever happens first.

### **33 Bar areas of hotels and clubs**

- (1) In this clause:

**bar area** means the bar area of hotel or club premises.

- (2) A licensee must cause a notice that contains the following words to be displayed, in accordance with this clause, in the bar area of the hotel or club premises concerned:

PERSONS UNDER THE AGE OF 18 YEARS ARE NOT PERMITTED IN THIS AREA BY LAW

Maximum penalty: 20 penalty units.

- (3) The notice must be in the form approved by the Authority and be obtained from the NSW Office of Liquor, Gaming and Racing.
- (4) The notice must be displayed in such a manner and in such a place that it would be reasonable to expect that a person entering the part of the premises in which the notice is displayed would reasonably be expected to be alerted to its contents.
- (5) Despite subclause (1), a notice that complied with clause 34 of the *Liquor Regulation 1996* or clause 12 (1) of the *Registered Clubs Regulation 1996*, as in force immediately before 1 July 2008, may continue to be used until the end of the period of 12 months from that date or until the date the notice is replaced, whichever happens first.
- (6) Section 124 (1) (a) or (2) (a) of the Act does not apply in relation to a licensee if the minor who is in the bar area is performing in a show or other live entertainment performance held in the bar area and is in the company of a responsible adult while in the bar area.

**34 Use of certain areas by accompanied minors—notice to be displayed in hotels and licensed public entertainment venues**

- (1) A hotelier must cause a notice containing the words specified in subclause (3) to be displayed, in accordance with this clause, in any area of the hotel to which a minors area authorisation relates.

Maximum penalty: 20 penalty units.

- (2) The holder of an on-premises licence that relates to a public entertainment venue (other than a cinema or a theatre) must cause a notice containing the words specified in subclause (3) to be displayed, in accordance with this clause, in any area of the licensed premises in which entertainment is provided.

Maximum penalty: 20 penalty units.

- (3) For the purposes of subclauses (1) and (2), the required words are as follows:

PERSONS UNDER THE AGE OF 18 YEARS MUST BE WITH A RESPONSIBLE ADULT IN THIS AREA BY LAW

- (4) The notice must be in the form approved by the Authority and be obtained from the NSW Office of Liquor, Gaming and Racing.
- (5) The notice must be displayed in such a manner and in such a place that it would be reasonable to expect that a person entering the part of the premises in which the notice is displayed would reasonably be expected to be alerted to its contents.
- (6) Despite subclause (1), a notice that complied with clause 35 of the *Liquor Regulation 1996*, as in force immediately before 1 July 2008, may continue to be used until the



end of the period of 12 months from that date or until the date the notice is replaced, whichever happens first.

### **35 Breath analysis instruments**

For the purposes of section 97 (4) of the Act, the following requirements are prescribed in relation to the sign that must be displayed on or in close proximity to any breath analysis instrument installed on licensed premises:

- (a) the sign must be clearly legible and in good condition and so positioned that its contents can be easily read by a person using the instrument,
- (b) the sign must display the following matter in print of a type size and character that will be clearly legible to a person using the equipment:

IMPORTANT INFORMATION ABOUT BREATH TESTING

Readings given by this instrument are NOT ACCEPTED by the Police or the Courts.

Your blood alcohol level can rise for 1 hour or more after your last drink.

### **36 Display and availability of licence and licence-related authorisations**

- (1) This clause applies to any member of staff of licensed premises who:
  - (a) sells, supplies or serves liquor on the licensed premises, or
  - (b) carries on any security activity (such as a crowd controller or bouncer) on or about the licensed premises, or
  - (c) exercises any functions under the Act or this Regulation.
- (2) It is a condition of a licence that a copy of each of the following are available at all times for the information of the members of staff of the licensed premises to which this clause applies:
  - (a) the licence,
  - (b) any licence-related authorisation held in relation to the licence,
  - (c) any conditions imposed by the Authority on the licence or the authorisation.

### **37 Requirement to provide information relating to persons interested in licensee's business**

If a person referred to in section 55 of the Act ceases to be a person who, in accordance with that section, is interested in the business, or the conduct of the business, carried out on licensed premises, it is a condition of the licence that the Authority is, within 28 days of the person ceasing to have that interest, notified in writing that the person is no longer such an interested person.

### **38 Resumption of trading—requirement to notify Authority**

It is a condition of a licence that the licensee must, following any continuous period of more than 6 weeks during which the licensed premises ceased trading, notify the Authority as soon as practicable after the licensed premises resume trading.

#### **38A Extended trading periods for hotels and clubs**

For the purposes of section 13 of the Act, the period of 2 hours from 10pm until midnight on any of the following days is prescribed as a period during which liquor may be sold or supplied for consumption on the premises to which a hotel licence or club licence relates:

- (a) Sunday 10 June 2012 (but only for hotels or club premises in the Coonamble local government area),
- (b) Sunday 30 September 2012.

#### **38B (Repealed)**

## **Part 5 Provisions relating to the responsible sale, supply, service and promotion of liquor**

### **Division 1 Responsible service of alcohol (RSA) training**

#### **39 Definitions**

(1) In this Division:

**approved RSA training course** means a course of training with respect to the responsible service of alcohol that is approved by the Director-General under this Division in relation to an approved training provider, and includes any course of training that was an approved training course under this Division immediately before 22 August 2011.

**approved training provider** means a training provider that is approved by the Director-General under this Division to provide training courses with respect to the responsible service of alcohol, and includes any training provider that was an approved training provider under this Division immediately before 22 August 2011.

**existing RSA certificate** means a certificate granted before 22 August 2011 that was a recognised RSA certificate within the meaning of this Division immediately before that day, and includes a replacement certificate issued by an approved training provider under this Division on or after that day.

