

LIQUOR AMENDMENT (24-HOUR ECONOMY) BILL 2020

Schedule of the amendments referred to in the Legislative Council's message of 12 November 2020.

No. 1 **OPP No. 1 [c2020-170A]**

Page 2, clause 1, line 3. Omit "24-hour". Insert instead "Night-time".

No. 2 **GOVT No. 1 [c2020-191G]**

Page 2, clause 2, line 5. Omit all words on that line. Insert instead—

- (1) Subject to subsections 2 and 3, this Act commences on a day or days to be appointed by proclamation.
- (2) The following provisions commence on 1 December 2021—
 - (a) Schedule 3.1[5] and [6],
 - (b) Schedule 3.1[7] to the extent it inserts proposed sections 114P and 114Q,
 - (c) Schedule 3.2[2] to the extent it inserts the entry relating to section 114P(1).
- (3) Schedule 2, other than Schedule 2.1[2] and 2.2[1], commences on the date of assent to this Act.
- (4) Schedule 3.1[7], to the extent it inserts section 114HA, commences on 1 June 2022.

No. 3 **OPP No. 2 [c2020-170A]**

Page 20, Schedule 1.1[11] (proposed Schedule 1, Part 16), line 2. Omit "**24-hour**". Insert instead "**Night-time**".

No. 4 **OPP No. 3 [c2020-170A]**

Page 20, Schedule 1.1[11] (proposed Schedule 1, clause 62), line 5. Omit "*24-hour*". Insert instead "*Night-time*".

No. 5 **OPP No. 1 [c2020-173L]**

Page 20, Schedule 1.2. Insert after line 28—

[1A] Clause 8A

Insert after clause 8—

8A Review

- (1) The Minister must conduct a review of the effectiveness of the reduction of fees under clauses 10(2)(c), 12(3A)(c), 13(3) and 14(3A) and the extension of trading hours for dedicated live music and performance venues, including—
 - (a) whether the reduction in fees and extension of trading hours has led to an increase in live music performances or other arts and cultural events on licensed premises, and
 - (b) the impact the reduction in fees and extension of trading hours has had on employment at licensed premises and in the live music performance industry and arts and cultural sectors.
- (2) The Minister must, by 31 March 2025, give a report about the review to the Presiding Officer of each House of Parliament.

- (3) A copy of a report given to the Presiding Officer of a House of Parliament under subclause (2) must be laid before the House within 5 sitting days of the House after it is received by the Presiding Officer.
- (4) This clause is repealed on 30 April 2025.

No. 6 **OPP No. 2 [c2020-173L] [as amended by OPP Nos 1-2 on c2020-236]**

Page 20, Schedule 1.2[2] (proposed clause 10(2)(b)), line 39. Omit “10%.”. Insert instead—

- 10%, or
- (c) for dedicated live music and performance venues—by 80%.
- (3) Subclause (2)(c) ceases to have effect on 31 December 2024.
- (4) Subclauses (2)(c) and (3) and this subclause are repealed on 30 April 2025.

No. 7 **OPP No. 3 [c2020-173L]**

Page 21, Schedule 1.2, line 39. Omit “10%.”. Insert instead—

- 10%, or
- (c) for dedicated live music and performance venues—by 80%.

[9A] Clause 12(6)–(8)

Insert after clause 12(5)—

- (6) However, subclause (2)(c) does not apply if, in the Secretary’s opinion, the licensed premises do not have a market orientation towards live performances, the arts or cultural events and endeavours.
- (7) Subclause (3A)(c) ceases to have effect on 31 December 2024.
- (8) Subclauses (3A)(c), (6) and (7) and this subclause are repealed on 30 April 2025.

No. 8 **GOVT No. 2 [c2020-191G]**

Page 26, Schedule 2.2[1], line 3. Omit all words on that line. Insert instead—

Omit the clause.

[1A] Clauses 123A and 123B

Insert after clause 123—

No. 9 **GOVT No. 3 [c2020-191G]**

Page 26, Schedule 2.2[1], line 4. Omit “**123**”. Insert instead “**123A**”.

No. 10 **OPP No. 1 [c2020-235A]**

Page 26, Schedule 2.2[1], proposed clause 123. Omit “dedicated” from clause 123(c). Insert instead “excluded”.

No. 11 **OPP No. 4 [c2020-173L]**

Page 26, Schedule 2.2[1] (proposed clause 123), lines 17–22. Omit all words on those lines.

No. 12 **OPP No. 2 [c2020-235A]**

Page 26, Schedule 2.2[1], proposed clause 123. Insert at the end of the clause—

- (2) In this clause—
 - excluded live music and performance venue*—
 - (a) means a music hall, concert hall, dance hall or other licensed premises or space with a market orientation towards live music, live performances or creative or cultural uses, but
 - (b) does not include premises that do not provide significant

employment for musicians, performers or artists.

No. 13 **GOVT No. 4 [c2020-191G]**

Page 26, Schedule 2.2[1], line 23. Omit “123A”. Insert instead “123B”.

No. 14 **GOVT No. 5 [c2020-191G]**

Page 27, Schedule 3.1[5], line 29. Omit “114Q”. Insert instead “114P”.

No. 15 **GOVT No. 6 [c2020-191G]**

Page 27, Schedule 3.1[6], line 36. Omit “114Q”. Insert instead “114P”.

