



New South Wales

Liquor Amendment Bill 2014

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

This Bill is cognate with the *Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014*.

Overview of Bill

The object of this Bill is to amend the *Liquor Act 2007* (the *Principal Act*) and the *Liquor Regulation 2008* (the *Principal Regulation*):

- (a) to enable the regulations to declare areas to be prescribed precincts and to impose regulatory conditions on licensed premises within those precincts, and
- (b) to declare such an area in the Sydney CBD (to be called the Sydney CBD Entertainment precinct) and to impose such conditions on certain licensed premises in it, and
- (c) to extend the current freeze on the grant of hotel, club and certain other licences in respect of premises in the Kings Cross precinct and the Oxford Street–Darlinghurst precinct to the Sydney CBD Entertainment precinct and to make the freeze in the Kings Cross precinct, Oxford Street–Darlinghurst precinct and Sydney CBD Entertainment precinct extend to 2 years after the date of assent to the proposed Act, and
- (d) to enable periodic licence fees to be levied for licences under the Principal Act, and
- (e) to preclude bottle shops and other take-away of alcohol for consumption venues from trading anywhere in New South Wales after 10 pm, and
- (f) to suspend the operation of the Responsible Service of Alcohol online training course trial.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Liquor Act 2007 No 90

Schedule 1 [28] inserts proposed Division 4 into Part 6 (Miscellaneous offences and regulatory controls) of the Principal Act to achieve the object described in paragraph (a) of the Overview.

Proposed section 116C enables the regulations to declare land (other than land in the existing Kings Cross precinct) described in the regulations to be a prescribed precinct for the purposes of the Principal Act.

Proposed section 116I authorises the regulations to impose specific licence conditions relating to premises in a prescribed precinct. The conditions that may be prescribed include matters such as prohibiting or restricting the use of glass containers on licensed premises, excluding specified classes of persons from licensed premises and various measures relating to the responsible service of alcohol and public safety. Breach of such a condition may be prescribed as a prescribed offence for the purposes of 3 strike disciplinary action (**Schedule 1 [29]**).

Proposed sections 116D–116H enable the making of banning orders and make provision for an ID scanner system and patron ID scanning along the lines of provisions of the Principal Act making provision for these matters in the Kings Cross precinct. However, temporary banning orders will be able to be made both in the Kings Cross precinct and in a prescribed precinct to prohibit a person from entering or remaining in licensed premises not only in the precinct in which the orders are made but also in a specified adjacent precinct.

Schedule 1 [1], [2], [19], [22]–[27] and [29]–[32] make consequential amendments, including amendments to make provisions applicable in the Kings Cross precinct comparable to those to apply in a prescribed precinct (for example, failure to comply with a long-term banning order will incur a maximum penalty of 100 (instead of 50) penalty units).

Schedule 1 [10]–[13] amend the Principal Act and **Schedule 2 [16]** amends the Principal Regulation to achieve the object described in paragraph (c) of the Overview above.

Schedule 1 [18] inserts proposed Division 2A into Part 4 (Licensing procedures and related matters) of the Principal Act to achieve the object described in paragraph (d) of the Overview above.

Proposed section 58A provides that a periodic licence fee is payable for each licence. It applies while the licence is in force or under suspension. The periodic licence fee is payable in the amounts and on the due dates prescribed by the regulations under the Principal Act. The regulations may also deal with the time for payment of the fees (including payment of different elements of the fee at different times), penalties for late payment of the fees, the circumstances in which such a fee, or a proportion of such a fee, may be re-assessed, waived or refunded and information to be provided to the Director-General of the Department of Trade and Investment, Regional Infrastructure and Services (the *Director-General*) for the purpose of calculating such a fee. A periodic licence fee (or an element of a periodic licence fee) is to be determined by reference to matters including, but not limited to the following:

- (a) the location of the relevant licensed premises,
- (b) the trading hours of the licensed premises,
- (c) the patron capacity of the licensed premises,
- (d) offences committed at or in relation to the licensed premises,
- (e) compliance by the licensee with the requirements of the Principal Act or any other Act with respect to the licensed premises,
- (f) the number of packaged liquor licences held by the same person, or in which the same person (other than a financial institution) is interested in the business, or profits of the business, carried on under the licences, or both.

