

Music Festivals Act 2019 No 17

[2019-17]



New South Wales

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Provisions in force

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

Responsible Minister

- Minister for Music and the Night-time Economy

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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New South Wales

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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 music festival organisers to comply with agreed health and medical 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.

2A Objects of Act

- (1) The objects of this Act are—
 - (a) to regulate and support planning for music festivals in a way that is consistent with the expectations and needs of the community, and
 - (b) to support music festival organisers in ensuring adequate measures are in place to deal with possible risks associated with music festivals, including access to advice from clinical and public health and safety experts, and
 - (c) to facilitate collaboration between government agencies and music festival organisers to deliver safe music festivals.
- (2) Each person who exercises functions under this Act, including music festival organisers, must, in exercising the functions, have regard to—
 - (a) supporting the development of the music festivals sector, including the development of the following in relation to music festivals—
 - (i) employment,
 - (ii) the live music industry,
 - (iii) the arts, community, cultural and tours sectors, and

- (b) promoting harm minimisation measures relating to the consumption of liquor and drugs at music festivals to ensure the safety of persons attending the music festivals.

3 Definitions

In this Act—

agreed health and medical plan, for a music festival, means a health and medical plan agreed to under section 6 for the music festival.

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.

concert means a music-focused event that includes all of the following—

- (a) the event uses a single stage,
- (b) the event is proposed to be held over a period of less than 5 hours,
- (c) the event has not more than 2 headlining performers and not more than 4 performers in total, including supporting performers, with 1 group or collective being considered to be a single performer.

exercise a function includes perform a duty.

function includes a power, authority or duty.

Guidelines for Music Festival Event Organisers means the document titled *Guidelines for Music Festival Event Organisers: Music Festival Harm Reduction* produced by the Ministry of Health—

- (a) as in force from time to time, and
- (b) published on a NSW Government website.

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 music 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.

performer includes a group, band or act.

Secretary means the Secretary of the department in which this Act is administered.

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 Health and medical plans

5 Requirement for health and medical plans

- (1) The Secretary must determine which music festivals require an agreed health and medical plan.
- (2) Without limiting the matters to which the Secretary may have regard in determining whether a music festival requires an agreed health and medical plan, the Secretary must have regard to the following matters—
 - (a) advice from the Health Secretary that is consistent with information about festival characteristics associated with drug-related health harms set out in the Guidelines for Music Festival Event Organisers,
 - (b) advice from the Commissioner of Police,
 - (c) advice from the music festival organiser,
 - (d) whether a prescribed medical event occurred, whether in New South Wales or another State or Territory—
 - (i) 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 before the date on which the proposed music festival will start, or
 - (ii) if any of the last 3 music festivals, or events related to music festivals, for which the music festival organiser was the organiser were held more than 3 years before the date on which the proposed music festival will start—at any of the 3 music festivals or events,
 - (e) advice from the music festival roundtable.
- (3) If the Secretary determines a music festival requires an agreed health and medical plan, the Secretary must direct the music festival organiser to—
 - (a) prepare a health and medical plan for the music festival, and
 - (b) provide—
 - (i) the health and medical plan to the Health Secretary for agreement, and
 - (ii) a copy of the health and medical plan to the Commissioner of Police.
- (4) A direction under subsection (3) must be given—
 - (a) no later than the day specified in the regulations, and
 - (b) in the form and way approved by the Secretary.
- (5) If the Secretary does not determine a music festival requires an agreed health and medical plan, the music festival organiser must prepare a health and medical plan for

the music festival but the plan does not require the Health Secretary's agreement.

(6) In this section—

medical event means the following—

- (a) the death of a person,
- (b) the admission of a person to an intensive care unit of a hospital,
- (c) endotracheal intubation of a person.

prescribed medical event means a medical event that is reasonably suspected to be—

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

5A Appeal against determination music festival requires agreed health and medical plan

- (1) If the Secretary determines that a music festival requires an agreed health and medical plan, the music festival organiser may appeal against the determination to ILGA.
- (2) An appeal may be lodged only on the ground that the music festival does not require an agreed health and medical plan because, in the music festival organiser's view, sufficient controls have been put in place to mitigate and manage health risks at the music festival.
- (3) An appeal must be started by lodging a notice (an **appeal notice**) with ILGA no later than the day specified in the regulations.
- (4) The appeal notice must be lodged in the form and way approved by ILGA.
- (5) In deciding an appeal, ILGA must, after having regard to the objects of this Act, decide that the music festival—
 - (a) requires an agreed health and medical plan and that the music festival organiser must provide a health and medical plan to the Health Secretary for agreement, or
 - (b) does not require an agreed health and medical plan and that the music festival organiser must prepare a health and medical plan for the music festival but does not require the Health Secretary's agreement to the plan.

6 Contents of health and medical plans

- (1) The health and medical plan for a music festival the Secretary has determined requires an agreed health and medical plan must be prepared in accordance with the Guidelines for Music Festival Event Organisers.