**interim RSA certificate** means a certificate granted to a person by an approved training provider, on behalf of the Director-General, following the person's successful completion of an approved RSA training course for use by the person in obtaining a recognised competency card.

**recognised competency card**—see clause 39A.

**recognised RSA certification** means any of the following:

- (a) a recognised competency card,
- (b) an interim RSA certificate,
- (c) an existing RSA certificate.

**registered training organisation** means an NVR registered training organisation within the meaning of the [National Vocational Education and Training Regulator Act 2011](#) of the Commonwealth.

**staff member**, in relation to licensed premises, means any employee or agent of, or person purporting to act on behalf of, the licensee of the premises.

**the former Regulation** means the [Liquor Regulation 1996](#).

- (2) For the purposes of this Division, a recognised RSA certification is **current** if it has not yet expired.

### **39A Issue of recognised competency cards**

- (1) A **recognised competency card** is a card issued by or on behalf of the Director-General to a person that:
  - (a) certifies (based on an interim RSA certificate granted to the person within the period of 5 years before the card is issued) that the person has successfully completed an approved RSA training course with respect to the responsible service of alcohol, and
  - (b) provides for its expiry on the 5th anniversary of:
    - (i) if the card only certifies the completion of an approved RSA training course on the basis of an interim RSA certificate—the date on which the certificate was granted, or
    - (ii) if the card certifies the completion of both an approved RSA training course and approved RCG training course on the basis of interim RSA and RCG certificates—the date on which the certificates were granted or, if the dates on which the certificates were granted differ, the earliest of the dates, and
  - (c) contains such other information (including photographic or other information about the identity of the person) as the Director-General may require at the time the card is issued.
- (2) Without limiting subclause (1) (c), a recognised competency card does not cease to be a recognised competency card for the purposes of this Division only because it also

certifies that the person to whom the card is issued has successfully completed an approved RCG training course.

- (3) The Director-General may, on payment of a fee of \$30, issue a replacement recognised competency card to a person if the Director-General is satisfied that the original card:
  - (a) has been lost, stolen or damaged, and
  - (b) is still current.
- (4) A person is not liable to pay a fee of more than \$30 for the replacement of a recognised competency card even if the card also certifies the successful completion of an approved RCG training course.
- (5) In this clause:

**approved RCG training course** and **interim RCG certificate** have the same meanings as they have in Division 5 of Part 3 of the [Gaming Machines Regulation 2010](#).

### **39B Issue of replacement existing RSA certificates**

- (1) An approved training provider may issue a replacement existing RSA certificate if satisfied that the original certificate:
  - (a) has been lost, stolen or damaged, and
  - (b) is still current.
- (2) A replacement existing RSA certificate must specify the original date on which it was granted, along with the date on which it was re-issued as a replacement.

### **39C Expiry of recognised RSA certifications**

- (1) A recognised competency card or interim RSA certificate expires at the end of the day specified by the card or certificate as its expiry date.
- (2) All existing RSA certificates expire at the end of the day (if any) specified by the Director-General, by order published in the Gazette before that day, as the expiry date for such certificates.
- (3) If the successful completion of an approved RSA training course was previously certified by a recognised RSA certification that has expired, a new recognised competency card or interim RSA certificate may be issued or granted certifying the same completion of the course only in such circumstances as the Director-General may direct from time to time.

### **39D Inspection of recognised RSA certification**

- (1) A police officer or inspector may require any of the following persons to produce their recognised competency card or interim RSA certificate to the officer or inspector for inspection:
  - (a) a licensee of licensed premises,
  - (b) a staff member of licensed premises who is involved in the sale, supply or service of liquor by retail on the premises,
  - (c) a person employed or engaged to carry out activities as a crowd controller or bouncer on or about licensed premises.
- (2) A person must not, without reasonable excuse, refuse to comply with a requirement of a police officer or inspector under subclause (1).

Maximum penalty: 5 penalty units.

### **40 Obligations of licensee as to responsible service of alcohol**

- (1) The licensee of licensed premises must not:
  - (a) sell, supply or serve liquor by retail on the premises, or
  - (b) cause or permit liquor to be sold, supplied or served by retail on the premises,unless the licensee holds a current recognised RSA certification.
- (2) The licensee of licensed premises must not cause or permit a staff member to sell, supply or serve liquor by retail on the premises unless the staff member:
  - (a) holds a current recognised competency card or existing RSA certificate, or
  - (b) was granted an interim RSA certificate within the previous 5 years.

Maximum penalty:

- (a) if the staff member's recognised RSA certification has expired—25 penalty units,  
or
  - (b) in any other case—50 penalty units.
- (3) Subclause (1) does not apply to:
    - (a) a person who is taken to be the licensee pursuant to section 62 of the Act, or
    - (b) a licensee that is a corporation.

#### **41 Obligations of staff members as to responsible service of alcohol**

A staff member of licensed premises must not sell, supply or serve liquor by retail on the premises unless the staff member holds a current recognised RSA certification.

Maximum penalty: 10 penalty units.

#### **42 Obligations in relation to persons carrying on certain security activities**

(1) A person (including the licensee of licensed premises) must not employ or engage a person to carry on activities as a crowd controller or bouncer on or about licensed premises unless the person holds a current recognised RSA certification.

Maximum penalty: 50 penalty units.

(2) A person must not, in the course of the person's employment, carry on activities as a crowd controller or bouncer on or about licensed premises unless the person holds a current recognised RSA certification.

Maximum penalty: 10 penalty units.

#### **Note—**

Under the *Security Industry Act 1997*, a person who is employed to act as a crowd controller, venue controller or bouncer is required to hold a class 1C licence under that Act.