No. 16 **GRNS No. 3 [c2020-154Q]**

Page 28, Schedule 3.1. Insert after line 34—

114HA Age to be verified when agreement made for same day delivery

- (1) A same day delivery provider must, at the time the agreement for the same day liquor delivery is entered into—
 - (a) use an accredited identity service provider to verify the person entering into the agreement is at least 18 years of age if it is the first time the person has entered into an agreement with the provider, or
 - (b) use another process, that meets at least the minimum standard prescribed by the regulations, to verify the person’s age.

Maximum penalty—50 penalty units.

- (2) For a second or subsequent occasion on which a person intends to enter into an agreement with a same day delivery provider for the delivery of liquor, the provider must, before entering into the agreement, require the person to undergo a form of authentication prescribed by the regulations.

Maximum penalty—50 penalty units.

- (3) In this section—

accredited identity service provider means an identity service provider who has been accredited under the Trusted Digital Identity Framework published by the Digital Transformation Agency on behalf of the Commonwealth.

No. 17 **OPP No. 1 [c2020-200A]**

Page 29, Schedule 3.1[7], proposed section 114J, line 2. Omit “same day”. Insert instead “liquor”.

No. 18 **OPP No. 1 [c2020-214C]**

Page 29, Schedule 3.1, proposed section 114J. Insert the following after line 4—

- (1A) It is a defence to a prosecution under subsection (1) for the person who delivered the liquor if it is proved that at the time of the alleged offence the person did not know, and could not reasonably be expected to have known, that the person was delivering liquor.

Example. A courier delivers a package on behalf of an interstate retailer and is unaware the delivery includes liquor.

No. 19 **OPP No. 2 [c2020-200A]**

Page 29, Schedule 3.1[7], proposed section 114J. Insert after line 4—

- (2) In this section—
liquor delivery means—

- (a) a same day delivery, or
- (b) another delivery of packaged liquor, under a commercial arrangement, to a person in New South Wales after it is purchased by retail, irrespective of the State or Territory in which the sale is made.

No. 20 GOVT No. 7 [c2020-191G]

Page 29, Schedule 3.1[7], proposed section 114L, line 28. Omit “5 am”. Insert instead “9 am”.

No. 21 GOVT No. 1 [c2020-213A]

Page 29, Schedule 3.1[7], lines 28–30. Omit all words from ", or" to "made".

No. 22 GOVT No. 8 [c2020-191G]

Page 31, Schedule 3.1[7], proposed section 114P. Insert after line 25—

- (2A) For the purposes of subsection (1), training to ensure liquor delivered by same day delivery providers, and employees and agents, is supplied responsibly must include information that is part of a training program that—
 - (a) is developed and approved by the Secretary and published on a publicly accessible Government website, and
 - (b) complies with any minimum requirements for the training prescribed by the regulations under subsection (3)(a).

No. 23 GOVT No. 9 [c2020-191G]

Page 31, Schedule 3.1[7], proposed section 114P. Insert after line 29—

- (a1) requirements about testing knowledge of information that is part of the training, and

No. 24 GOVT No. 10 [c2020-191G]

Page 31, Schedule 3.1[7], proposed section 114P, lines 31 and 32. Omit “, including information that may be used by other persons to conduct the training”.

No. 25 OPP No. 5 [c2020-197]

Page 32, Schedule 3.1[7], proposed section 114R, lines 3–13. Omit all words on those lines. Insert instead—

114R Review of regulation of liquor deliveries

- (1) The Minister is to review the operation of this Act in relation to the following—
 - (a) same day deliveries,
 - (b) other liquor deliveries,
 - (c) the requirement to provide evidence of age and identity for same day deliveries and other liquor deliveries.
- (2) The review under subsection (1)(a) must include consideration of whether—
 - (a) the policy objectives of the Act in relation to same day deliveries, including rapid delivery, remain valid, and
 - (b) the terms of this Division remain appropriate for securing the objectives.
- (3) The review under subsection (1)(b) must include consideration of—
 - (a) emerging trends and technologies relevant to liquor deliveries that are not same day deliveries, and
 - (b) any additional harm minimisation measures that may be appropriate

- for the liquor deliveries, and
- (c) the use of direct and social media marketing and the collection of consumer data to target vulnerable communities.
- (4) The review under subsection (1)(c) must include consideration of whether additional evidence of age requirements are needed for liquor deliveries that are not same day deliveries.
- (5) A review under this section is to be undertaken as soon as practicable after—
 - (a) for a review under subsection (1)(a) and (b)—2 years after the commencement of this section, and
 - (b) for a review under subsection (1)(c)—1 year after the commencement of this section.
- (6) A report on the outcome of a review under this section is to be tabled in each House of Parliament within—
 - (a) for a review under subsection (1)(a) and (b)—6 months after the end of the period of 2 years, and
 - (b) for a review under subsection (1)(c)—6 months after the end of the period of 1 year.