- (2) The music festival organiser must give the health and medical plan to the Health Secretary for agreement no later than—
 - (a) the prescribed day, or
 - (b) a later day specified by the Health Secretary.
- (3) The music festival organiser must also, at least 14 days before the festival is to be held, give the Health Secretary an addendum to the health and medical 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) The Health Secretary must decide to—
 - (a) agree to the health and medical plan, with or without changes, but only if the Health Secretary is satisfied the risks associated with the music festival and the premises are suitably addressed by the plan, or
 - (b) refuse to agree to the health and medical plan.
- (5) The Health Secretary must make a decision under subsection (4) no later than—
 - (a) the prescribed day, or
 - (b) the later day decided by the Health Secretary.
- (6) The Health Secretary must give a copy of an agreed health and medical plan to the Commissioner of Police.

6A Commissioner of Police may propose conditions to be applied to music festivals for which agreed health and medical plan required

- (1) This section applies in relation to a music festival the Secretary has determined requires an agreed health and medical plan.
- (2) The Commissioner of Police may, by written notice given to the Secretary no later than the prescribed day, propose the music festival organiser submit to the Secretary a schedule about matters relating to law enforcement and safety for the music festival.
- (3) After receiving a notice from the Commissioner of Police under subsection (2), the Secretary—
 - (a) may require the music festival organiser to—
 - (i) prepare a schedule (a **law enforcement and safety schedule**) about

- matters relating to law enforcement and safety for the music festival, and
- (ii) submit the law enforcement and safety schedule to the Secretary no later than—
 - (A) the prescribed day, or
 - (B) a later day specified by the Secretary, and
 - (b) if the Secretary requires the music festival organiser to submit a law enforcement and safety schedule—must give a copy of the schedule submitted to the Secretary to the Commissioner of Police as soon as practicable.
- (4) After considering the law enforcement and safety schedule, the Commissioner of Police may, by written notice given to the Secretary as soon as practicable after receiving the schedule, propose conditions about the holding of the music festival to be included in the schedule.
- (5) The Secretary must—
- (a) give the music festival organiser an opportunity to comment on the proposed conditions, and
 - (b) consider any comments made by the music festival organiser, and
 - (c) approve the law enforcement and safety schedule, including the conditions proposed by the Commissioner of Police, with or without changes, no later than—
 - (i) the prescribed day, or
 - (ii) the later day decided by the Secretary.
- (6) An approved law enforcement and safety schedule for a music festival may be included as a schedule to—
- (a) the agreed health and medical plan and, if included, is taken to be part of the agreed health and medical plan with which the music festival organiser must comply, or
 - (b) if the music festival is to be held on premises to which a liquor licence applies—the liquor licence and, if included, is taken to be part of the licence with which the licensee must comply.

7 Offence for failure to have and comply with agreed health and medical plan

A music festival organiser for a music festival the Secretary has determined requires an agreed health and medical plan—

- (a) must not hold the festival unless there is an agreed health and medical plan for the festival, and

- (b) must ensure the way in which the festival is delivered complies with the agreed health and medical plan.

Maximum penalty—500 penalty units.

8 Requirement to keep agreed health and medical plan

- (1) A music festival organiser for a music festival the Secretary has determined requires an agreed health and medical plan must—
 - (a) keep a copy of the agreed health and medical plan on the premises on which the music 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 agreed health and medical plan

- (1) A music festival organiser for a music festival the Secretary has determined requires an agreed health and medical plan may give the Health Secretary written notice of a proposed change to the agreed health and medical plan.
- (2) The Health Secretary must advise the music festival organiser whether the Health Secretary agrees to or rejects the proposed change.
- (3) The proposed change to the agreed health and medical plan does not take effect until it is agreed to by the Health Secretary.

Division 2 Other obligations

10AA Requirement to notify Secretary about proposed music festivals

- (1) A music festival organiser for a proposed music festival must give the Secretary notice, in the form and way approved by the Secretary, about the intention to hold the festival no later than the prescribed day.
- (2) The Secretary must, as soon as practicable after receiving a notice under subsection (1), give a copy of the notice to the following persons—
 - (a) the Health Secretary,
 - (b) the Commissioner of Police.

10 Requirement to hold briefings for health service providers

- (1) A music festival organiser for a music festival the Secretary has determined requires an agreed health and medical plan 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 music 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) the Secretary,
- (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 music 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 music festival the Secretary has determined requires an agreed health and medical plan must keep an incident register—
- (a) in a form approved by the Secretary, 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 music 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 health and medical 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.
- (3) A police officer has the function of enforcing the following under this Act—
 - (a) any conditions proposed by the Commissioner of Police about matters that relate to law enforcement and safety and adopted by the Secretary,
 - (b) compliance with section 11.

Part 4 Music festival roundtable

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
- (b1) to provide advice to the Secretary about whether a proposed music festival requires an agreed health and medical plan, 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 Co-chairs of music festival roundtable

The music festival roundtable is to be co-chaired by the following members of the roundtable—

- (a) a member chosen by the Minister to represent the Government,
- (b) a member chosen by industry representatives who are members of the roundtable.

16-19 (Repealed)

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,
- (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.