#### **43 Conduct of promotional activities**

For the purposes of this Part:

- (a) liquor that is sold, supplied or served on licensed premises as part of a promotional activity conducted by someone other than the licensee is taken to have been sold, supplied or served by retail, and
- (b) any person by whom liquor is sold, supplied or served on licensed premises as part of a promotional activity conducted by someone other than the licensee is taken to be a staff member.

#### **44 Licensee to keep register of existing RSA certificates**

(1) It is a condition of a licence for licensed premises that the licensee must keep a register containing:

- (a) a copy of the any current existing RSA certificate for the licensee, and
- (b) a copy of any current existing RSA certificate for a staff member whose duties include the sale, supply or service of liquor by retail, and
- (c) a copy of any current existing RSA certificate for a person employed or engaged by the licensee to carry on activities as a crowd controller or bouncer on or about the licensed premises.

- (2) It is a condition of a licence for licensed premises that the licensee must make the register kept under this clause available for inspection on request by a police officer or inspector.

#### **45 Applications for approvals to conduct RSA training courses**

- (1) A registered training organisation may apply to the Director-General for an approval to conduct training courses with respect to the responsible service of alcohol.
- (2) An application under subclause (1) must be accompanied by:
  - (a) a fee of \$995, in the case of an application for an initial approval, or
  - (b) a fee of \$550, in the case of an application for a second or subsequent approval.

**Note—**

See clause 49A for applications for additional approval to provide an approved RSA training course online.

#### **46 Decision on application**

- (1) The Director-General may, after considering an application for an approval to conduct training courses with respect to the responsible service of alcohol:
  - (a) grant the application, or
  - (b) refuse the application.
- (2) If the Director-General grants an approval, the Director-General must issue the applicant with a written approval that sets out any conditions to which the approval is subject.
- (3) If the Director-General refuses an application for approval, the Director-General must give notice of the refusal in writing to the applicant setting out the reasons for the refusal.

#### **47 Conditions of approval to conduct RSA training courses**

- (1) An approval to conduct training courses with respect to the responsible service of alcohol is subject to the following conditions:
  - (a) each person conducting the approved RSA training course on behalf of the approved training provider (or, in the case of an approved RSA training course provided online, each online course worker) must:
    - (i) hold a Certificate IV in Training and Assessment awarded by a registered training organisation, or have such other qualification as the Director-General considers to be equivalent, and
    - (ii) have at least 3 years experience as the holder of a managerial or supervisory

position in a hotel or registered club (being a position with duties in relation to the service of liquor), or have such other experience as the Director-General considers to be equivalent,

- (b) the approved training provider must pay to the Director-General:
- (i) a fee of \$70 for each interim RSA certificate issued by it on behalf of the Director-General, and
  - (ii) a fee of \$15 for each replacement existing RSA certificate issued by it on behalf of the Director-General in respect of a lost, stolen or damaged certificate,
- (c) the approved training provider must collect the following information on behalf of the Director-General in relation to any person who is undertaking (or who has completed) an approved RSA training course conducted by or on behalf of the provider:
- (i) the full name of the person,
  - (ii) the date and country of birth of the person,
  - (iii) the residential address of the person,
  - (iv) such other information as the Director-General may require from time to time to assist in ascertaining whether or not the person has successfully completed the course,
- (d) such other conditions as the Director-General may from time to time impose.

(1A) An approved training provider must comply with the conditions to which the training provider's approval is subject.

Maximum penalty: 100 penalty units.

(2) In this clause:

**online course worker**, in relation to an approved RSA training course provided online, means a person who, on behalf of the approved training provider, provides information about the content of the course to, or assesses the competency of, persons undertaking the course.

#### **47A Prohibition on granting interim RSA certificates to unqualified persons**

An approved training provider must not grant an interim RSA certificate to any person who has not successfully completed an approved RSA training course conducted by the training provider.

Maximum penalty: 100 penalty units.



**48 Term of approval to conduct approved RSA training courses**

- (1) Unless sooner cancelled:
  - (a) an approval under this Division to conduct training courses with respect to the responsible service of alcohol has effect until 30 June following the date on which it was granted, and
  - (b) an approval by the former Board under Part 7A of the former Regulation has effect until 30 June 2009,but may be renewed by making an application in accordance with this Division.
- (2) An approval does not have effect while it is suspended.

**49 Variation, suspension and cancellation of approvals to conduct approved RSA training courses**

- (1) The Director-General may:
  - (a) vary any condition imposed by the Director-General (or by the Authority or former Board) on an approval to conduct training courses with respect to the responsible service of alcohol, or
  - (b) suspend or cancel any such approval (including an approval by the Authority under this Division before 22 August 2011 or by the former Board under Part 7A of the former Regulation),but only after giving the holder of the approval an opportunity to make submissions.
- (2) A variation of the conditions of, or the suspension or cancellation of, an approval:
  - (a) must be by notice in writing, and
  - (b) must be served on the person to whom the approval relates, and
  - (c) takes effect on the day on which the notice is served or on a later day specified in the notice.

**49A Additional approval to provide an approved RSA training course online**

- (1) An approved training provider may apply to the Director-General for an additional approval to provide an approved RSA training course online.
- (2) However, an application may only be made by an approved training provider that was, immediately before 1 July 2012, an approved training provider.
- (3) An application must be accompanied by:
  - (a) a fee of \$1,200, in the case of an application for an initial approval, or

- (b) a fee of \$550, in the case of an application for a second or subsequent approval.
- (4) The Director-General may grant an additional approval only if it is satisfied that the approved training provider has appropriate measures in place:
  - (a) to verify the identity of persons undertaking the approved RSA training course online, and
  - (b) to assess the competency of those persons, and
  - (c) to minimise the potential for fraudulent activity.
- (5) In this Division (other than clause 45), a reference to an approval to conduct training courses with respect to the responsible service of alcohol includes a reference to an additional approval to provide an approved training course online.