No. 26 OPP No. 6 [c2020-197]

Page 32, Schedule 3.1[8]. Insert after line 22—

- (f4) matters relating to the recording and reporting of data about alcohol sales or deliveries by same day delivery providers, including, for example, requirements relating to—
 - (i) the type of records to be kept, and
 - (ii) the frequency with which providers must provide reports,

No. 27 GOVT No. 11 [c2020-191G]

Page 33, Schedule 3.2[1], proposed clause 107G. Insert after line 23—

- (2) For the purposes of section 114P(3)(a1), the training must require a same day delivery provider, employee or agent to—
 - (a) complete a test, approved by the Secretary, that demonstrates the provider's, employee's or agent's knowledge of the information that is part of the training, and
 - (b) register the provider's, employee's or agent's completion of the training and test on an online system approved by the Secretary.

No. 28 GOVT No. 2 [c2020-213A]

Page 33, Schedule 3.2[2], after line 25, entry for Section 114P(1). Omit "\$550". Insert instead "\$1,100".

No. 29 GOVT No. 1 [c2020-202]

Page 33, Schedule 3.2[2]. Insert after the entry for section 114P(1)—

Section 117(5B) \$1,100

No. 30 GOVT No. 1 [c2020-199A]

Page 34, Schedule 4.1. Insert after line 3—

[1AA] Section 3 Objects of Act

Insert “, and the operation of licensed premises,” after “consumption of liquor” in section 3(2)(c).

[1AB] Section 3(2)(c)

Omit “life.”. Insert instead—

life,

- (d) the need to support employment and other opportunities in the—
 - (i) live music industry, and
 - (ii) arts, tourism, community and cultural sectors.

No. 31 OPP No. 5 [c2020-173L]

Page 34, Schedule 4.1[1]. Insert after line 5—

dedicated live music and performance venue—see section 3A.

No. 32 OPP No. 6 [c2020-173L] [as amended by OPP No. 2 on c2020-214C]

Page 34, Schedule 4.1. Insert after line 6—

[1A] Section 3A

Insert after section 3—

3A Meaning of dedicated live music and performance venue

For the purposes of this Act, a *dedicated live music and performance venue* means licensed premises that are on a list of live music and performance venues—

- (a) kept by the Secretary for the purposes of this section in accordance with the regulations, and
- (b) published on an appropriate government website.

No. 33 OPP No. 1 [c2020-178E]

Page 34. Insert after line 10—

[3A] Section 12A

Insert after section 12—

12A Extended hours for dedicated live music and performance venues

- (1) This section applies to dedicated live music and performance venues located in—
 - (a) the area for which the City of Sydney is constituted, or
 - (b) a special entertainment precinct.
- (2) The trading period for licensed premises to which this section applies is extended by 30 minutes after the time that would otherwise apply to the premises under—
 - (a) section 12, or
 - (b) an extended trading authorisation that applies to the premises.
- (3) The extension under subsection (2) is subject to the condition that, on any night of the week on which the licensed premises trade for the additional 30 minutes, a live music performance or other arts and cultural event of at least 45 minutes duration must be held or provided after 8 pm on the premises.
- (4) To avoid any doubt, to the extent of any inconsistency between this section and a relevant condition that applies to the licensed premises, this section prevails.
- (5) In this section—
dedicated live music and performance venue has the meaning prescribed by the regulations.

relevant condition means a condition of a type referred to in section 116I(2)(c) and (2)(d).

special entertainment precinct has the same meaning as in the *Local Government Act 1993*, section 202.

No. 34 **GOVT No. 1 [c2020-227A]**

Page 34. Insert after line 10—

12B Records to be kept about extended hours for dedicated live music and performance venues

- (1) If the trading period for licensed premises is extended under section 12A, it is a condition of the licence that the licensee keep a record of each live music performance or other arts and cultural event held or provided on the licensed premises.
- (2) A record under subsection (1) is to be kept in the form and way approved by the Secretary.
- (3) The licensee of licensed premises must, if asked by a police officer or inspector—
 - (a) make a record kept under subsection (1) available for inspection by a police officer or inspector, and
 - (b) allow a police officer or inspector to take copies of the record.

No. 35 **GRNS No. 1 [c2020-229A]**

Page 34, Schedule 4.1. Insert after line 16—

[4A] Section 17 Hotel licence—miscellaneous conditions

Insert after section 17(2)—

- (2A) To avoid doubt, subsection (2)—
 - (a) does not prevent a hotel being closed to the general public because it has been booked for a private function including, for example, a wedding or party, but
 - (b) does not allow it to be closed to the general public for use as a members-only premises or club, or for other exclusive use on a recurrent basis.

No. 36 **GRN No. 1 [c2020-159E]**

Page 34. Insert after line 22—

[5A] Section 20A Authorisation conferred by small bar licence

Omit “retail on the licensed premises for consumption on the licensed premises only.”

Insert instead—

- retail on the licensed premises—
- (a) for consumption on the premises, or
 - (b) as house-made cocktails in sealed containers for consumption away from the premises.
- (2) In this section—
- house-made cocktails**, in relation to licensed premises—
- (a) means alcoholic beverages that are mixed on the licensed

- premises, but
- (b) does not include cocktails that are pre-mixed away from the licensed premises for the licensee to sell by retail.

No. 37 **GRN No. 1 [c2020-161]**

Page 34, Schedule 4.1. Insert after line 29—

[7A] Section 20B(3) and (4)

Omit the subsections. Insert instead—

- (3) Despite subsection (1), the times when liquor may be sold for consumption on the licensed premises for a small bar on a restricted trading day are—
 - (a) between midnight and 5 am, if authorised by an extended trading authorisation, and
 - (b) between noon and 10 pm.