19B Minister may publish guidelines

- (1) The Minister may publish guidelines on a NSW Government website about best practice standards for music festivals.
- (2) Without limiting subsection (1), the guidelines may provide for the following—
 - (a) matters relating to giving notice about upcoming music festivals,
 - (b) matters relating to information sharing at music festivals,
 - (c) matters relating to briefings about music festivals.

19C Appeal against imposition of government charges in relation to music festivals

- (1) This section applies if, under an Act, an amount is payable by a music festival organiser to the State or a government sector agency in relation to the music festival.
- (2) The music festival organiser may apply to the Secretary for the amount to be waived or reduced in accordance with an order made by the Minister under section 19D.
- (3) An application may be made under subsection (2) only on the following grounds—
 - (a) exceptional circumstances apply,
 - (b) payment of the amount would impact on the financial viability of the music festival.
- (4) The Secretary must refer an application received under subsection (2) to a panel (the ***music festivals panel***) consisting of the following members—
 - (a) a member representing the Premier's Department nominated by the Secretary of the Premier's Department,
 - (b) a person representing Sound NSW nominated by the Head of Sound NSW,
 - (c) a person representing Destination NSW nominated by the Chief Executive Officer of Destination NSW.
- (5) The music festivals panel must consider the application and—
 - (a) decide to waive or reduce the amount payable, or
 - (b) refuse to waive or reduce the amount payable.

- (6) As soon as practicable after the music festivals panel makes a decision under subsection (5), the Secretary must give the following persons written notice of the decision—
- (a) the music festival organiser,
 - (b) the head of the government sector agency to whom the fee is or would have been payable.
- (7) In this section—

government sector agency has the same meaning as in the [Government Sector Employment Act 2013](#).

head, of a government sector agency, has the same meaning as in the [Government Sector Employment Act 2013](#).

19D Minister may make order for purposes of section 19C

- (1) The Minister may make an order establishing a process for the waiver and reduction of amounts payable to the State or a government sector agency in relation to a music festival for the purposes of section 19C.
- (2) Without limiting subsection (1), an order may provide for the following—
- (a) the process for making applications, including the timeframes for making applications,
 - (b) the criteria to be used in assessing applications and deciding whether to waive or reduce amounts payable.

20 Delegation

- (1) An office holder may delegate the exercise of a function of the office holder under this Act, other than this power of delegation, to—
- (a) a person employed in the department in which this Act is administered, or
 - (b) a person, or a class of persons, authorised for the purposes of this section by the regulations.
- (2) In this section—
- office holder** means the following—
- (a) the Minister,
 - (b) the Secretary,
 - (c) the Health Secretary.

20A (Repealed)

21 Regulations

- (1) 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.
- (2) Without limiting subsection (1), the regulations may provide for—
 - (a) matters in relation to the music festival roundtable, including—
 - (i) the membership of the roundtable, and
 - (ii) the way in which the roundtable will operate, and
 - (b) timeframes for dealing with matters under this Act.

Part 6

22 (Repealed)

Schedule 1 Savings and transitional provisions

Part 1 Provision consequent on enactment of Act

1 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.

Part 2 Provisions consequent on enactment of [Music Festivals](#)

Amendment Act 2024

2 Definition

In this part—

amendment Act means the *Music Festivals Amendment Act 2024*.

3 Requirement for safety management plan for certain music festivals

- (1) This section applies in relation to a music festival for which a safety management plan was required to be prepared before 1 October 2024.
- (2) This Act continues to apply in relation to the requirement for a safety management plan for the music festival as if the amendment Act had not been enacted.

4 Requirement for health and medical plan for certain music festivals

- (1) This section applies in relation to a music festival for which a safety management plan would have been required to be prepared on and from 1 October 2024 but for the enactment of the amendment Act.
- (2) This Act, as amended by the amendment Act, applies in relation to the requirement for a health and medical plan or agreed health and medical plan for the music festival.

5 Requirement for health and medical plans

- (1) This section applies if a music festival organiser is required to prepare a health and medical plan under section 5(5) of this Act for a music festival.
- (2) Despite section 5(5), if the music festival is held, or starts, on or before 28 February 2025, the music festival organiser is not required to prepare a health and medical plan for the music festival.

6 Regulation and *Subordinate Legislation Act 1989*

- (1) The amendment Act, Schedule 2 is taken to be and has effect as a regulation made by the Governor under this Act.
- (2) The *Subordinate Legislation Act 1989*, Part 2 does not apply to the regulation but applies to an amendment or repeal of the regulation.
- (3) For the *Subordinate Legislation Act 1989*, section 10, the regulation is taken to have been published on the day on which the *Music Festivals Amendment Act 2024*, Schedule 2 commenced.
- (4) The *Interpretation Act 1987*, sections 39–41 do not apply to the regulation but apply to an amendment or repeal of the regulation.
- (5) The *Music Festivals Amendment Act 2024*, Schedule 2 is repealed on the day after the

schedule commences.

Note—

The continued effect of the regulation is unaffected by the repeal of the schedule. See the [Interpretation Act 1987](#), section 30.