#### **49B Prohibition on providing training courses without approval**

A person must not:

- (a) provide or offer to provide any training course that is held out, whether directly or indirectly, to be a course that will satisfy the requirements imposed by clauses 40–42, or
- (b) advertise, state or imply in any way that the person is qualified to provide any such course,

unless the person is an approved training provider.

Maximum penalty: 100 penalty units.

## **Division 2 Miscellaneous harm minimisation measures**

### **50 Discount liquor promotions or advertisements**

- (1) This clause applies to any promotion or advertisement involving the discounting of liquor that is conducted, or published, by or on behalf of a licensee.
- (2) If a promotion or advertisement to which this clause applies:
  - (a) appears in the printed or electronic media, or
  - (b) is conducted on or in the vicinity of the licensed premises or appears inside or in the vicinity of the licensed premises, or
  - (c) is made available for the public to participate in or view,the Director may, by notice in writing, require the licensee to include, as part of the promotion or advertisement, a message that encourages the responsible consumption of alcohol.

- (3) The Director may, in making any such requirement, specify:
  - (a) the content of the message, and
  - (b) the manner in which the message is to appear as part of the promotion or advertisement (including the size, colour and nature of the message and its placement in relation to the promotion or advertisement).
- (4) A licensee must comply with a notice given to the licensee under this clause.  
Maximum penalty: 50 penalty units.

#### **51 Drinking water to be available free of charge where liquor served**

- (1) If a licence authorises the sale or supply of liquor for consumption on the licensed premises, it is a condition of the licence that drinking water must, at all times while liquor is sold or supplied for consumption on the premises, be made available free of charge to patrons at or near the point of service at which, or by the same means of service by which, liquor is sold or supplied on the premises.
- (2) Subclause (1) extends to the sale or supply of liquor under a drink on-premises authorisation held by a licensed wine producer.

#### **52 Undesirable liquor products**

- (1) For the purposes of section 100 of the Act, the following are declared to be undesirable liquor products:
  - (a) alcoholic ice block—a product that is sold in an individual package or individual packages for consumption in frozen form and that, at 20° Celsius, contains more than 1.15 per cent ethanol by volume,
  - (b) a product that is sold in an aerosol container for consumption by humans and that, at 20° Celsius, contains more than 1.15 per cent ethanol by volume,
  - (c) any milk product that is sold or supplied under a name that consists of, or includes, the words “Moo Joose” and that, at 20° Celsius, contains more than 1.15 per cent ethanol by volume,
  - (d) any alcoholic vapour that is sold or supplied for consumption in that form.
- (2) In subclause (1) (c), **milk product** includes any product made from reconstituted milk (that is, any substance in the nature of milk that has been prepared from milk concentrate or milk powder).

#### **53 Codes of practice**

- (1) The Authority may approve of a code of practice that deals with the responsible sale, supply, service and promotion of liquor.

- (2) The Authority may approve of any such code of practice for all licences or for particular types of licence only.
- (3) If the Authority approves of a code of practice in relation to a licence, it is a condition of the licence that the licensee complies with the code.

## Division 3

### 53A-53H (Repealed)

## Part 6 Transitional provisions

### 54 Existing on-licences that are converted to on-premises licences—exceptions from primary purpose test in certain cases

The provisions of section 22 (1) and (2) of the new Act do not apply in relation to the premises to which an on-premises licence relates if the licence is, as provided by Schedule 1 to the new Act, a continuation of:

- (a) an existing Governor's licence, or
- (b) an existing on-licence of the kind referred in section 18 (4) (g) of the former Act, or
- (c) an existing Australian wine licence (as referred to in clause 15 of Schedule 1 to the new Act).

### 55 Existing off-licences for vignerons

- (1) In this clause:

**existing vigneron licence** means an existing off-licence for a vigneron that is, in accordance with Schedule 1 to the Act, converted to a producer/wholesaler licence under the new Act.

- (2) An existing vigneron licence is exempt from the operation of section 33 (3) (b) of the Act to the extent (if any) that the definition of **licensee's product** requires wine to have been produced:
  - (a) from fruit grown on the licensed premises or a vineyard related to the licensed premises, or
  - (b) on any other premises from fruit grown on the licensed premises.
- (3) The authorisation conferred by an existing vigneron licence extends to the sale or supply by the licensee:
  - (a) on the licensed premises, for consumption away from the licensed premises or for the purposes of tasting, or
  - (b) at a wine show in accordance with sections 33 (1) (d) and 35 (3) of the Act, or

(c) at a producers' market or fair in accordance with sections 33 (1) (e) and 35 (4) of the Act,

of any cider, perry or mead produced by the licensee.

#### **56 Existing community liquor licences**

For the purposes of clause 12 (2) (b) of Schedule 1 to the Act, the whole of the State is taken to be the same area for the purposes of the removal to other premises of an existing community liquor licence that is, in accordance with that clause, converted to a hotel licence under the new Act.

#### **57 Existing Australian wine licences**

For the purposes of clause 15 (3) (d), (5) (d) and (7) (d) of Schedule 1 to the Act, the whole of the State is taken to be the same area for the purposes of the removal to other premises of an existing Australian wine licence that is, in accordance with that clause, converted to an on-premises licence (or other type of licence) under the new Act.

#### **58 Residual existing licences**

- (1) The Authority may, during the period of 12 months following the commencement of this Regulation, issue a licence to a person who held an existing licence that has not otherwise been converted by the operation of Schedule 1 to the Act.
- (2) The type of licence that may be issued by the Authority in relation to any such existing licence is to be determined by the Authority.
- (3) The issuing of any such licence is at the discretion of the Authority and is subject to such procedures and requirements as the Authority considers appropriate.