No. 38 **GRN No. 2 [c2020-159E]**

Page 34. Insert after line 29—

[7B] Section 20C Small bar licence—miscellaneous conditions

Insert after section 20C(2)—

- (2A) To avoid doubt, subsection (2)—
 - (a) does not prevent a small bar being closed to the general public because it has been booked for a private function including, for example, a wedding or party, but
 - (b) does not allow it to be closed to the general public for use as a members-only premises or club, or for other exclusive use on a recurrent basis.

No. 39 **GOVT No. 1 [c2020-190E]**

Page 34, Schedule 4.1. Insert before line 30—

[7A] Section 22 Primary purpose test

Insert after section 22(2)—

- (2A) To remove any doubt, subsection (2) applies in relation to—
 - (a) an on-premises licence that specifies the kind of business or activity carried out on the licensed premises, and
 - (b) an on-premises licence that specifies the kind of licensed premises to which the licence relates.

No. 40 **GOVT No. 2 [c2020-190E]**

Page 34, Schedule 4.1. Insert before line 30—

[7B] Section 23 On-premises licence must specify business/activity or kind of licensed premises

Insert after section 23(6)—

- (7) The regulations may provide for requirements in relation to the business or activity carried out on licensed premises that are a licensed restaurant.

No. 41 **GRNS No. 2 [c2020-229A]**

Page 34, Schedule 4.1. Insert after line 36—

[8A] Section 28 Certain licensed premises must be open to general public

Insert after section 28(2)—

- (2A) To avoid doubt, subsection (2)—
- (a) does not prevent a restaurant or public entertainment venue to which an on-premises licence applies being closed to the general public because it has been booked for a private function including, for example, a wedding or party, but
 - (b) does not allow it to be closed to the general public for use as a members-only premises or club, or for other exclusive use on a recurrent basis.

No. 42 OPP No. 7 [c2020-173L]

Page 35, Schedule 4.1. Insert after line 6—

[10A] Section 45 Decision of Authority in relation to licence applications

Insert after section 45(6)—

- (7) In deciding whether or not to grant a licence, the Authority must consider whether, if the licence were granted, it would provide employment in, or other opportunities for, any of the following—
- (a) the live music industry,
 - (b) the arts sector,
 - (c) the tourism sector,
 - (d) the community or cultural sector.

[10B] Section 48 Community impact

Omit “application.” from section 48(1)(b). Insert instead—
application, and

- (c) whether the granting of the application would provide employment in, or other opportunities for, any of the following—
 - (i) the live music industry,
 - (ii) the arts sector,
 - (iii) the tourism sector,
 - (iv) community or cultural sector.

No. 43 GOVT No. 3 [c2020-213A]

Page 35, Schedule 4.1. Insert after line 16—

[12A] Section 48(3B)(d)

Insert ", other than if the variation would result in trading on a regular basis at any time between 2 am and 5 am" after "small bar".

No. 44 OPP No. 8 [c2020-173L]

Page 36, Schedule 4.1[7], lines 22 and 23. Omit all words on those lines. Insert instead—

- (6) This section does not apply to a complaint if—
- (a) it is a complaint of a type prescribed by the regulations, and
 - (b) the local consent authority for the licensed premises has—
 - (i) a local plan to deal with complaints of that type, and
 - (ii) has, by written notice given to the Secretary, notified the

Secretary that it will be dealing with complaints of that type.

No. 45 **OPP No. 8 [c2020-197]**

Page 36, Schedule 4.1. Insert after line 23—

[17A] Section 117 Offences relating to sale or supply of liquor to minors

Insert after section 117(5A)—

- (5B) Despite subsection (4), a licensee or another person who is delivering packaged liquor on behalf of a licensee or other person that has sold the liquor by retail, irrespective of the State or Territory in which the sale is made, must not supply the packaged liquor to a minor.
Maximum penalty—100 penalty units or 12 months imprisonment or both.
- (5C) It is a defence to a prosecution under subsection (5B) if it is proved that—
- (a) the person to whom the liquor was sold or supplied was of or above the age of 14 years, and
 - (b) before the liquor was sold or supplied to the person the defendant was provided with an evidence of age document
 - (i) that may reasonably be accepted as applying to the person, and
 - (ii) proving that the person was of or above the age of 18 years.
- (5D) It is also a defence to a prosecution under subsection (5B) for the person who delivered the liquor if it is proved that at the time of the alleged offence the person did not know, and could not reasonably be expected to have known, that the person was delivering liquor.
Example. A courier delivers a package on behalf of an interstate retailer and is unaware the delivery includes liquor.

No. 46 **OPP No. 9 [c2020-173L]**

Page 36, Schedule 4.1. Insert before line 24—

[17A] Section 116B Interpretation

Insert after section 116B(4)—

- (4A) However, the Secretary, when designating premises as a high risk venue, must not take into account the presence of a dance floor or area ordinarily used by patrons for dancing.

