

#### Explanatory note

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

#### Overview of Bill

The object of this Bill is to amend the Liquor Act 2007 as follows:

- (a) to clarify the trading hours that apply to hotels and certain licensed premises (such as restaurants) on Good Friday and Christmas Day,
- (b) to restrict the granting of extended trading authorisations for hotels and licensed public entertainment venues in relation to Good Friday and Christmas Day,
- (c) to enable cider, perry and mead producers, and beer and spirits producers, to sell their own products on their licensed premises directly to the public (ie cellar door sales),
- (d) to modify the way in which the Director-General of Communities NSW may deal with complaints about the disturbance caused by or in relation to licensed premises,
- (e) to make other amendments of a minor, administrative or consequential nature.

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The Bill also amends the Registered Clubs Act 1976 and the Casino, Liquor and Gaming Control Authority Act 2007:

- (a) to provide for persons to be admitted as temporary club members for a period of up to 7 consecutive days (or for a period of up to 30 consecutive days with the approval of the Casino, Liquor and Gaming Control Authority (the Authority)), and
- (b) to remove provisions restricting membership numbers for clubs, and
- (c) to make other minor amendments of an administrative or consequential nature.

#### 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 on the date of assent to the proposed Act.

#### Schedule 1 Amendment of Liquor Act 2007 No 90

#### Restricted trading days

Schedule 1 [5] makes it clear that a hotel may continue to trade in the early hours of a restricted trading day (ie from midnight to 5 am on that day) if that period of trading is authorised by an extended trading authorisation under the Act. At present, the Act provides that a hotel can only trade from noon to 10 pm on a restricted trading day, which would have the unintended consequence of preventing the hotel from using its late trading authorisation (if any) in continuation of the previous night. The existing requirement for hotels to provide meals with the service of liquor from noon to 10 pm on Christmas Day is not affected. Schedule 1 [4] also makes it clear that the restrictions on trading on Good Friday and Christmas Day do not apply in relation to the sale or supply of liquor to persons who are staying in accommodation at a hotel or to their guests.

Schedule 1 [6] makes similar provision in relation to on-premises licences (such as restaurants and public entertainment venues). Some of these licensed premises may have an authorisation for late trading at the start of a restricted trading day and the amendment makes it clear that any such late trading is not affected during the early hours of the restricted trading day. The amendment also makes it clear that a meal must be served at a table on the licensed premises at all other times while liquor is authorised to be sold on the premises on a restricted trading day. Schedule 1 [7] provides that the restrictions on the sale or supply of liquor on a restricted trading day do not apply in relation to persons who are staying in licensed accommodation premises. Schedule 1 [8] removes a provision that is obsolete because of the

amendment made by Schedule 1 [7].

Schedule 1 [19] provides that an extended trading authorisation may be granted in relation to an on-premises licence at certain times on a restricted trading day (subject to the requirement under section 25 (3) of the Act that a meal is also served).

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Schedule 1 [21] provides that an extended trading authorisation cannot be granted in relation to a hotel or a licensed public entertainment venue (other than a cinema or theatre) during certain times on or in relation to a restricted trading day (ie between 5 am and noon, between 10 pm and midnight and from midnight to 5 am on the day following a restricted trading day).

Producer/wholesaler licences

Schedule 1 [9]–[12] and [17] provide that licensees who carry on business as cider, perry or mead producers may, in a similar fashion to licensed wine producers, sell their own product directly to the public (ie cellar door sales) or at wine shows or producers' markets or fairs. Schedule 1 [23] makes it clear that drink on-premises authorisations under section 50 of the Act will be available for cider, perry or mead producers.

Schedule 1 [13]–[16] will enable brewers and distillers, regardless of where they are located, to sell their own product directly to the public and in any type of sealed container.

Disturbance complaints

Schedule 1 [29] provides that the Director-General of Communities NSW may deal with a complaint under section 79 of the Act (which relates to disturbances in or about licensed premises) by convening a conference or by inviting written submissions and deciding the matter without a conference. It is also made clear that the Director-General is not required to take any action in relation to a complaint or can take other action in relation to a complaint (an example of which might be to attempt to settle the matter otherwise than under the provisions of the Act). If a conference is convened, the parties are not entitled to be legally represented.

