

Liquor Amendment Act 2014 No 3

[2014-3]



New South Wales

Status Information

Currency of version

Repealed version for 6 February 2014 to 15 March 2014 (accessed 25 November 2024 at 14:27)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

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

Notes—

- **Repeal**

The Act was repealed by sec 30C of the [Interpretation Act 1987 No 15](#) with effect from 16.3.2014.

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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Liquor Amendment Act 2014 No 3



New South Wales

An Act to amend the *Liquor Act 2007* and the *Liquor Regulation 2008* to enable certain areas to be declared to be prescribed precincts in which licensed premises are subject to regulatory conditions; to enable periodic licence fees to be levied; and for other purposes.

1 Name of Act

This Act is the *Liquor Amendment Act 2014*.

2 Commencement

- (1) This Act commences on the date of assent to this Act, except as provided by subsection (2).
- (2) So much of Schedule 1 [28] as inserts sections 116G and 116H into the *Liquor Act 2007* commences on a day to be appointed by proclamation.

Schedule 1 Amendment of *Liquor Act 2007* No 90

[1]-[27] (Repealed)

[28] Part 6, Division 4

Insert after Division 3 of Part 6:

Division 4 Prescribed precincts

116B Interpretation

- (1) In this Division:

high risk venue—see subsection (2).

long-term banning order means an order under section 116G.

prescribed precinct means a precinct prescribed by the regulations under section 116C.

relevant licensed premises means any licensed premises situated in a

prescribed precinct or precinct adjacent to a prescribed precinct, but does not include a licensed restaurant that is not authorised to trade after midnight on any day of the week unless it is a high risk venue.

temporary banning order means an order under section 116F.

- (2) A **high risk venue** is a venue situated in a prescribed precinct comprising:
- (a) licensed premises:
 - (i) on which liquor may be sold for consumption on the premises, and
 - (ii) that are authorised to trade after midnight at least once a week on a regular basis, and
 - (iii) that have a patron capacity (as determined by the Director-General) of more than 120 patrons, or
 - (b) licensed premises specified by, or of a class specified by, the regulations, or
 - (c) licensed premises that are designated by the Director-General under subsection (4).
- (3) The regulations may create exceptions to subsection (2) (a).
- (4) The Director-General may, with the concurrence of the Commissioner of Police, designate any specified licensed premises (or licensed premises of a specified class) in a prescribed precinct as a high risk venue if the Director-General is satisfied that there is a significant degree of alcohol-related violence or other anti-social behaviour associated with the premises.
- (5) The designation of licensed premises as a high risk venue is to be made by order in writing given to the licensee. Any such order takes effect on the date specified in the order (being a date that is not earlier than 6 weeks from the date the order is given).

Note—

A decision of the Director-General to designate licensed premises as a high risk venue is reviewable by the Independent Liquor and Gaming Authority under the [Gaming and Liquor Administration Act 2007](#)—see section 36A of that Act.

116C Prescribed precincts

- (1) The regulations may declare an area described in the regulations to be a **prescribed precinct** for the purposes of this Act.
- (2) An area within the Kings Cross precinct may not be declared to be a prescribed precinct.

- (3) A reference in this Act to premises situated in a prescribed precinct includes a reference to premises:
 - (a) that front or back onto, or abut, any street or part of a street within the prescribed precinct (other than premises situated in the Kings Cross precinct), or
 - (b) that can be entered from any such street or part, or
 - (c) that the regulations declare to be situated in the prescribed precinct.
- (4) An area may be declared to be a prescribed precinct by reference to a map signed by the Minister and deposited in the Office of Liquor, Gaming and Racing.
- (5) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.

116D Prescribed precinct ID scanner system

- (1) The ***prescribed precinct ID scanner system*** is an integrated database system that is approved by the Director-General and that consists of the following:
 - (a) the identification details of those persons who are the subject of a temporary or long-term banning order (together with the period for which any such order is in force),
 - (b) any information that has been scanned and recorded by patron ID scanners operating in high risk venues,
 - (c) any associated equipment (including the patron ID scanners linked to the system).
- (2) The Director-General may, with the concurrence of the Commissioner of Police, approve a person or body to operate the prescribed precinct ID scanner system. A person or body may not be approved if the person or body is a close associate of a licensee or has any interest, whether financial or otherwise, in the business carried on under a licence.
- (3) The approval of a person or body to operate the system is subject to such conditions as the Director-General considers appropriate (including conditions relating to the disposal and retention of information held in the system) and may be revoked at any time by the Director-General. The conditions of approval may be varied at any time by the Director-General.
- (4) Without limiting subsection (3), the conditions of any such approval are taken to include the following:

- (a) any information held in the system must not be transferred to any place outside of Australia except New Zealand,
- (b) information must not be held in the system for more than 30 days after it is collected except:
 - (i) in the case of information relating to a person who is the subject of a long-term banning order (in which case the information may be held in the system for the period that the order is in force), or
 - (ii) in such other cases as may be authorised by the Director-General at the request of the Commissioner of Police,
- (c) if the approved system provider is not an organisation within the meaning of the *Privacy Act 1988* of the Commonwealth—the provider must ensure that the provider is treated as an organisation for the purposes of that Act,
- (d) the approved system provider must comply with the requirements of the *Privacy Act 1988* of the Commonwealth with respect to the protection of any personal information held by the provider,
- (e) the approved system provider must comply with a request by the Commissioner of Police to dispose of any information held by the provider,
- (f) if the prescribed precinct ID scanner system fails for any reason, the approved system provider must:
 - (i) immediately notify the local police, and
 - (ii) comply with a contingency protocol, as approved by the Director-General, for ID scanner system failure.