No. 47 **OPP No. 11 [c2020-173L]**

Page 39, Schedule 4.1. Insert after line 13—

[26A] Section 163

Insert after section 162—

163 Reporting on licensing and planning alignment

- (1) The Parliament considers it a priority to—
- (a) streamline the process for obtaining development consents under the *Environmental Planning and Assessment Act 1979* and licences under this Act for proposed licensed premises, including providing a single, integrated application process under the *Environmental Planning and Assessment Act 1979* and

- this Act for licensed premises, and
- (b) develop further licensing incentives to encourage licensed premises to program live entertainment including—
 - (i) events at which one or more persons are engaged to play or perform live or pre-recorded music, and
 - (ii) performances at which the performers, or some of the performers, are present in person.
- (2) The Minister must, jointly with the Minister responsible for administering the Environmental Planning and Assessment Act 1979, establish a process to address Parliament’s priority as set out in subsection (1)(a).
 - (3) The Minister must also develop incentives, to address Parliament’s priority as set out in subsection (1)(b), including, for example, additional extended trading hours or reduced fees.
 - (4) The Minister must, within 6 months after the commencement of this section, give a report to the Presiding Officer of each House of Parliament about the Minister’s progress in addressing each of the priorities set out in subsection (1).
 - (5) A copy of a report given to the Presiding Officer of a House of Parliament under subsection (4) must be laid before the House within 5 sitting days of the House after it is received by the Presiding Officer.

No. 48 OPP No. 12 [c2020-173L] [as amended by OPP No. 3 on c2020-214C]

Page 39, Schedule 4.1. Insert before line 14—

[26B] Part 12

Insert after Part 11—

Part 12 Special provisions relating to COVID-19 pandemic

163 Purpose

- (1) The purpose of this Part is to introduce temporary measures during the period of the COVID-19 pandemic to allow local councils to encourage the use of outdoor space for outdoor dining and performance to assist with social distancing measures.
- (2) It is intended that this Part operate in addition to the *Roads Act 1993*, Part 9, Division 1, which also provides for the use of roads for food or drink premises.
- (3) However, to the extent of any inconsistency between this Part and the *Roads Act 1993*, Part 9, Division 1, this Part prevails during the period of the COVID-19 pandemic.

164 Definitions

In this Part—

area, for a local council, means the area for which the local council is constituted.

classified road has the same meaning as in the *Roads Act 1993*.

footway has the same meaning as in the *Roads Act 1993*.

local council means a council under the *Local Government Act 1993*.

prescribed period means the period—

- (a) starting on the commencement of this section, and

(b) ending on the day that is 12 months after the commencement. *public open space* has the same meaning as in the *Roads Act 1993*. *roads authority* has the same meaning as in the *Roads Act 1993*.

165 Local councils to have temporary powers to encourage use of outdoor space

- (1) During the prescribed period—
 - (a) a local council may decide, by notice published on its website—
 - (i) to temporarily allow the use of a footway or public open space associated with any of the following to be used as an outdoor dining area, extension of foyer space or a performance space—
 - (A) licensed premises or other lawful food and drink premises,
 - (B) entertainment, arts or cultural venue, or
 - (ii) to temporarily allow parking spaces within the local council's area to be used as an outdoor dining area, extension of foyer space or performance space, or
 - (iii) to temporarily close a road, for which it is the roads authority, for use as an outdoor dining area, extension of foyer space or performance space, or
 - (iv) to temporarily close a classified road, with the concurrence of Transport for NSW, for use as an outdoor dining area, extension of foyer space or performance space, or
 - (v) to temporarily vary a development consent or a development consent condition to allow outdoor performance, and
 - (b) if the council allows use of pathways, public open space, roads or other premises for a purpose mentioned in paragraph (a), the use is taken to be exempt development specified for the purposes of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
- (2) A local council may make a decision referred to in subsection (1) only if the council has—
 - (a) given the Minister at least 7 days notice that the council wants to trial outdoor dining and performance to assist with social distancing measures and invited the Minister to respond to the proposal, and
 - (b) given 7 days notice of its intention to make the decision—
 - (i) by publishing a notice about the proposed decision on the council's website, and
 - (ii) to the following persons—
 - (A) if the proposed decision relates to licensed premises—the Authority and the Commissioner of Police,
 - (B) if the proposed decision relates to a road for which the council is the roads authority—the Commissioner of Police and Transport for NSW,
 - (C) if the proposed decision relates to a classified road—the Commissioner of Police and

Transport for NSW, and Transport for NSW has agreed to the road closure.

- (3) A decision referred to in subsection (1)—
- (a) has effect subject to a provision of an Act, regulation or other instrument that provides for noise attenuation for licensed premises or other premises, and
 - (b) has effect for the purposes of sections 126 and 127 of the *Roads Act 1993* as if it were an approval granted under section 125 of that Act, and
 - (c) has effect despite any provision of the *Roads Act 1993*, the *Transport Administration Act 1988* or another Act, or a regulation or instrument made under an Act, that requires local councils to submit traffic management plans or consult with local traffic committees.

166 Repeal of Part

This Part is repealed at the beginning of the day that is 12 months after the day it commences.

No. 49 OPP No. 1 [c2020-196C]

Page 40, Schedule 4.1[27], proposed clause 70, line 26. Omit all words on that line. Insert instead—

- licensed premises,
- (d) a condition that restricts the performance of original music,
- (e) a condition that restricts a stage for live performers from facing a particular direction,
- (f) a condition that restricts decorations, including, for example, mirror balls, or lighting used by musicians,
- (g) a condition that prohibits live music, live entertainment or the amplification of a musical instrument at all times or across the entire licensed premises,
- (h) a condition that prohibits or restricts the presence or use of a dance floor or another area ordinarily used for dancing.

