



New South Wales

# Liquor Amendment (Kings Cross Plan of Management) Bill 2012

## 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* and other legislation to implement the first stage of the Government's plan of management for the Kings Cross precinct. The measures in that plan to be implemented by this Bill include the following:

- (a) extending until 24 December 2015 the existing freeze on granting liquor licences and development consents, and various other liquor-related authorisations such as late trading, in relation to premises in the Kings Cross precinct,
- (b) expanding the boundaries of the Kings Cross precinct so as to cover a wider area than the area to which the freeze provisions currently apply,
- (c) excluding small venues in the Kings Cross precinct (ie venues that are restricted to no more than 60 patrons and on which gambling activities or take-away liquor sales are not permitted) from the operation of the freeze provisions,
- (d) authorising the regulations to impose specific licence conditions relating to premises in the Kings Cross precinct,

- (e) requiring all licensees, bar staff and security personnel in the Kings Cross precinct to obtain a responsible service of alcohol competency card by 1 March 2013 (such cards must be renewed every 5 years and include photo ID).

## 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 a day or days to be appointed by proclamation.

## Schedule 1 Amendment of Liquor Act 2007 No 90

**Schedule 1 [1] and [2]** define the *Kings Cross precinct* for the purposes of the *Liquor Act 2007 (the Act)*. The precinct will consist of the area currently set out in Schedule 2 to the Act (but which only has effect at present in relation to late trading by hotels on Sundays). The precinct as so defined will be wider than the Kings Cross precinct currently described in Schedule 5 to the Act (being one of the precincts in which the current liquor licence and development consent freeze operates). **Schedule 1 [4], [5], [7], [11] and [12]** are consequential amendments.

**Schedule 1 [3]** provides that the period of the liquor licence and development consent freeze for premises in the Kings Cross precinct will continue until 24 December 2015. The freeze period for other precincts described in Schedule 5 to the Act (namely the CBD South precinct and the Oxford Street, Darlinghurst precinct) is presently due to expire on 24 December 2012.

**Schedule 1 [6]** excludes small venues in the Kings Cross precinct from the operation of the freeze provision.

**Schedule 1 [8]** authorises the regulations to impose specific licence conditions relating to premises in the Kings Cross precinct. The conditions that may be prescribed by the regulations may (without limiting the matters to which they may relate) include matters such as restricting or prohibiting the use of glass containers on licensed premises, the exclusion of specified classes of persons from licensed premises and various measures relating to the responsible service of alcohol and public safety.

**Schedule 1 [9]** enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

**Schedule 1 [10]** contains provisions of a savings or transitional nature consequent on the enactment of the proposed Act. In particular, the operation of the licence and development consent freeze provisions will extend to applications relating to premises in the extended Kings Cross precinct but only if the application was made on or after 19 September 2012. Also, the existing *Kings Cross Precinct Liquor Accord* will be terminated as the measures imposed under that accord are intended to

be covered by the specific licence conditions to be imposed by the proposed regulations relating to the Kings Cross precinct.

## **Schedule 2      Amendment of Liquor Regulation 2008**

**Schedule 2 [1]** provides that licensees, bar staff and security personnel (ie bouncers or crowd controllers employed on or about licensed premises) in the Kings Cross precinct will need to successfully complete an approved RSA training course in order to renew their RSA competency cards. Such cards expire 5 years after they are issued.

**Schedule 2 [2], [5] and [7]** require licensees, bar staff and security personnel working in the Kings Cross precinct to hold a RSA competency card after 1 March 2013. This means that other existing certification of the completion of a RSA training course will no longer be sufficient after that date for licensees, bar staff and security personnel in the Kings Cross precinct. **Schedule 2 [4]** is a consequential amendment. **Schedule 2 [3] and [6]** will ensure that bar staff and security personnel cannot be permitted to work on or about licensed premises after 1 March 2013 in the Kings Cross precinct unless they hold a RSA competency card.

**Schedule 2 [8] and [9]** provide that the new offences relating to RSA competency cards in relation to the Kings Cross precinct may be dealt with by way of a penalty notice.

## **Schedule 3      Consequential amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103**

**Schedule 3** ensures that any future extension by regulation of the Kings Cross precinct for the purposes of the *Liquor Act 2007* will not affect the operation of section 148 of the *Law Enforcement (Powers and Responsibilities) Act 2002* which authorises the use by police officers of dogs for general drug detection without warrant in the existing area of that precinct.



