

Liquor Legislation Amendment (Statutory Review) Act 2014 No 76

[2014-76]



New South Wales

Status Information

Currency of version

Repealed version for 16 December 2014 to 1 March 2015 (accessed 28 November 2024 at 19:38)

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The Act was repealed by sec 30C of the [Interpretation Act 1987 No 15](#) with effect from 2.3.2015.

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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Liquor Legislation Amendment (Statutory Review) Act 2014 No 76



New South Wales

An Act to amend the *Liquor Act 2007* and the *Gaming and Liquor Administration Act 2007* following a review of those Acts; and for other purposes.

1 Name of Act

This Act is the *Liquor Legislation Amendment (Statutory Review) Act 2014*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of *Liquor Act 2007* No 90

[1], [2] (Repealed)

[3] Section 6 Exemptions from Act

Insert after section 6 (4):

- (5) **Exemption for fundraising functions held by non-proprietary associations** Subject to this section, this Act does not apply to or in respect of the sale or supply of liquor at a function held by or on behalf of an eligible non-proprietary association if the following requirements are complied with:
- (a) the purpose of the function is to raise funds for the benefit of the association or the community,
 - (b) the sale or supply of liquor is ancillary to that purpose,
 - (c) liquor is sold or supplied from one bar only,
 - (d) liquor is sold or supplied for consumption on the premises only and only in open containers,
 - (e) liquor is sold or supplied for a continuous period of not more than 4 hours,

- (f) liquor is not sold or supplied before 6 am or after midnight,
 - (g) any person who sells, supplies or serves liquor at the function has the same qualifications with respect to responsible service of alcohol as licensees and employees of licensees are required to have under this Act,
 - (h) liquor is not sold or supplied to minors,
 - (i) a member of the non-proprietary association who is an adult, or a person involved in the management of the association who is an adult, and who is not intoxicated, is to be present in the immediate vicinity of the bar area at all times that minors are present at the function,
 - (j) liquor is not sold or supplied to a person who is intoxicated,
 - (k) meals or other prepared food (namely, food requiring preparation, cooking or reheating before being eaten) and free drinking water are available whenever liquor is sold or supplied,
 - (l) police officers and inspectors are permitted full and free access to the premises where the function is held at all times while the function is being held,
 - (m) notice, in the form and manner approved by the Secretary, of the function has been given, at least 14 days before the function is held, to the Secretary, local police and the local council in whose area the function is to be held,
 - (n) no more than 250 people are attending the function,
 - (o) no more than 6 functions in any period of 12 months are held in accordance with the exemption under this subsection.
- (6) A non-proprietary association is not an **eligible** association for the purposes of subsection (5) if:
- (a) the association is subject to an order under subsection (7), or
 - (b) a limited licence is held on behalf of the association, or
 - (c) an order under section 141 (2) (i) that a limited licence is not to be granted to any person on behalf of the association is in force, or
 - (d) any disciplinary action under section 141 has, during the period of 6 months before any function is held in accordance with the exemption under subsection (5), been taken against a person who held a limited licence on behalf of the association, or
 - (e) the association, or the secretary or an office holder of the association, has committed a prescribed offence within the meaning of section 144B during the

period of 6 months before any function is held in accordance with the exemption under subsection (5).

For the purposes of paragraph (e), a prescribed offence is committed in the circumstances referred to in section 144C.

- (7) The Secretary may, by order in writing given to a non-proprietary association, declare that the association is not an eligible association for the purposes of subsection (5). Any such order has effect for the period specified in the order.
- (8) The regulations may:
 - (a) create exceptions to subsection (5) (including modifying any of the requirements specified in that subsection), and
 - (b) prescribe additional requirements that must be complied with for the purposes of subsection (5).
- (9) Any offence that is committed under this Act because the requirements of subsection (5) are not complied with is taken to have been committed by:
 - (a) the non-proprietary association holding the function or on whose behalf the function is held, or
 - (b) in the case of a non-proprietary association that is not incorporated—the secretary or other relevant office holder of the association.
- (10) **Directions relating to conduct of functions under subsection (5)** The Secretary may give a written direction to a non-proprietary association or, in the case of a non-proprietary association that is not incorporated, to the secretary of the association or other relevant office holder of the association, that relates to the conduct of a function held by or on behalf of the association in accordance with the exemption under subsection (5).
- (11) Without limitation, any such direction may prohibit or restrict the sale or supply of liquor at any such function.
- (12) A direction under subsection (10):
 - (a) takes effect when it is given to the non-proprietary association or person concerned or on a later date specified in the direction, and
 - (b) may be varied or revoked by the Secretary, and
 - (c) has effect despite the exemption under subsection (5).
- (13) A non-proprietary association or person who, without reasonable excuse, fails to comply with a direction given to the association or person under subsection (10) is guilty of an offence.