No. 50 GOVT No. 3 [c2020-190E]

Page 40, Schedule 4.1[27], proposed clause 70. Insert after line 28—

- (2A) However, despite subclause (2), the Secretary may impose a condition relating to noise abatement on a licence if—
- (a) the Secretary receives a written complaint from—
 - (i) an occupier of neighbouring premises of the licensed premises, or
 - (ii) the local consent authority for the licensed premises, or
 - (iii) the Commissioner of Police, and
 - (b) the Secretary is satisfied the quiet and good order of the neighbourhood of the licensed premises are being unduly disturbed as a result of the conditions mentioned in subclause (1) ceasing to have effect.
- (2B) Section 80 does not apply to a complaint referred to in subclause (2A)(a).

No. 51 GOVT No. 4 [c2020-190E]

Page 40, Schedule 4.1[27], proposed clause 70. Insert after line 32—

- (4) In this clause—
neighbouring premises has the meaning given by the regulations.

No. 52 OPP No. 2 [c2020-196C]

Page 40, Schedule 4.1[27], proposed clause 71. Insert after line 40—

- (2A) From the commencement of this clause, a live entertainment condition may not be imposed on a licence.
- (2B) However, subclause (2A) does not apply to a live entertainment condition relating to adult entertainment of a sexual nature.

No. 53 **OPP No. 3 [c2020-196C]**

Page 41, Schedule 4.1[27], proposed clause 71. Insert after line 4—

live entertainment condition means a condition referred to in clause 70(1).

No. 54 **OPP No. 13 [c2020-173L]**

Page 41, Schedule 4.2. Insert before line 6—

[1A] Clause 3 Definitions

Insert after clause 3(1)—

- (1A) For the purposes of this Regulation, references to *sound* and *noise* are taken to have the same meaning.

No. 55 **GOVT No. 4 [c2020-213A]**

Page 41, Schedule 4.2[3], lines 24 and 25. Omit all words on those lines.

No. 56 **GOVT No. 5 [c2020-190E]**

Page 43, Schedule 4.2. Insert after line 32—

[5A] Clause 44A

Insert after clause 44—

44A Neighbouring premises for live entertainment—Schedule 1 to the Act

For the purposes of the definition of *neighbouring premises* in clause 70(4) of Schedule 1 to the Act, neighbouring premises has the same meaning as in clause 20(1) of this Regulation.

No. 57 **OPP No. 4 [c2020-214C]**

Page 46, Schedule 4.2. Insert after line 39—

[19A] Clause 130AA

Insert before clause 130—

130AA Dedicated live music and performance venues

- (1) For the purposes of section 3A of the Act, the Secretary may include licensed premises on the list of live music and performance venues if the licensed premises—
 - (a) are a music hall, concert hall, dance hall or other space used primarily for the purpose of live music, live performances or creative or other cultural uses and are licensed under an on-premises licence for a public entertainment venue, or
 - (b) were used to host live music as part of the Great Southern Nights music event.

- (2) The Secretary may decide not to include licensed premises mentioned in subclause (1) on the list of live music and performance venues if the premises—
- (a) are premises for which the licensee —
 - (i) has been liable for compliance history risk loading under clause 11 within the last 2 assessment years, or
 - (ii) will be liable to pay compliance history risk loading in the next assessment year, or
 - (b) comprise a karaoke bar, or
 - (c) are premises that are used primarily to provide adult entertainment of a sexual nature.
- (3) The Secretary may, at any time, remove licensed premises from the list of live music and performance venues if the Secretary is satisfied—
- (a) the premises are, or have become, premises mentioned in subclause (2)(a)—(c), or
 - (b) the premises do not, or no longer, have a market orientation towards live music, live performances or other creative or cultural uses.
- (4) Before publishing a list of live music and performance venues that omits licensed premises that were previously included in the list, the Secretary must give the licensee or manager of the premises written notice that the licensed premises are to be removed from the list.
- (5) In this clause—

assessment year has the meaning given by clause 8.

Great Southern Nights music event means the NSW Government initiative, delivered by Destination NSW in partnership with the Australian Recording Industry Association, to stimulate the revival of the live music and entertainment sectors in the recovery phase of COVID-19.

Note. Information about the Great Southern Nights music event is available at www.greatsouthernights.com.au.

list of live music and performance venues means the list published by the Secretary under section 3A(b) of the Act.

No. 58 OPP No. 14 [c2020-173L]

Page 47, Schedule 4.2[20] (proposed section 130A), lines 1 and 3. Omit “noise” wherever occurring. Insert instead “sound”.

