

Music Festivals Act 2019 No 17

[2019-17]



New South Wales

Status Information

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Provisions in force

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

Authorisation

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Music Festivals Act 2019 No 17



New South Wales

An Act to promote a safer environment at music festivals by requiring organisers of subject festivals to comply with approved safety management plans; and for related purposes.

Part 1 Preliminary

1 Name of Act

This Act is the *Music Festivals Act 2019*.

2 Commencement

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

3 Definitions

In this Act—

ambulance forward commander means the NSW Ambulance commander at an incident or emergency site or an event who is responsible for the command of all NSW Ambulance personnel at the site or event.

approved safety management plan, for a music festival, means a safety management plan approved by ILGA, under section 6(4), for the music festival.

concert means a music-focused event that uses a single stage, is proposed to be held over a period of less than 5 hours and has not more than 2 headlining performers and not more than 4 performers in total, including supporting performers.

exercise a function includes perform a duty.

function includes a power, authority or duty.

health officer means the following—

- (a) a member of staff of the Ministry of Health,
- (b) a member of staff of the NSW Health Service,
- (c) an ambulance forward commander,

- (d) a person engaged by a music festival organiser to provide health services at a high-risk festival.

Health Secretary means the Secretary of the Ministry of Health.

ILGA means the Independent Liquor and Gaming Authority constituted under the [Gaming and Liquor Administration Act 2007](#).

inspector means an inspector appointed under section 20 of the [Gaming and Liquor Administration Act 2007](#) for the purposes of this Act.

intensive care unit means a unit for the observation, care and treatment of patients with life threatening or potentially life threatening illnesses, injuries or complications, from which recovery is possible, that is specially staffed and equipped for that purpose.

music festival means an event, other than a concert, that—

- (a) is music-focused or dance-focused, and
- (b) has performances by a series of persons or groups that are engaged to play or perform to live or pre-recorded music, or to provide another form of musical or live entertainment, and
- (c) is held within a defined area, and
- (d) is attended by 2,000 or more people, and
- (e) is a ticketed event.

music festival organiser, for a music festival, means the person or other entity noted on the public liability insurance policy provided to—

- (a) the owner or other person in charge of the premises on which the festival is to be held, or
- (b) the local council for the area in which the festival is to be held.

music festival roundtable—see Part 4.

NSW Health music festival guidelines means guidelines issued by the Health Secretary about music festivals, as in force from time to time.

performer includes a group, band or act.

subject festival means a music festival that, under section 5, ILGA decides would be more appropriately delivered with an approved safety management plan.

Note—

The [Interpretation Act 1987](#) contains definitions and other provisions that affect the interpretation and

application of this Act.

4 Notes

Notes included in this Act do not form part of this Act.

Part 2 Obligations on music festival organisers

Division 1 Safety management plans

5 Requirement for subject festival to prepare safety management plan

- (1) If, in ILGA's opinion, a music festival is a subject festival, ILGA may direct the music festival organiser to prepare a safety management plan for the festival.
- (2) Without limiting the matters ILGA may consider in forming an opinion that a music festival is a subject festival, ILGA may have regard to the following matters—
 - (a) any advice from the Health Secretary or the Commissioner of Police,
 - (b) any advice from the music festival roundtable,
 - (c) whether a death has occurred in the State on a previous occasion at the music festival or in connection with the music festival in the last 3 years,
 - (d) whether a prescribed event occurred at a music festival, or an event related to a music festival, for which the music festival organiser was the organiser, in the 3 years immediately preceding the date on which the proposed music festival is to start,
 - (e) any submission made to ILGA by the music festival organiser about the reasons the proposed music festival is not a subject festival.
- (3) The direction under subsection (1) must be—
 - (a) given in writing, and
 - (b) accompanied by a copy of the NSW Health music festival guidelines.
- (4) In this section—

prescribed event means the death of a person, or admission to an intensive care unit, that is reasonably suspected to be—

 - (a) because of alcohol or drug use, or
 - (b) caused by crowd behaviour or improper safety management.