#### **59 Certain conditions not applicable to existing licences and converted club licences**

- (1) An existing licence that is, under Schedule 1 to the Act, converted to a licence under the new Act is not subject to any of the harm minimisation conditions (as set out in Practice Direction No 1/1997 of the Licensing Court) imposed on the existing licence by the former Court or the former Board.
- (2) The club licence that is held by an existing registered club is not subject to any of the harm minimisation conditions (as set out in Practice Direction No 1/1997 of the Licensing Court) imposed on the certificate of registration of the club by the former Court or the former Board.

#### **60 Existing dine-or-drink authorities**

- (1) In this clause:

***existing dine-or-drink authority*** means an authority endorsed on a licence in accordance with section 23AD of the former Act and in force immediately before 1 July

2008.

- (2) The conditions to which an existing dine-or-drink authority was subject under the former Act do not apply to or in respect of an authorisation under section 24 (3) of the Act that is, under Schedule 1 to the new Act, taken to be a continuation of the dine-or-drink authority.
- (3) Any unpaid portion of the prescribed fee payable under the former Act for an existing dine-or-drink authority is not required to be paid.

#### **61 Granting of pending applications under former Act**

- (1) If, in accordance with clause 25 of Schedule 1 to the new Act, an application made under the former Act is granted on or after 1 July 2008, the fee payable for the granting of the relevant licence, authorisation or approval under the new Act is the fee referred to in section 56 of the former Act for the granting of an application for a licence, authorisation or approval of the corresponding kind.
- (2) However, if the pending application was for a dine-or-drink authority under section 23AD of the former Act, the fee payable for the granting of the authorisation under the new Act is one-quarter of the relevant fee referred to in section 56 of the former Act for the granting of an application for a dine-or-drink authority.

**Note—**

If a pending application under the former Act for a dine-or-drink authority is granted after 1 July 2008, it will be an authorisation in force under section 24 (3) of the new Act.

#### **62 Applications for licences requiring SIAs under former Act**

- (1) If a social impact assessment was, before 1 July 2008, provided under and in accordance with Division 6A of Part 3 of the former Act but the application to which the social impact assessment relates was not made before that date, an application for the grant or removal of the licence concerned may be made under and in accordance with the provisions of the former Act.
- (2) Any such application must be made within 6 months of the SIA being approved under section 62F of the former Act.
- (3) Clause 25 (2) and (3) of Schedule 1 to the new Act applies to and in respect of any such application as if it had been made before 1 July 2008.

#### **63 Pending applications and matters under former Act—ancillary provisions**

- (1) **Final grant of application** If an application for a conditional grant of an application was made under the former Act before 1 July 2008 and the application:
  - (a) was conditionally granted before that date, or
  - (b) is, in accordance with clause 25 of Schedule 1 to the new Act, conditionally

granted on or after that date,

an application for the final grant of the application may be made, and the application may be granted, under section 60 of the former Act.

(2) Accordingly, a reference in section 55 or section 60 of the former Act to the registrar of the Licensing Court is, for the purposes of enabling the application for a final grant to be made and granted, to be construed as a reference to a Local Court registrar.

(2A) **Application to amend conditional grant or approve alternative site** Section 40 (3) of the former Act continues to apply, as if it had not been repealed, in relation to an application for a conditional grant of an application that was made under the former Act before 1 July 2008 and conditionally granted before that date or, in accordance with clause 25 of Schedule 1 to the new Act, on or after that date.

(2B) Accordingly:

(a) any provisions of the former Act (or the regulations made under that Act) relating to an application made under section 40 (3) (the **related provisions**) continue to apply, as if they had not been repealed, in relation to an application made under that subsection as continued by subclause (2A), and

(b) a reference in section 40 (3) or the related provisions to the Licensing Court or the registrar of that Court is to be construed as a reference to the Local Court or a registrar of the Local Court, respectively.

(3) **Application for licence for premises certified suitable for on-licence** If a submission under section 74A of the former Act was made before 1 July 2008 and the former Board, in accordance with clause 25 of Schedule 1 to the new Act, issues a certificate of suitability in relation to the premises the subject of the submission, an application may be made under and in accordance with the former Act for a licence of the kind referred to in section 18 (4) (g) of the former Act. If such a licence is granted, it is to be granted as an on-premises licence relating to the business or activity specified in the licence.

#### **64 Re-submission of applications made under former Act—Authority may waive application fee**

The Authority may waive the application fee payable under the new Act for an application that the Authority is satisfied relates to substantially the same matter as an application that was made under and in accordance with the former Act but was subsequently withdrawn by the applicant.

#### **65 Time limit for determining pending matters before former Board**

For the purposes of clause 25 (5) of Schedule 1 to the Act, the period of 6 months commencing on 1 July 2008 is prescribed.

### 65A Existing reviews by Authority of Director-General's decisions

- (1) Any review by the Authority under section 153 of the Act that was being dealt with, but that had not been finally determined, before the repeal of that section by the amending Act is taken to be a review by the Authority under section 36A of the *Casino, Liquor and Gaming Control Authority Act 2007* as inserted by the amending Act.
- (2) In this clause, the **amending Act** means the *Clubs, Liquor and Gaming Machines Legislation Amendment Act 2011*.

## Part 7 Miscellaneous

### 66 Additional substances prescribed as liquor

- (1) The following substances are prescribed as liquor under paragraph (c) of the definition of **liquor** in section 4 (1) of the Act:
  - (a) an alcohol-based food essence that is packaged:
    - (i) in the case of vanilla essence (whether natural or imitation)—in a container of more than 100 millilitres capacity, or
    - (ii) in any other case—in a container of more than 50 millilitres capacity, except in circumstances where the alcohol-based food essence is sold in that container by wholesale,
  - (b) any vapour that would, as a liquid, be a beverage as referred to in paragraph (a) of that definition.