First print



New South Wales

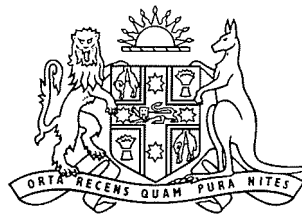
# Liquor Amendment (Kings Cross Plan of Management) Bill 2012

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New South Wales

# Liquor Amendment (Kings Cross Plan of Management) Bill 2012

No. , 2012

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## A Bill for

An Act to amend the *Liquor Act 2007* and other legislation to implement the first stage of a plan of management in relation to the Kings Cross precinct.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Liquor Amendment (Kings Cross Plan of Management) Act 2012</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6



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## Schedule 1      Amendment of Liquor Act 2007 No 90

### [1]    Section 4 Definitions

Insert in alphabetical order in section 4 (1):

*Kings Cross precinct*—see section 4A.

### [2]    Section 4A

Insert after section 4:

#### 4A    Meaning of “Kings Cross precinct”

- (1) For the purposes of this Act, the *Kings Cross precinct* is the area including and bounded by the streets or parts of streets specified in Schedule 2.
- (2) A reference in this Act to premises situated in the Kings Cross precinct includes a reference to premises:
  - (a) that front or back onto, or abut, any street or part of a street specified in Schedule 2, or
  - (b) that can be entered from any such street or part, or
  - (c) that the regulations declare to be situated in the Kings Cross precinct.
- (3) The regulations may amend Schedule 2 by adding or removing, or varying the description of, a street or part of a street.

### [3]    Section 47A Definitions

Insert “or, in the case of the Kings Cross precinct, ending on 24 December 2015” after “freeze period” in paragraph (b) of the definition of *freeze period* in section 47A (1).

### [4]    Section 47A (1), definition of “freeze precinct”

Insert “the Kings Cross precinct or” after “means”.

### [5]    Section 47A (2A)

Insert after section 47A (2):

- (2A) Subsection (2) does not apply in relation to the Kings Cross precinct.

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<b>[6] Section 47AA</b>	1
Insert after section 47A:	2
<b>47AA Exclusion of small venues</b>	3
(1) This Division does not apply to or in respect of subject premises:	4
(a) that comprise a small venue, and	5
(b) that would, as a result of any application under this Act or an application for development consent as referred to in section 47I, continue to comprise a small venue.	6 7 8
(2) For the purposes of this section, premises comprise a <i>small venue</i> if:	9 10
(a) not more than 60 patrons may be lawfully on the premises at any one time under the licence conditions for the premises or any relevant consent for the premises under the <i>Environmental Planning and Assessment Act 1979</i> , and	11 12 13 14 15
(b) there are no gaming machines or other facilities for gambling or betting on the premises, and	16 17
(c) the sale or supply of liquor for consumption away from the premises is not authorised by the licence for the premises, and	18 19 20
(d) the premises do not operate as a public entertainment venue, and	21 22
(e) the premises meet any other criteria prescribed by the regulations.	23 24
(3) The regulations may prescribe criteria for premises to be regarded as a small venue for the purposes of this section, including criteria relating to the location of the premises, to the trading hours of the premises or to any connection with or relationship to other premises in the area.	25 26 27 28 29
<b>[7] Section 49 Extended trading authorisation</b>	30
Omit section 49 (3) (b). Insert instead:	31
(b) situated in the Kings Cross precinct, or	32
(b1) situated in the area including and bounded by the parts of streets specified in Schedule 3 (Oxford Street—Darlinghurst precinct) or that fronts or backs onto, or abuts, any such specified part, or	33 34 35 36

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<b>[8] Part 6, Division 3</b>	1
Insert after Division 2:	2
<b>Division 3 Kings Cross precinct</b>	3
<b>116A Regulatory controls for licensed premises in Kings Cross precinct</b>	4
(1) The regulations may prescribe conditions to which a licence relating to premises situated in the Kings Cross precinct is subject.	5 6 7
(2) Without limiting the matters to which any such conditions may relate, the conditions prescribed by the regulations under this section may:	8 9 10
(a) prohibit or restrict the use of glass or other breakable containers on the licensed premises, or	11 12
(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	13 14 15 16
(c) prohibit or restrict the sale or supply of liquor on the licensed premises in certain circumstances or at certain times, or	17 18 19
(d) prohibit patrons from entering the licensed premises at certain times, or	20 21
(e) require the implementation of security or public safety measures in respect of the licensed premises, or	22 23
(f) require incident registers to be kept, or	24
(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	25 26 27 28
(h) require the licensee of any premises situated in the Kings Cross 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 Kings Cross precinct.	29 30 31 32 33
(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.	34 35 36