6 Contents of safety management plans

- (1) The safety management plan for a subject festival must include the following—

- (a) a site plan for the premises on which the music festival is to be held, showing entry points, exit points, areas of the premises and the proposed uses of each area, including the areas for the festival that will be used for the following purposes (each a ***harm reduction area***)—
 - (i) an area for providing access to medical assistance and supplies,
 - (ii) an area for providing supervised relaxation spaces for patrons,
 - (b) information about the areas for the entry to and exit from the premises for a police vehicle or an emergency vehicle,
 - (c) information about evacuation points for the premises,
 - (d) information about the entry and exit points for patrons to access the premises, including information about any fencing, structures or other boundaries that will define the area of the premises to limit people from entering or exiting the premises,
 - (e) information about signage intended to indicate the location of health services and water stations on the premises,
 - (f) information about proposed health services and harm reduction initiatives that will be provided for the festival,
 - (g) information about how the health services and harm reduction initiatives to be provided at the festival are consistent with the NSW Health music festival guidelines,
 - (h) information about the types of health services that will be provided at the festival and the number of persons who will be providing those health services,
 - (i) information about proposed strategies to deal with the preservation of a crime scene on the premises,
 - (j) any other information—
 - (i) ILGA considers appropriate for the premises or the music festival, or
 - (ii) required by the NSW Health music festival guidelines.
- (2) The music festival organiser must give ILGA the safety management plan for the subject festival for approval—
- (a) at least 90 days before the festival is to be held, or
 - (b) if the organiser has given ILGA notice, in the approved form and submitted using an approved electronic system, at least 90 days before the festival is to be held of the intention to hold the festival—at least 60 days before the festival is to be held,

or

(c) within the shorter period decided by ILGA.

(3) The music festival organiser must also, at least 14 days before the festival is to be held, give ILGA an addendum to the safety management plan that includes information about—

(a) the persons that will provide health services at the festival, and

(b) the qualifications and work experience of the persons engaged to provide the health services.

(4) ILGA must, at least 14 days before the festival is to be held, decide to—

(a) approve the safety management plan, with or without changes, but only if ILGA is satisfied that the risks associated with the subject festival and the premises are suitably addressed by the plan, or

(b) refuse to approve the plan.

(5) In this section—

approved means approved by ILGA.

7 Offence for failure to have and comply with approved safety management plan

A music festival organiser for a subject festival—

(a) must not hold the festival unless there is an approved safety management plan for the festival, and

(b) must ensure the way in which the festival is delivered complies with the approved safety management plan.

Maximum penalty—500 penalty units.

8 Requirement to keep approved safety management plan

(1) A music festival organiser for a subject festival must—

(a) keep a copy of the approved safety management plan on the premises on which the subject festival is being held, and

(b) ensure a copy of the plan is made available to a police officer, inspector, health officer or emergency services officer if requested.

Maximum penalty—100 penalty units.

(2) In this section—

emergency services officer means an officer of Fire and Rescue NSW or a member of a rural fire brigade.

9 Change to approved safety management plan

- (1) A music festival organiser for a subject festival may give ILGA written notice of a proposed change to the approved safety management plan.
- (2) ILGA must advise the music festival organiser whether ILGA approves or rejects the proposed change.
- (3) The proposed change to the approved safety management plan does not take effect until it is approved by ILGA.

Division 2 Other obligations

10 Requirement to hold briefings for health service providers

- (1) A music festival organiser for a subject festival must hold a briefing, in accordance with this section, with a person engaged by the organiser to provide health services at the festival if representatives of a prescribed entity request the briefing.

Maximum penalty—100 penalty units.

- (2) The briefings may be held at the following intervals—
 - (a) at least 48 hours before the start of the subject festival,
 - (b) on the premises on which the festival is being held on the day the festival is due to start,
 - (c) within 21 days after the end of the festival.
- (3) The music festival organiser must, at least 7 days before the briefing, notify each prescribed entity of the date, time and location of the briefing.
- (4) A representative of a prescribed entity may attend the briefing.
- (5) In this section—

prescribed entity means the following—

- (a) ILGA,
- (b) NSW Police Force,
- (c) Fire and Rescue NSW,
- (d) NSW Rural Fire Service,
- (e) the Ministry of Health,

(f) the council of the local government area in which the premises on which the subject festival is to be held are situated,

(g) Ambulance Service of NSW.