- (2) In this clause:

**alcohol-based food essence** means a food flavouring preparation in liquid form that, at 20° Celsius, contains more than 1.15 per cent ethanol by volume.

### 67 High alcohol-based food essences prescribed as liquor for certain purposes

- (1) In this clause:

**high alcohol-based food essence** means a food flavouring preparation in liquid form that, at 20° Celsius, contains more than 35% ethanol by volume, but does not include a preparation in liquid form that is promoted as a food colouring preparation and is used primarily for the purpose of colouring food.

- (2) High alcohol-based food essence is prescribed as liquor under paragraph (c) of the definition of **liquor** in section 4 (1) of the Act, but only for the purposes of section 117 (1)–(5) and (12) of the Act.

**Note—**



As a result of this provision, it will be an offence under the Act to sell or supply high alcohol-based food essences to minors.

(3) This clause commences on 1 January 2009.

#### **68 Definition of “non-proprietary association”**

For the purposes of paragraph (c) of the definition of ***non-proprietary association*** in section 4 (1) of the Act, any community organisation established in connection with a school and that consists of parents of children attending the school together with other persons who are interested in the welfare of the school is prescribed as a non-proprietary association.

#### **69 Definition of “person authorised to sell liquor”**

For the purposes of paragraph (d) of the definition of ***person authorised to sell liquor*** in section 4 (1) of the Act, the holder of a licence under section 10 of the Act (as modified and applied to and in respect of a casino in accordance with section 89 (2) of the *Casino Control Act 1992*) is prescribed as a person authorised to sell liquor.

#### **70 Exemption from the Act relating to the sale of liquor by auction—prescribed requirements**

- (1) For the purposes of section 6 (1) (d) of the Act, the following requirements are prescribed:
  - (a) the auctioneer conducting the auction must be a person who carries on business (or is employed) as a professional auctioneer,
  - (b) the auction must be publicly promoted as an auction involving the sale of liquor,
  - (c) the Authority must be notified, in the form and manner approved by the Authority, that the auctioneer sells liquor by auction otherwise than under the authority of a licence under the Act,
  - (d) the auctioneer must comply with any direction given to the auctioneer by the Authority or the Director as to the quantity or type of liquor that may be sold by auction or as to the manner or frequency in which liquor is sold by auction.
- (2) Subclause (1) (c) does not apply in relation to a person who, immediately before 1 July 2008, held an off-licence under the former Act authorising the person to auction liquor on behalf of a person not authorised to sell liquor.

#### **71 Exceptions from requirement that hotel or on-premises licence cannot operate as invitation-only venues**

For the purposes of sections 17 (3) and 28 (3) of the Act, each of the businesses specified in Column 1 of the following table may be or include a business limited at any time only to selling or supplying liquor to the particular class or classes of persons specified in Column

2 opposite the business concerned.

**Table**

| <b>Column 1</b>   | <b>Column 2</b>   |
|---|---|
| <b>Business</b>   | <b>Class/classes of persons</b>   |
| <p>The business carried on under a hotel licence relating to premises that are used and occupied at The Station Resort, Jindabyne at Lot 13 Dalgety Road, Jindabyne, by Perisher Blue Pty Limited.</p>  | <p>The class of persons resorting to the premises comprising the staff and guests of the hotel.</p>   |
| <p>The business carried on under an on-premises licence relating to premises that the Authority is satisfied are used and occupied at the British Aerospace Flight Training Academy at Basil Brown Drive, Tamworth, by British Aerospace Flight Training (Australia) Pty Limited.</p> | <p>The class of persons resorting to the premises comprising the staff and students of the Academy and their guests.</p>  |
| <p>The business carried on under an on-premises licence relating to premises that the Authority is satisfied are used and occupied by or on behalf of GIO Australia Limited and being the Mona Vale Conference Centre located at 33 Bassett Street, Mona Vale, Sydney.</p>            | <p>The class of persons resorting to the premises comprising those persons who are attending a conference or function on or at the premises.</p>  |
| <p>The business carried on under an on-premises licence relating to premises within a hospital, nursing home, aged care facility or retirement village.</p>   | <p>The class of persons resorting to the premises comprising the staff, patients and residents of the hospital, nursing home, aged care facility or retirement village, and their guests.</p> |
| <p>The business carried on under an on-premises licence relating to premises operated by a surf life saving club.</p>   | <p>The class of persons resorting to the premises comprising staff, members and guests of the club.</p>   |
| <p>The business carried on under an on-premises licence relating to premises used and occupied by Morris Corporation (Aust) Pty Ltd, being the mess facilities at the Bemax-Gingko Mine Site near Pooncarie.</p>  | <p>The class of persons resorting to the premises comprising the staff of the mine and other persons permitted to use the mess facilities.</p>  |

**72 Local liquor accords**

For the purposes of section 133 (2) (d) of the Act, a draft local liquor accord must include a list of the key objectives of the accord.

### **73 Disciplinary action—persons authorised to make complaints**

For the purposes of section 139 (1) (c) of the Act, a complaint to the Authority under Part 9 of the Act in relation to a licensee, manager or close associate of a licensee may be made by the local consent authority for the licensed premises concerned.

### **74 Penalty notice offences and penalties**

- (1) For the purposes of section 150 of the Act:
  - (a) each offence created by a provision specified in Column 1 of Schedule 2 is prescribed, and
  - (b) the prescribed penalty for each such offence is the amount specified opposite the provision in Column 2 of Schedule 2.
- (2) If the reference to a provision in Column 1 of Schedule 2 is qualified by words that restrict its operation to specified kinds of offences or circumstances, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or committed in the circumstances so specified.