Schedule 1 [30] provides that the decisions that may be taken by the Director-General after dealing with a complaint about licensed premises include varying or revoking the conditions to which the licence is subject. Schedule 1 [31] provides that certain matters that the Director-General is required to take into consideration before making a decision (such as the order of occupancy between the licensed premises and the complainant) are relevant to any decision by the Director-General and not just the decision to impose conditions.

Miscellaneous

Schedule 1 [1] and [2] are consequential on a recent administrative changes order that provides for references to the Director of Liquor and Gaming to be construed as references to the Director-General of Communities NSW.

Schedule 1 [3] makes it clear that the secretary of a registered club is, in the case of a club that has only 2 sets of premises that are not remote from each other or have a small number of staff, taken to be the manager of the premises for the purposes of the Act.

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Schedule 1 [20] enables a hotel to be granted an extended trading authorisation from midnight to 5 am on a Monday in connection with a special occasion.

Schedule 1 [18] and [22] are consequential amendments.

Schedule 1 [24] enables the regulations to specifically provide exceptions to the requirement under section 55 of the Act to provide information in relation to persons

who are interested in the business conducted under a liquor licence.

Schedule 1 [25] provides that, in the case of a limited licence, incidents that occur between midnight and 3 am in or in relation to the licensed premises are required to be recorded in the incident register under section 56 of the Act.

Schedule 1 [26]–[28] provide for the owner of the business carried on under a liquor licence to apply to the Authority to take over as licensee if the licensee is no longer employed by the business owner.

Schedule 1 [32] will enable a licensee who is the owner of premises situated in a shopping centre, and who also owns all the other premises in the shopping centre, to lease the licensed premises to another person.

Schedule 1 [33] makes it clear that the requirement to notify the Authority if licensed premises cease to trade during a continuous period of more than 6 weeks does not apply in the case of a limited licence.

Schedule 1 [34] and [35] provide that a court may, on application, vary or revoke the conditions that it has imposed on a licence.

Schedule 1 [36] enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [37] preserves any extended trading hours that applied on a restricted trading day in relation to an existing on-premises licence under the former Liquor Act.

Schedule 1 [38] enables the Authority to determine social impact assessments that were pending under the former Liquor Act before its repeal and to deal with other transitional matters.

Schedule 1 [39] provides that the amendments made by the proposed Act in relation to disturbance complaints extend to existing complaints.

Schedule 2 Amendment of Registered Clubs Act

1976 No 31

Schedule 2 [1] and [4] remove provisions that place a limit on the number of members that a club must have. Schedule 2 [3] and [5] are consequential amendments.

Schedule 2 [2] removes the prohibition on a club providing catering services away from the club premises.

Schedule 2 [8] provides for persons to be admitted as temporary members of a club for a period of up to 7 consecutive days (or for a longer period of up to 30 consecutive days with the approval of the Authority). Schedule 2 [7] and [9] provide that a

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register must be kept of temporary members who are admitted for such an extended period (such a member is only required to sign in on the first occasion the person enters the club and not on each day of the temporary membership). Schedule 2 [6], [10] and [11] are consequential amendments.

Schedule 2 [12] updates a cross-reference relating to club amalgamations.

Schedule 2 [13] enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

Schedule 3 Amendment of Casino, Liquor and Gaming Control Authority Act 2007

No 91

Schedule 3 [1]–[3] replace references in the Act to the Director of Liquor and Gaming with references to the Director-General of Communities NSW.

Schedule 3 [4] updates a reference to those police officers who, along with the Commissioner of Police, are subject to certain restrictions as “key officials” under the gaming and liquor legislation.

Schedule 3 [5] provides that key officials within the meaning of the Act cannot be a

close associate of a person who is an applicant for, or the holder of, a gaming or liquor licence. An example of a close associate is someone who has a financial interest in the business of a licensee.

Schedule 3 [6] and [7] confer on police officers certain powers that may currently be exercised by the Authority or an inspector, such as the power to require the production of information or records, or to answer questions, in relation to matters arising under or in connection with the gaming and liquor legislation.

Schedule 3 [8] enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.