

## Overview of Bill

The object of this Bill is to establish a 3 strikes disciplinary system in respect of liquor licences for venues at which multiple breaches of the *Liquor Act 2007* are alleged to have occurred.

## 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 [3]** inserts a new Part into the *Liquor Act 2007* (the *Principal Act*) that sets out a 3 strikes disciplinary system.

**Proposed section 144A** makes it clear that the proposed Part operates alongside Part 9 (Disciplinary action) of the Principal Act and does not affect the operation of that Part.

**Proposed section 144B** defines the terms *business owner* (the person who owns the business carried on under the liquor licence), *prescribed offence* (certain specified offences under the Principal Act or offences under the Principal Act or the regulations that are prescribed by the regulations) and *relevant person* (the licensee, and manager of the licensed premises and any employees or agents of those persons) and sets out the circumstances in which a person is taken to be charged with a prescribed offence and the circumstances in which those charges are taken to be withdrawn or dismissed. The proposed section also sets out when offences occurring close together in time are taken to be a single offence and when an alleged offence is taken to cause a strike to be incurred.

**Proposed section 144C** sets out the consequences of 3 strikes being incurred in respect of a licence under the Principal Act (a *licence*). The licence is automatically cancelled (unless the licence is a club licence) and within 12 months after that cancellation, a person cannot be granted a licence in respect of the premises to which the cancelled licence related (the *subject premises*) if the applicant for the new licence or a close associate of the applicant was the business owner (or was a close associate of the business owner) under the cancelled licence. In addition, the licensee and the manager of the subject premises are permanently prohibited from being the licensee or manager, or an employee or agent of the licensee or manager, of the subject premises. Each of those persons is also permanently prohibited from holding any other licence or being a manager of any other licensed premises, unless the person was not the licensee or manager when the first 2 strikes were incurred, in which case the prohibition is for the period (if any) decided by the Director-General of the Department of Trade and Investment, Regional Infrastructure and Services (the *Director-General*). If a club licence incurs 3 strikes, the secretary of the club is permanently prohibited from being the secretary of the club or from being the manager of the club, or from being an employee or agent of the club or the manager of the club. The person is also permanently prohibited from being a secretary of any other club, holding any other licence or being a manager of any other licensed premises, unless the person was not the secretary when the first 2 strikes were incurred, in which case the prohibition is for the period (if any) decided by the Director-General.

**Proposed section 144D** permits the Director-General to impose certain conditions on a licence that has incurred one or 2 strikes. These range from requiring the use of plans of management and incident registers through to prohibiting the sale or supply of liquor on the licensed premises at all times for a period of up to 6 months.

**Proposed section 144E** sets out the circumstances in which a first strike is incurred in respect of a licence. A first strike is incurred if 3 prescribed offences are alleged to have occurred on 3 separate occasions within a 12-month period and one or more relevant persons are charged with those offences. Alternatively, a first strike may be

incurred if a relevant person is charged with a prescribed offence and the Director-General decides that a strike should be incurred because of the seriousness of the alleged offence or because of the seriousness of any harm that may have resulted from, or been associated with, the commission of the alleged offence.

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**Proposed section 144F** sets out the circumstances in which a second strike is incurred in respect of a licence. A second strike is incurred if relevant persons are charged with 2 or more prescribed offences that are alleged to have occurred within 12 months after a first strike coming into force and each of the new prescribed offences is the same type of offence (being an offence charged under the same provision) as an offence that caused the first strike. Alternatively, a strike is incurred if a relevant person is charged with committing a prescribed offence that is alleged to have occurred within 12 months after the first strike came into force and the Director-General decides that a strike should be incurred. The Director-General may decide that a strike should be incurred because of the seriousness of the alleged offence or because of the seriousness of any harm that may have resulted from, or been associated with, the commission of the alleged offence. The Director-General may also decide that a strike should be incurred if one or more other prescribed offences are alleged to have been committed by relevant persons since the first strike came into force and the Director-General is satisfied that a strike should be incurred in the circumstances.

**Proposed section 144G** sets out the circumstances in which a third strike is incurred in respect of a licence. A third strike may only be incurred if a relevant person is charged with a prescribed offence and the Director-General decides that a strike should be incurred in the circumstances. Before making such a decision the Director-General must be satisfied that since the date of the first alleged offence that caused the first strike, at least 6 charges for prescribed offences by one or more relevant persons have been proven by the payment of an amount under a penalty notice in respect of the offence or a finding of guilt (whether or not this finding of guilt has proceeded to conviction). However, if a strike has been imposed in respect of a single charge because of the seriousness of the alleged offence or its harm, the charge for that offence if proven counts as 3 charges towards that required total of 6.

**Proposed section 144H** sets out when strikes are in force with respect to a licence and makes it clear that a strike can only cease to be in force when the Director-General decides. A strike does not automatically cease to be in force even if all of the charges that caused the strike to be incurred are withdrawn or dismissed.

**Proposed section 144I** sets out the matters that must be taken into account when the Director-General makes a decision under the proposed Part. It also requires the Director-General to notify the licensee, manager and certain other persons of any decision along with reasons for the decision and information about rights to have the decision reviewed.

**Proposed section 144J** provides for reviews of decision of the Director-General by the Administrative Decisions Tribunal. An application for such a review does not operate to stay any decision of the Director-General unless the Administrative Decisions Tribunal otherwise directs.

**Schedule 1 [6]** provides that the proposed Part does not apply to offences occurring before the commencement of that Part.

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**Schedule 1 [4]** makes a consequential amendment.

**Schedule 1 [1], [2] and [7]** update references to Departments.

**Schedule 1 [5]** permits the Governor to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act.