(4)	The regulations may authorise the Director-General to exempt the licensee of any premises situated in the Kings Cross 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.	1 2 3 4 5
(5)	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 Kings Cross precinct may be subject.	6 7 8
(6)	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.	9 10 11 12
<b>[9]</b>	<b>Schedule 1 Savings and transitional provisions</b>	13
	Insert at the end of clause 1 (1):	14
	<i>Liquor Amendment (Kings Cross Plan of Management) Act 2012</i>	15
<b>[10]</b>	<b>Schedule 1</b>	16
	Insert after Part 8:	17
	<b>Part 9 Provisions consequent on enactment of Liquor Amendment (Kings Cross Plan of Management) Act 2012</b>	18 19 20
<b>35</b>	<b>Definition</b>	21
	In this Part:	22
	<i>amending Act</i> means the <i>Liquor Amendment (Kings Cross Plan of Management) Act 2012</i> .	23 24
<b>36</b>	<b>Application of temporary licence and development consent freeze provisions to extended Kings Cross precinct</b>	25 26
(1)	In this clause:	27
	<i>extended Kings Cross precinct</i> means that part of the Kings Cross precinct that was not part of the Kings Cross precinct as described in Schedule 5 to this Act immediately before the amendment of that Schedule by the amending Act.	28 29 30 31
(2)	The amendments made to Division 1A of Part 4 by the amending Act extend to an application under this Act for any licence or other matter referred to in that Division or to an application for	32 33 34

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development consent under the <i>Environmental Planning and Assessment Act 1979</i> :	1
	2
(a) that relates to premises situated in the extended Kings Cross precinct, and	3
	4
(b) that was made on or after 19 September 2012 but not granted or otherwise determined as at the commencement of those amendments.	5
	6
	7
(3) However, the amendments made to Division 1A of Part 4 by the amending Act do not apply in relation to:	8
	9
(a) an application under this Act for a licence or other matter relating to premises situated in the extended Kings Cross precinct, or	10
	11
	12
(b) an application for development consent under the <i>Environmental Planning and Assessment Act 1979</i> relating to premises situated in the extended Kings Cross precinct, that was made before 19 September 2012.	13
	14
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	16
(4) A reference in this clause to an application for development consent or to the granting of development consent has the same meaning as it has in section 47I of this Act.	17
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	19
<b>37 Existing Kings Cross liquor accords</b>	20
(1) The <i>Kings Cross Precinct Liquor Accord</i> as in force under Division 2 of Part 8 of this Act immediately before the commencement of this clause is terminated and any licence conditions imposed under section 136E in respect of that precinct liquor accord cease to have effect on that commencement.	21
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(2) The <i>Kings Cross Accord</i> , being the local liquor accord of that name in force under Division 1 of Part 8 of this Act, is taken to include terms authorising any person or body participating in the accord 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 Kings Cross precinct.	26
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<b>38 Crown not liable for any compensation</b>	33
(1) Damages or compensation are not payable by or on behalf of the Crown:	34
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(a) because of the enactment of the amending Act or the operation of the amendments made by the amending Act (including the provisions of this Part), or	36
	37
	38
(b) for the consequences of that enactment or operation, or	39

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Liquor Amendment (Kings Cross Plan of Management) Bill 2012

Schedule 1      Amendment of Liquor Act 2007 No 90

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	(c) because of a representation or conduct of any kind about the sale or supply of liquor on any premises or kind of premises.	1 2 3
	(2) In this clause, <i>the Crown</i> means the Crown within the meaning of the <i>Crown Proceedings Act 1988</i> , and includes any employee or agent of the Crown.	4 5 6
<b>[11]</b>	<b>Schedule 2 Kings Cross precinct</b>	7
	Omit “(Section 49 (3))”. Insert instead “(Section 4A)”.	8
<b>[12]</b>	<b>Schedule 5 Freeze precincts</b>	9
	Omit the matter relating to the Kings Cross precinct.	10

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## Schedule 2      Amendment of Liquor Regulation 2008

### [1]    Clause 39C Expiry of recognised RSA certifications

Insert after clause 39C (3):

- (4)    Despite subclause (3), if a recognised competency card issued to a relevant person expires, the person may not be issued with a new recognised competency card unless the person has successfully completed an approved RSA training course in addition to the course in respect of which the expired recognised competency card was issued.