No. 59 OPP No. 15 [c2020-173L]

Page 47, Schedule 4. Insert after line 9—

4.2D Local Government Act 1993 No 30

[1] Chapter 8, Part 3

Insert after section 201—

Part 3 Special entertainment precincts

202 Special entertainment precinct

- (1) This section is about establishing a special entertainment precinct.
- (2) A *special entertainment precinct* is an area in which—

- (a) amplified music that is played in the area is regulated by or under a law other than the *Liquor Act 2007*, and
 - (b) requirements about noise attenuation apply to certain types of development in the area, and
 - (c) dedicated live music and performance venues are authorised to trade for an additional 30 minutes under the *Liquor Act 2007*, section 12A.
- (3) A council may establish a special entertainment precinct in its area by amending its local environmental plan to identify the special entertainment precinct.
- (4) A special entertainment precinct may consist of—
- (a) a single premises, or
 - (b) a precinct, streetscape or otherwise defined locality in the council's area.
- (5) If a council establishes a special entertainment precinct, the council must—
- (a) prepare a plan for regulating noise from amplified music from premises in the special entertainment precinct and publish it on the council's website, and
 - (b) notify the following persons about the special entertainment precinct including, for example, by notice published on its website or a notation on planning certificates for land in the precinct—
 - (i) residents living in the area,
 - (ii) persons moving into the area.
- (6) In this section—

dedicated live music and performances venue has the same meaning as in the *Liquor Act 2007*.

planning certificate means a certificate under section 10.7 of the *Environmental Planning and Assessment Act 1979*.

203 Minister's guidelines

- (1) The Minister may, by notice published on the Department's website, issue, adopt or vary guidelines about—
- (a) the establishment of special entertainment precincts, and
 - (b) the operation, revocation or suspension of special entertainment precincts.
- (2) A council must act in accordance with a guideline under subsection (1) in exercising its functions under this Part.

No. 60 OPP No. 1 [c2020-198]

Page 47, Schedule 4. Insert after line 9—

4.2A Environmental Planning and Assessment Act 1979 No 203

Section 1.4 Definitions

Omit from "(a) such" to "regulations" from the definition of *Building Code of Australia*. Insert instead—

- (a) the amendments made by the Board and prescribed by the regulations, and

- (b) the variations approved by the Board in relation to New South Wales and prescribed by the regulations, and
- (c) the variations prescribed by the regulations.

4.2B Environmental Planning and Assessment Regulation 2000

Clause 7 Building Code of Australia

Insert after clause 7(2)—

- (3) Also, the Code mentioned in subclause (1) is varied in relation to small live music or arts venues as follows—
 - (a) Volume One of the Code applies as if, in Schedule 3, paragraph (c)(iii) of the definition of Assembly building were omitted and replaced with—
 - (iii) a sports stadium, sporting or other club—
but not including a small live music or arts venue; or
 - (b) Volume One of the Code applies as if, in Schedule 3, after the definition of Sitework, the following definition were inserted—
small live music or arts venue means the whole or part of a Class 6 building that has a rise in storeys of no more than 2—
 - (a) in which live music or arts are provided to the public, and
 - (b) that has a floor area of not more than 300 square metres.
 - (c) Volume One of the Code applies as if, at the end of the definition of Class 6 in clause A6.6 the following were inserted—
A Class 6 building or part of a Class 6 building in which people assemble for entertainment remains a Class 6 building or part of a Class 6 building if it is a small live music or arts venue—see the definition of Assembly building in Volume One of the Code.

4.2C State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Part 2, Division 1 General Exempt Development Code

Insert after Subdivision 15AA—

Subdivision 15AB Entertainment associated with food and drink premises

2.30AC Specified development

Low impact performance of live music or arts is development specified for this code if it is not carried out in a residential zone.

2.30AD Specified development

- (1) The standards specified for this development are that the development—
 - (a) must be carried on inside a building, and

- (b) must not contravene an existing relevant condition of the most recent development consent, other than a complying development certificate, that applies to the premises,
 - (c) must not contravene the *Protection of the Environment Operations Act 1997*, and
 - (d) must not be primarily used for adult entertainment, including, for example, a strip club, and
 - (e) must not be carried on in connection with a proposed change of use of premises.
- (2) In this clause—

existing relevant condition means a condition relating to any of the following—

- (a) the number of persons permitted in the building,
- (b) hours of operation,
- (c) noise, other than a condition mentioned in the *Liquor Act 2017*, Schedule 1, clause 70(1),
- (d) car parking, vehicular movement and traffic generation,
- (e) loading management of waste,
- (f) landscaping.

4.2D Standard Instrument (Local Environmental Plans) Order 2006

Standard instrument, clause 1.2

Insert before clause 1.2(2)(a)—

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,

No. 61 GRNS No. 1 [c2020-243G]

Page 48. Insert after line 33—

Schedule 5A Amendment of Environmental Planning and Assessment Act 1979 No 203

Schedule 8 Special provisions

Insert before Part 4—

Part 1 Playing and performing music

1 Modifications involving playing and performing music

- (1) A council for a local government area may, by notice published on the council's website, modify development consents for licensed premises by declaring that all conditions of the development consents that are live entertainment conditions do not apply—
 - (a) in the local government area, or
 - (b) in a suburb in the local government area, or
 - (c) to a specified use of land in the local government area or a suburb.

- (2) Before publishing a notice under subclause (1), the council must—
 - (a) publish on the council’s website, and in other ways the council considers appropriate, a notice that—
 - (i) states the council proposes to modify the development consent, and
 - (ii) gives details of the conditions that will be affected by the modification, and
 - (iii) invites submissions from the community about the proposed modification within the period, not less than 14 days after the day the notice is published, stated in the notice, and
 - (b) consider any submissions received in accordance with the notice and the impact of the proposed modification on the community.
- (3) The notice is taken to have effect on the day the notice is published, or a later date specified by the notice.
- (4) A condition to which the notice relates ceases to have effect from the time the notice takes effect.
- (5) Section 4.55 does not apply to a modification under this clause.
- (6) In this clause—

live entertainment condition—

 - (a) means a condition mentioned in the Liquor Act 2007, Schedule 1, clause 70(1)(a)–(h), but
 - (b) does not include a condition relating to noise.