Maximum penalty: 50 penalty units.

- (14) **General provision** For the avoidance of doubt, an exemption under this section does not have effect if any requirement that applies in relation to the exemption is not complied with.

[4]-[6] (Repealed)

[7] Sections 22 (2) and 23 (6) (b)

Insert “at any time” after “licensed premises” wherever occurring.

[8] Section 24 On-premises licence—sale or supply of liquor must be with or ancillary to other product or service

Omit section 24 (3). Insert instead:

- (3) **Authorisation to sell or supply liquor without other product or service** Despite subsection (1), the Authority may, on application by the holder of an on-premises licence, endorse the licence with an authorisation that allows liquor to be sold or supplied for consumption on the licensed premises otherwise than with, or ancillary to, the other product or service referred to in that subsection.

Note—

Section 51 applies to any such authorisation.

- (3A) However, the other product or service must be available on the licensed 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.

[9] Section 33 Producers—authorisation conferred by licence

Omit the heading to section 33 (1).

[10] Section 33 (1)

Omit “or as a producer of cider, perry or mead”.

Insert instead “, as a producer of cider, perry or mead or as a producer of beer or spirits”.

[11] Section 33 (1) (b)

Insert “and only if it is supplied in sealed containers” after “only”.

[12] Sections 33 (1) (d), 35 (3) and 47A (3) (b)

Omit “a wine” wherever occurring. Insert instead “an industry”.

[13] Sections 33 (1) (d) and 35 (3) (b)

Omit “the wine”. Insert instead “the industry”.

[14] Section 33 (2)

Insert “or the sale or supply of beer or spirits,” after “mead,”.

[15] Section 33 (3) (a)

Insert “in the case of wine or cider, perry or mead—” before “it”.

[16] Section 33 (3) (d)

Insert at the end of section 33 (3) (c):

, or

(d) in the case of beer or spirits—it has been produced on the licensed premises and is uniquely the licensee’s (or a related corporation of the licensee’s) own product.

[17] Section 33 (5), definition of “wine show”

Omit the definition. Insert in appropriate order:

industry show means a wine, beer, spirits or other liquor show at which liquor products are promoted and that is held by an industry association.

[18] Section 34 Producers of beer or spirits

Omit the section.

[19] Section 35 Producers—miscellaneous provisions

Omit section 35 (1). Insert instead:

(1) This section applies in relation to a producer/wholesaler licence under which the licensee carries on business as a wine producer, as a producer of cider, perry or mead or as a producer of beer or spirits.

[20] Section 35 (2)

Insert “, in the case of a wine producer only,” after “may”.

[21] Section 35 (3), heading

Omit “**Wine shows**”. Insert instead “**Industry shows**”.

[22] Section 35 (5)

Omit “wine”. Insert instead “industry”.

[23] Section 36 Authorisation conferred by limited licence

Omit section 36 (3) and (4). Insert instead:

- (3) **Maximum number of functions per year** The number of functions held under a limited licence is not to exceed 52 per year or such other number as the Authority considers appropriate in any particular case. This subsection does not apply in relation to a function referred to in subsection (5) or (6).
- (4) **Notification requirements** Liquor may only be sold or supplied under a limited licence at a function if notice, in the form and manner approved by the Secretary, of the function has been given to the local police at least 14 days before it is held. This subsection does not apply in relation to a function referred to in subsection (5) or (6).

[24] Section 36 (5)

Omit “Commissioner of Police, the Authority”. Insert instead “local police”.

[25] Section 38 Limited licence—miscellaneous conditions

Omit section 38 (4) (g). Insert instead:

- (g) a member of the club who is an adult and who is not intoxicated must be present in the immediate vicinity of the bar area at all times that minors are present at the function,

[26], [27] (Repealed)

[28] Section 46A

Insert after section 46:

46A Voluntary suspension of licence

- (1) A licensee may apply to the Authority to have the licence suspended by the Authority for a specified period.
- (2) An application for the suspension of a licence must:
 - (a) be in the form and manner approved by the Authority, and
 - (b) specify the period that the licensee is seeking to have the licence

suspended, and

(c) specify the reasons for the proposed suspension, and

(d) be accompanied by such fee as may be prescribed by the regulations.

(3) The Authority may, if the Authority is satisfied that the suspension of the licence is reasonable in the circumstances, suspend the licence, by notice in writing to the licensee, for the period specified in the notice.

Note—

A licence may also be suspended by or under section 58B, 61 (5A), 130C or 130D, Part 9 or 9A or by a court under section 148.

(4) The Authority may, on application by a licensee and on payment of such fee as may be prescribed by the regulations, vary or revoke the suspension of a licence under this section.

[29]-[32] (Repealed)

[33] Section 50

Omit “**for producers of wine and similar products**” from the heading.