**Note.** This means that licensees, bar staff and security personnel in the Kings Cross precinct will have to undertake approved RSA training every 5 years.

- (5)    For the purposes of subclause (4), *relevant person* means any of the following:
- (a)    the licensee of licensed premises situated in the Kings Cross precinct,
  - (b)    a staff member of licensed premises situated in the Kings Cross precinct,
  - (c)    a person who is employed to carry on activities as a crowd controller or bouncer on or about licensed premises situated in the Kings Cross precinct.

### [2]    Clause 40 Obligations of licensee as to responsible service of alcohol

Insert after clause 40 (1):

- (1A)   The licensee of licensed premises situated in the Kings Cross precinct must not, on and from 1 March 2013:

- (a)    sell, supply or serve liquor by retail on the premises, or
- (b)    cause or permit liquor to be sold, supplied or served on the premises,

unless the licensee holds a current recognised competency card.

Maximum penalty: 50 penalty units.

### [3]    Clause 40 (2A)

Insert after clause 40 (2):

- (2A)   The licensee of licensed premises situated in the Kings Cross precinct must not, on and from 1 March 2013, cause or permit a staff member to sell, supply or serve liquor on the premises

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	unless the staff member holds a current recognised competency card.	1
		2
	Maximum penalty: 50 penalty units.	3
<b>[4]</b>	<b>Clause 40 (3)</b>	4
	Omit “Subclause (1) does”. Insert instead “Subclauses (1) and (1A) do”.	5
<b>[5]</b>	<b>Clause 41 Obligations of staff members as to responsible service of alcohol</b>	6
		7
	Insert at the end of the clause:	8
	(2) A staff member of licensed premises situated in the Kings Cross precinct must not, on and from 1 March 2013, sell, supply or serve liquor by retail on the premises unless the staff member holds a current recognised competency card.	9
		10
		11
		12
	Maximum penalty: 20 penalty units.	13
<b>[6]</b>	<b>Clause 42 Obligations in relation to persons carrying on certain security activities</b>	14
		15
	Insert after clause 42 (1):	16
	(1A) A person (including the licensee of licensed premises) must not employ or engage a person to carry on activities as a crowd controller or bouncer on or about licensed premises situated in the Kings Cross precinct unless the person holds a current recognised competency card.	17
		18
		19
		20
		21
	Maximum penalty: 50 penalty units.	22
<b>[7]</b>	<b>Clause 42 (3) and (4)</b>	23
	Insert after clause 42 (2):	24
	(3) A person must not, in the course of the person’s employment, carry on activities as a crowd controller or bouncer on or about licensed premises situated in the Kings Cross precinct unless the person holds a current recognised competency card.	25
		26
		27
		28
	Maximum penalty: 20 penalty units.	29
	(4) Subclauses (1A) and (3) take effect on and from 1 March 2013.	30



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<b>[8] Schedule 2 Penalty notice offences</b>	1
Insert in appropriate order in the matter relating to offences under the <i>Liquor Regulation 2008</i> :	2
	3
Clause 40 (1A)                      \$1,100	
Clause 40 (2A)                      \$1,100	
Clause 42 (1A)                      \$550	
Clause 42 (3)                        \$440	
<b>[9] Schedule 2</b>	4
Omit the matter relating to clause 41 of the <i>Liquor Regulation 2008</i> .	5
Insert instead:	6
Clause 41 (1)                        \$220	
Clause 41 (2)                        \$440	

<b>Schedule 3</b>	<b>Consequential amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103</b>	1
		2
		3
<b>Section 148</b>	<b>General drug detection with dogs in authorised places</b>	4
	Insert after section 148 (2):	5
	(3) A reference in this section to Schedule 2 to the <i>Liquor Act 2007</i> is a reference to that Schedule as in force on the commencement of this subsection.	6
		7
		8