Schedule 5B Amendment of Standard Instrument (Local Environmental Plans) Order 2006

Standard instrument

Insert after clause 5.19—

5.20 Standards that cannot be used to refuse consent—playing and performing music [compulsory]

- (1) The consent authority must not refuse consent to development in relation to licensed premises on the following grounds—
 - (a) the playing or performance of music, including the following—
 - (i) the genre of music played or performed, or
 - (ii) whether the music played or performed is live or amplified, or
 - (iii) whether the music played or performed is original music, or
 - (iv) the number of musicians or live entertainment acts playing or performing, or
 - (v) the type of instruments played,
 - (b) whether dancing occurs,
 - (c) the presence or use of a dance floor or another area ordinarily used for dancing,
 - (d) the direction in which a stage for players or performers faces,
 - (e) the decorations to be used, including, for example, mirror balls, or lighting used by players or performers.

- (2) The consent authority must not refuse consent to development in relation to licensed premises on the grounds of noise caused by the playing or performance of music, if the consent authority is satisfied the noise may be managed and minimised to an acceptable level.
- (3) In this clause—
licensed premises has the same meaning as in the *Liquor Act 2007*.

No. 62 GOVT No. 1 [c2020-174E]

Page 48. Insert after line 33—

Schedule 6 Amendment of Roads Act 1993 No 33

[1] **Part 9, Division 1**

Omit the heading. Insert instead—

Division 1 Use of roads for food or drink premises

[2] **Section 125**

Omit the section. Insert instead—

125 Approval to use road for food or drink premises

- (1) A roads authority may grant an approval that allows a person who operates food or drink premises adjacent to a public road to use part of the public road for the purposes of the food or drink premises.
- (2) However, a roads authority may not grant an approval in relation to the use of a classified road without the agreement of Transport for NSW.
- (3) A roads authority may grant an approval on the conditions, including conditions about payments in the nature of rent, decided by the roads authority.
- (4) A roads authority may grant an approval for the term decided by the roads authority, but not more than—
 - (a) for an approval for the use of a footway of a public road—7 years, or
 - (b) for an approval for the use of any other part of a public road—12 months.
- (5) A roads authority may terminate, or temporarily suspend, an approval granted by the roads authority under this section—
 - (a) immediately, if in the roads authority's opinion, it is necessary for safety reasons, or
 - (b) otherwise—if the roads authority has given the holder of the approval at least 7 days written notice.
- (6) Unless sooner terminated, an approval lapses on the earlier of the following—
 - (a) the end of its term,
 - (b) if the part of the public road the subject of the approval ceases to be used for the purposes of food or drink premises, when the use for that purpose ceases.

[3] Section 126 Authority to erect structures

Omit section 126(1). Insert instead—

- (1) A roads authority that grants an approval under section 125 may—
 - (a) authorise the holder of the approval to erect, place or maintain structures, furniture or other things in, on or over any part of the road the subject of the approval, or
 - (b) at the request and cost of the holder of the approval, erect, place or maintain structures, furniture or other things in, on or over any part of the road the subject of the approval.

[4] Section 126(2)

Omit "council". Insert instead "roads authority".

[5] Section 126(2)

Omit "footway". Insert instead "public road".

[6] Section 127 Effect of approval

Omit "footway for the purposes of a restaurant" from section 127(a).

Insert instead "public road for the purposes of food or drink premises".

[7] Section 127(b)

Omit the paragraph. Insert instead—

- (b) the erection, placement or maintenance of structures, furniture or other things on the public road authorised by the roads authority under section 126(1),

[8] Section 248 Evidentiary certificates

Omit "of a footway" from section 248(1)(e). Insert instead "of a public road".

[9] Section 248(1)(e)

Omit "for a footway restaurant".

Insert instead "for food or drink premises under section 125".

[10] Schedule 2 Savings, transitional and other provisions

Insert after clause 80—

Part 8 Provision consequent on enactment of Liquor Amendment (24-hour Economy) Act 2020

81 Approvals under section 125

- (1) An approval under section 125 that was in force immediately before the commencement continues in force after the commencement, on the same conditions and for the same term, as if it had been granted after the commencement.

(2) An application for an approval under section 125 made, but not decided, before the commencement is to be decided under section 125 as if the amendment Act had not commenced.

(3) In this clause—

amendment Act means the *Liquor Amendment (24-hour Economy) Act 2020*.

commencement means the commencement of this clause.

[11] Dictionary

Omit the definitions of *footway restaurant* and *restaurant*.

Insert instead in alphabetical order—

food or drink premises has the same meaning as it has in the Standard Instrument set out in the *Standard Instrument (Local Environmental Plans) Order 2006*.

Note. Under the *Standard Instrument (Local Environmental Plans) Order 2006* *food and drink premises* means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

No. 63 OPP No. 16 [c2020-173L]

Long title

Omit “and to make miscellaneous amendments to the Act and regulation”.

Insert “to make miscellaneous amendments to that Act and regulation; and for other purposes”.