### **75 Denial of allegation as to age**

For the purposes of section 152 (2) of the Act, an allegation in relation to any proceedings for an offence under the Act or this Regulation is denied as prescribed if it is denied:

- (a) at any adjournment prior to the commencement of the proceedings—by informing the court, the informant or a person appearing for the informant in writing of the denial, or
- (b) at any time not later than 14 days before the hearing of the charge—by informing the informant or a person appearing for the informant in writing of the denial.

### **76 (Repealed)**

### **77 Application for review of disqualification by Authority**

An application to the Authority under section 154 of the Act for removal of a disqualification of more than 3 years imposed by the Authority under section 141 (2) of the Act must:

- (a) specify the grounds on which the application for removal of the disqualification is made, and
- (b) be accompanied by a fee of \$250.

### **78 Exceptions to 6-hour closure requirement**

- (1) **Specific exception relating to 2010 FIFA World Cup matches** If:
  - (a) a special occasion extended trading authorisation relating to a 2010 FIFA World

Cup match is granted in respect of licensed premises, and

(b) the licence was not, immediately before the granting of the authorisation, subject to the condition under section 11A (2) of the Act,

that condition does not apply in relation to the licence at any time on the day on which the authorisation is in force.

(2) **General exception during period when special occasion late trading is authorised** Without limiting the operation of subclause (1), if, in the case of a licence to which section 11A applies:

(a) a special occasion extended trading authorisation is granted in respect of the licensed premises, and

(b) any part of the 6-hour closure period that, but for this subclause, would apply to the licensed premises occurs during the same period that the authorisation is in force,

section 11A (2) of the Act does not apply in relation to the licence during that same period (but otherwise continues to apply to any remaining part of the 6-hour closure period occurring on the day the authorisation is in force).

## 79 Extension of temporary freeze on licences and other authorisations

For the purposes of the definition of **freeze period** in section 47A (1) of the Act, 24 December 2012 is prescribed as the day on which the freeze period ends.

## 80 Definition of “metropolitan area”—section 66 of Act

For the purposes of section 66 of the Act, a **metropolitan area** comprises the following local government areas:

Ashfield, Auburn, Bankstown, Blacktown, Blue Mountains, Botany Bay, Burwood, Camden, Campbelltown, Canada Bay, Canterbury, Fairfield, Gosford, Hawkesbury, Holroyd, Hornsby, Hunter’s Hill, Hurstville, Kogarah, Ku-ring-gai, Lake Macquarie, Lane Cove, Leichhardt, Liverpool, Manly, Marrickville, Mosman, Newcastle, North Sydney, Parramatta, Penrith, Pittwater, Randwick, Rockdale, Ryde, Strathfield, Sutherland, Sydney, The Hills, Warringah, Waverley, Willoughby, Wollondilly, Wollongong, Woollahra, Wyong.

## Schedule 1 Application fees

(Clause 4)

### Part 1 Licence applications

Column 1

Column 2

Column 3

Column 4

| <b>Type of licence</b>   | <b>Fixed component</b> | <b>Processing component</b> | <b>Total</b> |
|--|------------------------|-----------------------------|--------------|
| Hotel licence (other than general bar licence)   | \$1,500                | \$500                       | \$2,000      |
| General bar licence  | \$300                  | \$200                       | \$500        |
| Club licence   | \$100                  | \$200                       | \$300        |
| On-premises licence  | \$300                  | \$200                       | \$500        |
| Packaged liquor licence  | \$1,000                | \$500                       | \$1,500      |
| Producer/wholesaler licence  | \$300                  | \$200                       | \$500        |
| Limited licence (single function) (made by means of an electronic system approved by the Authority)                | Nil                    | \$40                        | \$40         |
| Limited licence (single function) (made otherwise than by means of an electronic system approved by the Authority) | Nil                    | \$75                        | \$75         |
| Limited licence (multi-function)   | \$100                  | \$200                       | \$300        |

## **Part 2 Applications for extended trading authorisations**

| <b>Column 1</b>  | <b>Column 2</b>        | <b>Column 3</b>             | <b>Column 4</b> |
|--|------------------------|-----------------------------|-----------------|
| <b>Type of authorisation</b>   | <b>Fixed component</b> | <b>Processing component</b> | <b>Total</b>    |
| Extended trading authorisation allowing trading up until midnight  | \$100                  | \$100                       | \$200           |
| Extended trading authorisation allowing trading after midnight (subject to requirement that liquor may only be sold on the premises with, or ancillary to, a meal or the provision of accommodation) | \$100                  | \$100                       | \$200           |
| Extended trading authorisation allowing trading after midnight until any time that is not later than 2am (not subject to requirement as to provision of meals or accommodation)                      | \$1,500                | \$500                       | \$2,000         |
| Extended trading authorisation allowing trading after midnight until any time after 2am that is not later than 5am (not subject to requirement as to provision of meals or accommodation)            | \$2,500                | \$500                       | \$3,000         |

|  |     |      |      |
|--|-----|------|------|
| Extended trading authorisation for an on-premises licence relating to a catering service | Nil | \$50 | \$50 |
| Special occasion extended trading authorisation  | Nil | \$50 | \$50 |