116E High risk venues—licence conditions relating to ID scanning

- (1) **Patron photo IDs to be scanned** The licence for a high risk venue is subject to the following conditions:
 - (a) a person must not be permitted to enter the venue as a patron unless:
 - (i) the person produces to a staff member a form of identification containing a photograph of the person and the person's identification details (**photo ID**), and
 - (ii) the photo ID is scanned by a staff member using a patron ID scanner,
 - (b) a person must be refused admission to the venue as a patron if the person:
 - (i) chooses not to produce his or her photo ID to a staff member, or
 - (ii) is subject to a temporary or long-term banning order,

- (c) the use of a patron ID scanner as required by this section (including the procedures for scanning and the time of use) must comply with such requirements as are approved by the Director-General and notified to the licensee,
 - (d) only patron ID scanners of a type approved by the Director-General may be used in the venue for the purposes of this section,
 - (e) a patron ID scanner may only be used to record information of the kind prescribed by the regulations,
 - (f) if any patron ID scanner used in the venue fails for any reason, the licensee must:
 - (i) immediately notify the local police, and
 - (ii) comply with a contingency protocol, as approved by the Director-General, for patron ID scanner failure.
- (2) Subsection (1) (a) (ii) does not require a person to be refused permission to enter a high risk venue if, at that time, each patron ID scanner in the venue is not working because of scanner or system failure.
- (3) **Producing false ID to enter high risk venue** A person who produces any document purporting to contain the person's identification details in order to gain entry to a high risk venue is guilty of an offence if the document is false in a material particular in relation to the person.
- Maximum penalty: 50 penalty units.
- (4) **Privacy protection** It is a condition of the licence for a high risk venue that the licensee must:
- (a) if the licensee is not an organisation within the meaning of the [Privacy Act 1988](#) of the Commonwealth—ensure that the licensee is treated as an organisation for the purposes of that Act, and
 - (b) comply with the requirements of that Act with respect to the protection of any personal information recorded by a patron ID scanner operating in the venue.
- (5) It is also a condition of the licence for a high risk venue that the licensee:
- (a) prepares and implements a privacy management plan relating to the use of patron ID scanners in the venue, and
 - (b) prepares and implements a privacy policy containing information for patrons about the use of patron ID scanners in the venue and the procedures for

ensuring that the privacy of patrons is protected and for making complaints about breaches of privacy, and

- (c) ensures that the privacy policy for the venue is made available for inspection by any person who requests to see it, and
 - (d) ensures that an outline of the privacy policy is displayed at or near any public entrance to the venue in a manner that enables patrons to be alerted to its contents immediately before being required to produce a photo ID, and
 - (e) without limiting any requirement under the *Privacy Act 1988* of the Commonwealth, ensures that any written complaint by a patron about a breach of privacy is, within 14 days of the complaint being made to the licensee or a staff member, notified to the Director-General.
- (6) The privacy management plan and privacy policy required to be prepared by a licensee under this section must, without limiting any requirement under the *Privacy Act 1988* of the Commonwealth, adopt or comply with a plan and policy approved by a local liquor accord in force under Division 1 of Part 8 of this Act in conjunction with the relevant industry association for the licensee and applying to the area in which the licensed premises are situated.

116F Temporary banning orders—licensed premises in prescribed precinct and adjacent precincts

- (1) A police officer may, in the circumstances described in subsection (2), by order in writing given to a person who is in a prescribed precinct (a **temporary banning order**) prohibit the person from entering or remaining on any relevant licensed premises in the prescribed precinct and in any other adjacent precinct specified in the order, for the period (not exceeding 48 hours) specified in the order.
- (2) A temporary banning order may be made as soon as practicable after the person:
 - (a) refuses or fails to comply with a direction under section 198 of the *Law Enforcement (Powers and Responsibilities) Act 2002* to leave relevant licensed premises in the prescribed precinct or a public place in the vicinity of such relevant licensed premises, or
 - (b) fails to leave relevant licensed premises in the prescribed precinct after being required to do so under section 77 (4) because the person is intoxicated, violent, quarrelsome or disorderly, or
 - (c) contravenes section 77 (6) or (8) in relation to relevant licensed premises in the prescribed precinct.

- (3) A police officer must not give a person a temporary banning order unless the officer is satisfied that the conduct of the person which resulted in the person being required to leave (or being refused admission to) the licensed premises or other public place concerned is likely to continue and cause a public nuisance or risk to public safety in the prescribed precinct and in any other adjacent precinct specified in the order.
- (4) A temporary banning order:
 - (a) does not have effect unless it is given by, or given with the approval of, a police officer of or above the rank of sergeant, and
 - (b) must specify the grounds on which it is given.
- (5) A person who is the subject of a temporary banning order must not enter or attempt to enter or remain on any relevant licensed premises in the prescribed precinct or any other adjacent precinct specified in the order during the period specified in the order.