11 Incident register to be kept

(1) A music festival organiser for a subject festival must keep an incident register—

(a) in a form approved by ILGA, and

(b) in accordance with this section.

Maximum penalty—100 penalty units.

(2) The incident register must record details of the following incidents that occur during the period beginning when the subject festival starts operating until 1 hour after the festival stops operating—

(a) an incident that results in the death of a patron of the festival,

(b) an incident that results in a patron of the festival requiring medical assistance as a result of intoxication,

(c) an incident involving violence or anti-social behaviour occurring on the premises on which the festival is being held,

(d) an incident of which the music festival organiser is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,

(e) an incident, on the premises, of which the music festival organiser is aware, that involves the possession or use of a substance that the organiser reasonably suspects as being a prohibited plant or a prohibited drug, other than an incident that has been disclosed to a person engaged by the organiser to provide health services at the festival or to a health practitioner,

(f) an incident that results in a person being turned out of the premises,

(g) if the safety management plan prohibits minors on the premises or part of the premises—a minor being located on the premises or the part of the premises prohibited to minors.

(3) The incident register must also record details of action taken in response to a recorded incident.

(4) The music festival organiser must—

- (a) make the incident register available for inspection by a police officer, inspector or health officer if requested to do so, and
- (b) allow a police officer, inspector or health officer to take copies of the incident register or to remove the incident register from the premises, and
- (c) ensure that the information recorded in an incident register is kept for at least 3 years from the day the record was made.

Maximum penalty—100 penalty units.

(5) In this section—

health practitioner has the same meaning as in the [Health Practitioner Regulation National Law \(NSW\)](#).

Part 3 Enforcement

12 Enforcement of Act—gaming and liquor inspectors

- (1) For the enforcement of this Act, this Act is taken to be gaming and liquor legislation for the purposes of the [Gaming and Liquor Administration Act 2007](#).
- (2) Without limiting subsection (1), for the purposes of that subsection—
 - (a) inspectors may be appointed under section 20 of the [Gaming and Liquor Administration Act 2007](#) for the purposes of this Act as if this Act were gaming and liquor legislation, and
 - (b) an inspector appointed under section 20 of the [Gaming and Liquor Administration Act 2007](#) may exercise powers under that Act as if this Act were gaming and liquor legislation, and
 - (c) proceedings for an offence against this Act may be taken under section 45 of the [Gaming and Liquor Administration Act 2007](#), and
 - (d) section 46 of the [Gaming and Liquor Administration Act 2007](#) applies as if an offence under section 8 of this Act were a penalty notice offence under that Act for which the amount payable under a penalty notice is 10 penalty units.

Part 4 Music festival roundtable

Division 1 Establishment, functions and membership

13 Minister must establish music festival roundtable

The Minister must establish a music festival roundtable.

14 Functions of music festival roundtable

The functions of the music festival roundtable are—

- (a) to support the growth of the music festival industry in the State, and
- (b) to support the safety of patrons of music festivals by—
 - (i) conducting reviews of regulatory schemes that are relevant to music festivals, and
 - (ii) providing advice to government and industry about best practice in relation to the safe operation of music festivals, and
- (c) to conduct reviews of legislation, reports, advice and other matters that are relevant to the operation of music festivals, and
- (d) to address any unforeseen consequences from the enactment of this Act.

15 Membership of music festival roundtable

The members of the music festival roundtable are—

- (a) 10 members chosen by the Minister to represent the Government including, for example, members chosen to represent the following—
 - (i) the Cabinet Office,
 - (ii) the Ministry of Health,
 - (iii) Ambulance Service of NSW,
 - (iv) the NSW Police Force,
 - (v) Liquor and Gaming NSW,
 - (vi) the Department of Planning, Industry and Environment,
 - (vii) Transport for NSW,
 - (viii) Destination NSW,
 - (ix) Create NSW, and
- (b) 10 industry representatives, being—
 - (i) 4 members nominated by the Australian Festival Association, and
 - (ii) 1 member nominated by APRA AMCOS, and
 - (iii) 1 member nominated by MusicNSW, and
 - (iv) 1 member nominated by Live Performance Australia, and

- (v) 1 member nominated by Local Government NSW, and
- (vi) 1 member nominated by the Australian Recording Industry Association (ARIA),
and
- (vii) 1 member nominated by Unions NSW.

