

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 1982*:

(a) to enable a new class of on-licence (referred to as a **small bar licence**) to be granted for premises where the predominant activity carried out is the sale or supply of liquor for consumption on the premises and where the number of patrons is limited to 120, and

(b) to replace the primary purpose test in relation to a licensed restaurant (namely that the premises must operate at all times as a restaurant) with a requirement that a licensed restaurant operates predominantly (but not exclusively) as a restaurant and tables and chairs are provided for at least 70% of its patrons.

The amendments relating to the granting of small bar licences are designed to allow low-impact venues to operate as licensed bars without having to operate as a business in respect of which the sale of liquor is ancillary to some other purpose or activity (which is the requirement that currently applies to other classes of on-licences).

The amendments relating to the basis on which restaurants can operate as licensed premises will allow liquor to be sold and consumed in a restaurant without patrons necessarily having to consume a meal. As a consequence, it will no longer be necessary for restaurants to have a dine-or-drink authority to be able to sell liquor to patrons who are not actually consuming (or intending to consume) a meal.

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.

Clause 3 is a formal provision that gives effect to the amendments to the *Liquor Act 1982* set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Amendments relating to small bars

Schedule 1 [3] enables the Licensing Court to grant a small bar licence that authorises the licensee to sell liquor for consumption on the premises only. **Schedule 1 [2]** defines the new class of on-licence and **Schedule 1 [4]** distinguishes small bar licences from other existing classes of on-licences (eg those that relate to restaurants, theatres or cinemas or that authorise the sale of liquor at functions).

Schedule 1 [6] specifies certain requirements that will apply to small bar licences. The predominant activity carried out on the licensed premises must be the sale or supply of liquor for consumption on the premises. This requirement does not prevent other activities from being carried out on the premises, such as the provision of entertainment or food, so long as the premises operate predominantly as a place where people go to have a drink. Another special requirement for small bars is that they are restricted to a maximum of 120 patrons. **Schedule 1 [5]** provides that a contravention of these requirements is a breach of the conditions of the small bar licence.

Schedule 1 [14] specifies the general trading hours for small bars and enables these trading hours to be varied by the court in any particular case. An application for variation of trading hours for a small bar will need to be advertised under the regulations and local councils and the police will be able to apply for the revocation of any variation of trading hours that has been granted by the court. **Schedule 1 [20]** provides that the fee for a variation of the trading hours for a small bar is \$100.

Schedule 1 [18] provides that the court must not grant an application for a small bar

licence unless the premises have proper facilities to operate as a licensed bar and have sufficient sanitary facilities (eg toilets). The sanitary facilities may be located away from the licensed premises in certain circumstances. **Schedule 1 [24]** makes it clear that any sanitary facilities for a small bar that are located away from the licensed premises are, when it comes to law enforcement officers exercising their power to enter and inspect licensed premises, taken to be part of the licensed premises concerned. **Schedule 1 [30]** enables regulations to be made in relation to the sanitary facilities that are required to be provided for small bars.

Schedule 1 [19] provides that the fee for the grant of a small bar licence by the court is \$500.

Amendments relating to licensed restaurants

At present under the Act, it is a condition of a restaurant licence that the primary purpose of the premises is to be a restaurant. Accordingly, licensed restaurants (even those with a dine-or-drink authority) must at all times be operated consistently with this primary purpose. As a result, licensed restaurants generally cannot sell or supply liquor except with, or ancillary to, a meal consumed at a table.

Schedule 1 [7] replaces the primary purpose test for restaurants with a requirement that the predominant activity carried out on the licensed premises must be the preparation and serving of meals. Another new requirement for licensed restaurants will be that tables and chairs must be provided for at least 70% of the restaurant's patrons. As a result of these changes, licensed restaurants will no longer require the authority conferred by a dine-or-drink authority in order to sell or supply liquor to patrons who are not eating (or intending to eat) a meal. Accordingly, the amendments made by **Schedule 1 [8]–[12], [15]–[17], [21], [22], [25]–[29] and [31]** remove any connection under the Act between restaurant licences and dine-or-drink authorities, as well as removing various provisions relating to the primary purpose test for restaurants. Dine-or-drink authorities will continue to be relevant only in the case of nightclub licences.

Schedule 1 [13] repeals section 23AE of the Act which currently allows a person in a restaurant to consume liquor away from a table so long as there is a seat at a table for the person. The section will be redundant once licensed restaurants are no longer required to operate exclusively as places where people are required to eat. For the same reason, **Schedule 1 [23]** repeals section 88 of the Act which currently provides for an authorisation to sell or supply liquor in the reception area of a licensed restaurant.

Schedule 1 [1] removes definitions that are no longer required as a result of the above amendments.

Schedule 1 [32] makes it clear that the amendments made by the proposed Act extend to existing restaurant licences and to pending restaurant licence applications.