Maximum penalty: 50 penalty units.

116G Long-term banning orders—high risk venues

- (1) The Authority may, by order in writing (a **long-term banning order**), prohibit a person from entering or remaining on any high risk venue for such period (not exceeding 12 months) as is specified in the order.
- (2) A long-term banning order may only be made on application by the Commissioner of Police in the manner approved by the Authority.
- (3) The Authority may make a long-term banning order only if the Authority is satisfied that the person the subject of the proposed order:
 - (a) has been charged with, or found guilty of, a serious indictable offence involving alcohol-related violence (whether or not the offence was committed in a prescribed precinct), or
 - (b) has been given 3 temporary banning orders during a period of 12 consecutive months.
- (4) The Authority may not make a long-term banning order unless the person the subject of the proposed order has been given notice of the application for the order and has been given a reasonable opportunity to make submissions to the Authority in relation to the application.
- (5) In deciding whether to make a long-term banning order on the ground that a person has been given 3 temporary banning orders, the Authority may take into consideration the circumstances that resulted in the person being given those

orders.

- (6) A long-term banning order takes effect on the date specified by the Authority in the order. Notice of the making of the order is to be given to the person who is the subject of the order, but failure to give notice does not affect the operation of the order if a reasonable attempt has been made to notify the person.
- (7) As soon as practicable after the Authority makes a long-term banning order, the Authority is to provide such persons or bodies (if any) as are prescribed by the regulations with the following information:
 - (a) the name and address of the person who is the subject of the order,
 - (b) the period that the order is in force.
- (8) A person who is the subject of a long-term banning order must not enter or attempt to enter or remain on any high risk venue during the period specified in the order.

Maximum penalty: 100 penalty units.

116H Administrative review by Civil and Administrative Tribunal of long-term banning orders

- (1) A person who is the subject of a long-term banning order may apply to the Civil and Administrative Tribunal for an administrative review under the [Administrative Decisions Review Act 1997](#) of the Authority's decision to make the order.
- (2) Section 53 of the [Administrative Decisions Review Act 1997](#) does not apply in relation to the Authority's decision to make a long-term banning order.

116I Regulatory controls for licensed premises in prescribed precincts

- (1) The regulations may prescribe conditions to which a licence relating to premises situated in a prescribed precinct is subject.
- (2) Without limiting the matters to which any such conditions may relate, the conditions prescribed by the regulations under this section may:
 - (a) prohibit or restrict the use of glass or other breakable containers on the licensed premises, or
 - (b) prohibit or restrict the sale or supply of certain types of liquor on the licensed premises (including liquor with a high alcohol content or liquor that is intended to be consumed rapidly such as a shot), or
 - (c) prohibit or restrict the sale or supply of liquor on the licensed premises in certain circumstances or at certain times (including in circumstances or at

- times otherwise permitted by or under this Act), or
- (d) prohibit patrons from entering the licensed premises at certain times, or
 - (e) require the implementation of security or public safety measures in respect of the licensed premises, or
 - (f) require incident registers to be kept, or
 - (g) require the exclusion from licensed premises of persons of a specified class (including persons who are wearing any clothing or article displaying the name of, or other matter associated with, a particular organisation), or
 - (h) require the licensee of any premises situated in the prescribed precinct to contribute towards the costs associated with measures to minimise or prevent alcohol-related violence or anti-social behaviour or other alcohol-related harm in the precinct, or
 - (i) require the appointment of a person, as approved by the Director-General, who is to be present in a high risk venue during such periods, or in such circumstances, as may be specified or determined by the regulations (an **approved manager**), or
 - (j) require records to be kept of the times when an approved manager is present in a high risk venue, or
 - (k) require records to be kept of the amount of liquor sold or supplied on the licensed premises and require the production of such information.
- (3) The conditions that may be prescribed by the regulations under this section may, without limitation, apply to a specified class of licensed premises or to specified licensed premises.
- (4) The regulations may authorise the Director-General to exempt the licensee of any premises situated in a prescribed precinct from any of the conditions prescribed by the regulations under this section. The regulations may also provide that any such exemption is subject to conditions specified in the exemption.
- (5) In approving a person to be present in a high risk venue as required by licence conditions imposed by the regulations under subsection (2) (i), the Director-General must, after obtaining the consent of the person concerned, conduct a criminal record check in relation to the person and be satisfied that the person has the experience and capacity to have responsibility for the high risk venue during the relevant periods. It is the duty of the Commissioner of Police to assist in any such criminal record check.

- (6) Any conditions prescribed by the regulations under this section are in addition to any other conditions to which a licence relating to premises in the prescribed precinct may be subject.
- (7) Regulations may be made under this section regardless of whether any licensee who is likely to be affected by the regulation has been given an opportunity to make submissions in relation to the proposed regulation.

[29]-[35] (Repealed)

Schedules 2, 3 (Repealed)