### Part 3 Other applications

| Column 1  | Column 2        | Column 3             | Column 4 |
|---|-----------------|----------------------|----------|
| Type of application   | Fixed component | Processing component | Total    |
| Application under section 11A (5) of the Act for Authority's approval (other than an application for approval of a different 6-hour closure period that is, in the opinion of the Authority, temporary in nature) | \$100           | \$100                | \$200    |
| Application under section 15A (2) of the Act for approval to cease selling liquor and to continue to provide other services and facilities  | Nil             | \$200                | \$200    |
| Application to vary on-premises licence—section 23 (5)  | Nil             | \$50                 | \$50     |
| Application for any licence-related authorisation (other than an extended trading authorisation)—section 51 (2)   | Nil             | \$50                 | \$50     |
| Application by licensee to vary or revoke licence condition—section 53 (2)  | Nil             | \$50                 | \$50     |
| Application under section 60 or 61 to transfer hotel licence (other than a former community liquor licence) or packaged liquor licence  | \$300           | \$200                | \$500    |
| Application under section 60 or 61 to transfer former community liquor licence  | Nil             | \$50                 | \$50     |
| Application under section 60 or 61 to transfer limited licence  | Nil             | \$50                 | \$50     |
| Application under section 60 or 61 to transfer any other type of licence  | \$200           | \$100                | \$300    |
| Application under section 62 to carry on licensee's business  | Nil             | \$50                 | \$50     |
| Application under section 68 for approval of person to manage licensed premises   | Nil             | \$50                 | \$50     |

|   |     |       |       |
|---|-----|-------|-------|
| Application under section 78 (other than by the Director or the Commissioner of Police) for banning order | Nil | \$50  | \$50  |
| Application under section 92 for approval to lease or sublease part of licensed premises                  | Nil | \$50  | \$50  |
| Application under section 94 to change boundaries of licensed premises                                    | Nil | \$100 | \$100 |
| Application under section 95 to alter name of licensed premises   | Nil | \$50  | \$50  |
| Application under section 96 to carry on business on temporary premises                                   | Nil | \$50  | \$50  |
| Application under section 27 (3), 28 (3), 92 (1) (a), 119 or 124 (3) (c) for Authority's approval         | Nil | \$50  | \$50  |

**Note—**

The application fee for the variation of an extended trading authorisation, or for approval to remove a licence to other premises, is dealt with under clause 5 of this Regulation.

**Part 4 Interpretation****1 Definition**

In this Schedule, **former community liquor licence** means a community liquor licence granted under the *Liquor Act 1982* that is taken to be a hotel licence by virtue of clause 12 of Schedule 1 to the Act.

**Schedule 2 Penalty notice offences**

(Clause 74)

| <b>Column 1</b>               | <b>Column 2</b> |
|-------------------------------|-----------------|
| <b>Provision</b>              | <b>Penalty</b>  |
| <b>Offences under the Act</b> |                 |
| Section 7 (1)                 | \$1,100         |
| Section 8 (1)                 | \$1,100         |
| Section 8 (2)                 | \$55            |
| Section 9                     | \$1,100         |
| Section 11 (2)                | \$1,100         |
| Section 40 (5)                | \$220           |
| Section 51 (4)                | \$220           |

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|                            |         |
|----------------------------|---------|
| Section 66 (1)             | \$550   |
| Section 66 (2)             | \$1,100 |
| Section 69 (1)             | \$550   |
| Section 73 (1) or (2)      | \$1,100 |
| Section 73 (3)             | \$550   |
| Section 74 (1)-(4)         | \$550   |
| Section 75 (3)             | \$1,100 |
| Section 77 (4), (6) or (8) | \$550   |
| Section 78 (8)             | \$550   |
| Section 82 (6)             | \$2,200 |
| Section 84 (7)             | \$2,200 |
| Section 86 (2)             | \$2,200 |
| Section 88 (1)             | \$550   |
| Section 92 (1) or (2)      | \$550   |
| Section 93                 | \$550   |
| Section 95 (1), (2) or (4) | \$55    |
| Section 97 (5)             | \$220   |
| Section 100 (2)            | \$550   |
| Section 101 (7)            | \$550   |
| Section 102 (3)            | \$550   |
| Section 103                | \$550   |
| Section 104 (1)            | \$55    |
| Section 104 (5)            | \$220   |
| Section 105 (1)            | \$55    |
| Section 106 (1)            | \$550   |
| Section 107 (1)            | \$55    |
| Section 108 (1)            | \$1,100 |
| Section 109 (1)            | \$1,100 |
| Section 110 (1)            | \$550   |
| Section 111 (1)            | \$110   |
| Section 112                | \$110   |



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|  |         |
|--|---------|
| Section 113 (1)  | \$220   |
| Section 114 (1), (2), (3) or (7)                                       | \$220   |
| Section 114 (8)  | \$330   |
| Section 117 (1), (2), (4), (6) or (8)                                  | \$1,100 |
| Section 118 (1)  | \$220   |
| Section 118 (2)  | \$1,100 |
| Section 119  | \$550   |
| Section 120 (1)  | \$330   |
| Section 122 (5)  | \$220   |
| Section 123 (1)  | \$220   |
| Section 124 (1)  | \$1,100 |
| Section 124 (2)  | \$1,100 |
| Section 125 (1)  | \$330   |
| Section 126  | \$550   |
| Section 128 (2)  | \$220   |
| Section 129  | \$220   |
| Section 138 (5)  | \$1,100 |
| Schedule 1, clause 18 (1) or (2)                                       | \$330   |
| Schedule 1, clause 18 (3)  | \$550   |
| Schedule 1, clause 19  | \$330   |
| Schedule 1, clause 20  | \$330   |
| <b>Offences under this Regulation</b>                                  |         |
| Clause 31 (1)  | \$220   |
| Clause 32 (1)  | \$220   |
| Clause 33 (2)  | \$220   |
| Clause 34 (1) or (2)   | \$220   |
| Clause 39D (2)   | \$55    |
| Clause 40 (1)  | \$1,100 |
| Clause 40 (2):   |         |
| (a) if the staff member's recognised RSA certification has expired, or | \$550   |

|                        |         |
|------------------------|---------|
| (b) in any other case. | \$1,100 |
| Clause 41              | \$220   |
| Clause 42 (1)          | \$550   |
| Clause 42 (2)          | \$220   |
| Clause 47 (1A)         | \$1,100 |
| Clause 47A             | \$1,100 |
| Clause 49B             | \$1,100 |
| Clause 50 (4)          | \$1,100 |

### **Schedule 3 (Repealed)**