Proposed section 58B provides for a scheme of automatic suspension and cancellation of licences for late payment or non-payment of periodic licence fees. If the periodic licence fee payable for a licence has not been paid before the expiration of 28 days after the due date for payment, the licence is suspended. If, during the period of 28 days after the licence has been suspended, the periodic licence fee is paid, the suspension is lifted. However, if the periodic licence fee payable for the licence is not paid before the expiration of that 28 day period, the licence is cancelled.

Proposed section 58C provides for a scheme for the reinstatement of such cancelled licences.

Schedule 1 [15]–[17] make consequential amendments to enable a licensee to apply to the Director-General to impose conditions on a licence including, but not limited to, conditions prohibiting the sale or supply of liquor on the licensed premises before 10 am or after 11 pm (or both) and conditions restricting the trading hours of, and public access to the licensed premises.

Schedule 1 [3]–[9] and [14] amend the Principal Act to achieve the object described in paragraph (e) of the Overview above.

Schedule 1 [20] and [21] amend the Principal Act so that it will not be an offence under sections 103 and 104, respectively, to keep bar areas open for purposes permitted by the regulations (other than sale or supply of liquor) during shut down or cessation of service of alcohol periods or for a person to be in a bar during such a period.

Schedule 1 [33] enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [34] inserts savings and transitional provisions. **Proposed clause 47** provides for review of the lock out provisions and cessation of service at 3 am provisions proposed to be inserted in the Principal Regulation as soon as possible after the end of the period of 2 years following the date of assent to the proposed Act.

Schedule 1 [35] amends Schedule 4 to the Principal Act so that the lock out period under clause 3 of that Schedule applying to declared premises to which a level 1 licence relates will commence at 1.30 am (instead of 2 am).

Schedule 2 Amendment of Liquor Regulation 2008

Schedule 2 [15] and [17] amend the Principal Regulation to achieve the object described in paragraph (b) of the Overview above. **Proposed clause 53V** and **Schedule 1A** declare an area to be a prescribed precinct called the “Sydney CBD Entertainment precinct”. **Proposed Division 2 of Part 5B** sets out the special licence conditions applicable to licensed premises in the precinct. The special licence conditions require a “lock out” of patrons after 1.30 am and cessation of service of alcohol at 3 am on certain licensed premises. Provision is also made for the giving of exemptions.

Schedule 2 [2] inserts proposed clause 3A into the Principal Regulation to enable the Director-General to declare high risk day periods in respect of specified licensed premises. **Proposed clause 53X (4) (Schedule 2 [15])** enables provisions of Division 2 of proposed Part 5B to be applied to licensed premises to which they would otherwise not apply on such a day.

Schedule 2 [6] amends clause 49A of the Principal Regulation to achieve the object described in paragraph (f) of the Overview above.

Schedule 2 [1], [3]–[5] and [7]–[13] make consequential amendments and amendments to update provisions applicable to the Kings Cross precinct and to extend the new lock out provisions and cessation of liquor sales provisions to that precinct.

Schedule 2 [14] adds the names of the organisations “Brothers for Life” and “Outlaws” to the list of names set out in clause 53K of the Principal Regulation that if displayed by a person requires exclusion of the person from certain licensed premises.

Schedule 3 Other amendments

Schedule 3.1 amends the *Gaming and Liquor Administration Act 2007* to make a consequential amendment providing for review of decisions declaring premises to be a high risk venue under proposed section 116B of the Principal Act (**Schedule 1 [28]**).

Schedule 3.2 amends the *Gaming Machines Regulation 2010* to make a consequential amendment to enable approved gaming machines in a hotel to continue to be operated during the period after 3 am in which the Principal Act requires there to be a cessation of liquor sales.