[34]-[40] (Repealed)

[41] Section 60A

Insert after section 60:

60A Alternative process for transfer of licence

- (1) A licence may not be transferred under this section if the transfer involves a change in the ownership of the business carried on under the licence.
- (2) A licence may be transferred under this section to another person (the **transferee**) but only if:
 - (a) the transferee is the holder of a licence of the same type as the transferred licence or was, at any time during the period of 3 years immediately before the transfer, the holder of a licence of the same type as the transferred licence, and
 - (b) the transferee has not committed a prescribed offence within the meaning of section 144B during that 3-year period, and
 - (c) the licence has not been suspended (otherwise than under section 46A) or cancelled, or the licensee has not been disqualified from holding a licence, during that 3-year period.

- (3) The transfer of a licence under this section does not have effect until:
- (a) the transferee has given the Authority notice in writing of the transfer, and
 - (b) the Authority, on payment of such fee as may be prescribed by the regulations, endorses the licence to the effect that the licence is held by the transferee.
- (4) The Authority may refuse to endorse the licence to that effect if the Authority is of the opinion that the requirements under subsection (2) are not satisfied in relation to the transfer of the licence.
- (5) A notice under this section must:
- (a) be in the form approved by the Authority, and
 - (b) be accompanied by the written consent of the owner of the business carried on under the licence to the transfer, and
 - (c) must be accompanied by a declaration in writing, in a form approved by the Authority, certifying such matters as may be required by the approved form (including matters relating to the transferee's responsibilities in relation to, and capacity to implement, practices in place at the licensed premises for ensuring the responsible sale, supply and service of alcohol, and the prevention of intoxication, on the premises).
- (6) For the purposes of subsection (2) (b), a prescribed offence is committed in the circumstances referred to in section 144C.

[42]-[47] (Repealed)

[48] Section 73 Prevention of excessive consumption of alcohol on licensed premises

Omit "or all other reasonable steps to prevent intoxication on the licensed premises" from section 73 (4) (a).

[49] Section 73 (4) (a1)

Insert after section 73 (4) (a):

- (a1) that the licensee, and the licensee's employees or agents, took the steps set out in the guidelines under subsection (5A) to prevent intoxication on the licensed premises, or

[50] Section 73 (5A)

Insert after section 73 (5):

(5A) The Secretary is to issue guidelines relating to the prevention of intoxication on licensed premises. Such guidelines are to be made publicly available in such manner as the Secretary considers appropriate.

[51]-[62] (Repealed)

[63] Section 133 Establishing local liquor accord

Omit section 133 (1). Insert instead:

(1) Any 2 or more eligible parties (at least one of whom is a licensee) may enter into a local liquor accord.

[64] Section 133 (2)

Omit "The draft". Insert instead "A".

[65] Section 133 (2) (c)

Omit the paragraph. Insert instead:

(c) the area to which the accord applies, and

[66] Section 133 (3)

Omit "Commissioner of Police and the Director-General are". Insert instead "Secretary is".

[67] Section 135

Omit the section. Insert instead:

135 Registration and termination of local liquor accord

- (1) A local liquor accord takes effect when it is registered by the Secretary.
- (2) A local liquor accord may be terminated by the parties to the accord.
- (3) The termination takes effect when notice in writing of the termination is given by the coordinator of the accord to the Secretary.

[68]-[73] (Repealed)

[74] Schedule 4 Special licence conditions for declared premises

Omit "5 am." from paragraph (b) of the definition of *restricted service period* in clause 1 (1).

Insert instead:

5 am,

and includes any period specified by an order under clause 8B.

[75]-[77] (Repealed)

[78] Schedule 4, clause 8B

Insert after clause 8A:

8B Extension of restricted service period to 2 hours before midnight

- (1) The Secretary may, by order in writing served on the licensee of declared premises, extend the restricted service period in respect of the premises for a period of up to 2 hours before midnight if the Secretary is satisfied that alcohol-related violence has occurred on the premises during any such period.
- (2) An order under this clause is to specify the extended period and the day or days on which it operates.

Note—

Any such order may be amended or repealed by virtue of section 43 (2) of the *Interpretation Act 1987*.

Schedule 2 Amendment of [Gaming and Liquor Administration Act 2007 No 91](#)

[1]-[21] (Repealed)

[22] Section 36C

Insert after section 36B:

36C Notice of certain decisions required to be published on relevant website

- (1) This section applies to any decision by the Authority or the Secretary under the gaming and liquor legislation that is prescribed by the regulations for the purposes of this section.
- (2) As soon as practicable after a decision to which this section applies is made, notice of the decision is to be published:
 - (a) in the case of a decision by the Authority—on the website of the Authority,
or
 - (b) in the case of a decision by the Secretary—on the website of the

Department.