Division 2 Operation of music festival roundtable

16 Co-chairs of music festival roundtable

The music festival roundtable is to be co-chaired by—

- (a) a member referred to in section 15(a) chosen by the Minister, and
- (b) a member referred to in section 15(b) chosen by the industry representatives referred to in that paragraph.

17 Meetings

- (1) The music festival roundtable is to meet—
 - (a) in March and August in each year, and
 - (b) on at least 2 other occasions in each year.
- (2) At least 1 meeting of the music festival roundtable in a year is to be held at a music festival site.

18 Reporting

- (1) The music festival roundtable must, within 4 months after 30 June in each year—
 - (a) prepare a report on the activities of the roundtable during the year ended on that 30 June, and
 - (b) give the report to the Minister.
- (2) The Minister must ensure a copy of the report is—
 - (a) published on an appropriate government website, and
 - (b) tabled in each House of Parliament within 1 month after receiving it.

19 Review of operation of Act

- (1) The music festival roundtable is to review the operation of this Act in relation to music festivals held between the commencement of this Act and 30 April 2020.
- (2) The review is to be undertaken as soon as practicable after 30 April 2020.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament by

30 June 2020.

Part 5 Miscellaneous

19A Protection from personal liability

- (1) A protected person is not personally subject to liability for anything done—
 - (a) in good faith, and
 - (b) for the purpose of exercising a function conferred or imposed on the protected person under, or in the course of the administration of, this Act.
- (2) The liability instead attaches to the Crown.
- (3) In this section—

done includes omitted to be done.

liability means civil liability and includes action, claim or demand.

protected person means the following—

- (a) the Health Secretary,
- (b) the Secretary of the Department of Enterprise, Investment and Trade,
- (c) a Public Service employee within the meaning of the *Government Sector Employment Act 2013*,
- (d) a member of ILGA,
- (e) a consultant engaged by ILGA under the *Gaming and Liquor Administration Act 2007*, section 9,
- (f) a member of staff of the NSW Health Service,
- (g) a police officer.

20 Review of objectives of Act

- (1) The Minister is to review this Act to determine whether—
 - (a) the policy objectives of the Act remain valid, and
 - (b) the terms of the Act remain appropriate for securing the objectives.
- (2) The review is to be undertaken as soon as practicable after the period of 5 years from the commencement of this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament

within 12 months after the end of the period of 5 years.

20A Requirements relating to implementing outcomes of review of objectives of Act

- (1) The Minister must ensure all reasonable steps are taken, by 30 June 2022, to implement the following recommendations under the Review of the operation of the *Music Festivals Act 2019*—
 - (a) recommendation 5,
 - (b) recommendation 10,
 - (c) recommendation 12.
- (2) If a recommendation mentioned in subsection (1) has not been implemented by 30 June 2022, the Minister must, by 1 September 2022, prepare, and table in each House of Parliament, a report detailing the progress that has been made in implementing the recommendation.
- (3) In this section—

Review of the operation of the Music Festivals Act 2019 means the document of that title published by the NSW Government dated June 2020.

21 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Part 6 Transitional provision

22 Transitional provision for certain music festival organiser

- (1) This section applies to a music festival organiser if—
 - (a) the organiser is responsible for delivering a music festival to be held on or after the commencement of this Act, and
 - (b) ILGA had, before that commencement, advised the music festival organiser under clause 35A of the liquor regulations that ILGA was of the opinion the sale or supply of liquor would more appropriately be provided under a music festival licence.
- (2) Part 2 applies to the music festival organiser as if the music festival organiser had been given a direction by ILGA under section 5(1).

- (3) In this section—

liquor regulations means the regulations under the *Liquor Act 2007*, as in force before 26 September 2019.

music festival licence means a music festival licence within the meaning of the liquor regulations.