- (3) The notice is to include:
 - (a) a statement of the reasons for the decision, and
 - (b) details of any penalty or sanction imposed, or any remedial action taken, in relation to the decision.
- (4) The statement of reasons is to include the following:
 - (a) the findings on material questions of fact, referring to the evidence or other material on which those findings were based,
 - (b) the decision-maker's understanding of the applicable law,
 - (c) the reasoning processes that led the decision-maker to the conclusions that were made.

[23]-[27] (Repealed)

Schedule 3 Amendment of other legislation

3.1 Gaming and Liquor Administration Regulation 2008

[1] (Repealed)

[2] Clauses 6 and 7

Insert after clause 5:

6 Decisions by Authority or Secretary required to be published

For the purposes of section 36C of the Act, the following decisions are prescribed:

- (a) a decision by the Authority under section 36A of the Act in relation to a reviewable decision within the meaning of that section,
- (b) a decision by the Secretary under section 81 of the *Liquor Act 2007*,
- (c) a decision by the Authority under section 82 or 84 of the *Liquor Act 2007*,
- (d) a decision by the Authority under section 141 of the *Liquor Act 2007*,
- (e) a decision by the Secretary under section 144D (2) of the *Liquor Act 2007*,
- (f) a decision by the Authority under section 144D (3) of the *Liquor Act 2007*,
- (g) a decision by the Authority under section 144I of the *Liquor Act 2007*,

- (h) a decision by the Authority under section 154 of the *Liquor Act 2007*,
- (i) any decision by the Authority under the *Liquor Act 2007* relating to the granting of a licence, authorisation or approval to which a relevant application (within the meaning of section 48 (2) of that Act) relates, but only if the relevant application is required to be accompanied by a category B CIS under clause 10 of the *Liquor Regulation 2008*.

7 Penalty notices

For the purposes of section 46 of the Act, an offence under section 34 (1) or (4) of the Act is prescribed as an offence for which a penalty notice may be issued and the prescribed penalty for any such offence is \$1,100.

[3] (Repealed)

3.2 Liquor Regulation 2008

[1]-[10] (Repealed)

[11] Clause 12A

Insert after clause 12:

12A Reasons for decisions relating to certain applications requiring category A CIS

(1) In this clause:

interested party, in relation to a relevant application, means:

- (a) a person or body referred to in clause 11 (2) who is required to be consulted under that clause, and
- (b) any person who has made a submission under clause 12.

relevant application means an application of the kind referred to in clause 10 (2) (e).

Note—

In the case of applications that are required to be accompanied by a category B CIS, see the regulations made under section 36C of the *Gaming and Liquor Administration Act 2007*.

(2) If the Authority makes a decision in relation to a relevant application, the applicant or any interested party may request the Authority to provide a statement in writing of the reasons for the decision.

(3) The Authority may refuse to provide a statement of reasons to an interested

party if:

- (a) the request is made later than 28 days after the decision is made, or
- (b) in the case of a person who has made a submission under clause 12—the Authority is of the opinion that the person’s submission was trivial or vexatious.

[12] (Repealed)

[13] Clause 19 On-premises licence—authorisations allowing liquor to be sold without another product or service

Omit clause 19 (1) (b) and (d).

[14] (Repealed)

[15] Clause 23 Notice relating to industry shows and producers’ markets or fairs

Omit “a wine” wherever occurring. Insert instead “an industry”.

[16] Clause 23 (2)

Omit “the wine” wherever occurring. Insert instead “the industry”.

[17] Clause 24 Requirements relating to producers’ markets or fairs

Omit “farmers or primary producers” from clause 24 (a). Insert instead “stall holders”.

[18] Clause 24 (c)

Omit the paragraph.

[19] (Repealed)

[20] Clause 51 Drinking water to be available free of charge where liquor served

Omit “held by a licensed wine producer” from clause 51 (2).

[21] Clause 55 Existing off-licences for vigneron

Omit “a wine” from clause 55 (3) (b). Insert instead “an industry”.

[22] (Repealed)

[23] Clause 71A

Insert after clause 71:

71A Fee for endorsement by Authority of licence transfer under section 60A

of Act

For the purposes of section 60A (3) (b) of the Act, the following fees are prescribed:

- (a) \$350 in the case of a hotel licence (other than a former community liquor licence) or a packaged liquor licence,
- (b) \$50 in the case of a former community liquor licence,
- (c) \$50 for a limited licence,
- (d) \$200 for any other type of licence.

[24] Clause 72 Local liquor accords

Omit “draft”.

[25]-[27] (Repealed)

[28] Schedule 1, Part 3

Insert after the matter relating to applications under section 23 (5):

Application under section 46A to suspend licence or to vary or revoke licence suspension	Nil	\$200	\$200
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[29]-[31] (Repealed)

3.3

(Repealed)