

**Gaming and Liquor Administration Amendment Bill 2015 (Proof)****Gaming and Liquor Administration Amendment Bill 2015**

Extract from NSW Legislative Council Hansard and Papers Tuesday 10 November 2015 (Proof).

**Second Reading**

**The Hon. NIALL BLAIR** (Minister for Primary Industries, and Minister for Lands and Water) [12.12 a.m.]: I move:  
That this bill be now read a second time.

I seek leave to have my second reading speech incorporated in *Hansard*.

**Leave not granted.**

I am pleased to introduce the Gaming and Liquor Administration Amendment Bill 2015. This bill implements structural reforms to the liquor and gaming regulatory framework designed to better support the important policy settings applying to these sectors. Over the last few years the Government has taken significant steps to better manage the risks associated with liquor and gaming activities.

**The PRESIDENT:** Order! Members have asked to hear the Minister's speech. He will be heard in silence.

**The Hon. NIALL BLAIR:** The reforms now underway as represented in this bill and other administrative work by the Department of Justice are the next logical step. The Government is focused on strengthening compliance and enforcement, improving transparency and accountability, and ensuring community members are properly equipped to navigate this complex system.

The current liquor and gaming regulatory framework commenced on 1 July 2008. It replaced a longstanding court-based regime that was inflexible, complex, legalistic and costly. This court-based system was adversarial, often requiring residents and others opposed to a licence application to give evidence under oath and to be cross-examined in the Licensing Court. The current administrative-based regulatory model has been in place now for more than seven years with New South Wales the only jurisdiction in Australia where there are two regulators sharing responsibility for liquor and gaming regulation.

The Independent Liquor and Gaming Authority is currently the decision-maker for all licensing proposals and a number of disciplinary matters. The Office of Liquor, Gaming and Racing undertakes most of the Secretary, Department of Justice's statutory functions under delegation as well as providing policy support to the Minister and engaging with stakeholders on behalf of the Government. The Office of Liquor, Gaming and Racing's delegated functions include a range of compliance and enforcement actions, such as the imposition of sanctions and licence conditions, the issuing of directions to licensees, and taking action against irresponsible liquor promotions.

The Gaming and Liquor Administration Act 2007 establishes the Independent Liquor and Gaming Authority, and provides a statutory framework for its operation as well as the appointment of inspectors by the Secretary, Department of Justice. In 2014 the Gaming and Liquor Administration Act was amended to include objectives to: Ensure the probity of public officials who are engaged in the administration of the gaming and liquor legislation; ensure that the authority is accessible and responsive to the needs of all persons and bodies who deal with the authority; promote fair and transparent decision-making under the gaming and liquor legislation; require matters under the gaming and liquor legislation to be dealt with and decided in an informal and expeditious matter; and promote public confidence in the authority's decision-making and in the conduct of its members.

However, there has been growing concern and frustration expressed by some industry and community stakeholders about the current liquor and gaming regulatory arrangements. These arrangements have the potential to undermine these objectives or, at the very least, that the objectives could be better served by a more integrated approach. These concerns relate to: a lack of clarity and accountability regarding statutory responsibilities; significant delays in dealing with both routine and complex matters, including disciplinary matters; inconsistency in decision-making; regulatory overlap between the functions of the Independent Liquor and Gaming Authority and the Office of Liquor, Gaming and Racing; inefficient processes adopted for licence application transactions; the risk of regulatory capture of inspectors who are permanently based at the casino; and a lack of transparency in decision-making.

**Dr John Kaye:** Point of order: I think we should test whether the Minister will be given leave to incorporate the balance of his speech if he wishes to do so.

**The Hon. NIALL BLAIR:** I seek leave to have the remainder of my second reading speech incorporated in *Hansard*.

**Leave granted.**

It is clear that the current regulatory model is no longer fit for purpose and that structural reforms are needed so that the Government's liquor and gaming policy settings including its 2014 liquor reforms are not compromised.

The measures contained in this bill will improve the institutional arrangements applying to the liquor and gaming regulatory framework while providing a stronger compliance and enforcement focus particularly in relation to high-risk activities and venues.

Importantly the bill does not change the Government's policy position in relation to things like the 1.30 a.m. lockout, the 3.00 a.m. cease liquor service, or the three strikes and violent venues schemes.

The bill also preserves the independent decision-making of the Independent Liquor and Gaming Authority in relation to contentious licensing proposals and disciplinary matters.

I now turn to the measures contained in the bill.

Removal of the statutory position of the Chief Executive, Independent Liquor and Gaming Authority [ILGA].

The bill removes the statutory position of Chief Executive of the Independent Liquor and Gaming Authority and the capacity for the authority to employ staff.

Those staff formerly employed by the authority, including the Chief Executive, are being transferred to the Department of Justice as part of an administrative order being made by the Government.

The transfer of staff from the Independent Liquor and Gaming Authority to the Department of Justice is part of the establishment of an integrated liquor and gaming regulator.

Known as Liquor and Gaming NSW it will absorb most of the functions undertaken by the Office of Liquor, Gaming and Racing as well as delegated decision-making on behalf of the Independent Liquor and Gaming Authority for routine licensing applications.

These routine licensing applications include applications for a liquor licence for restaurants, community groups and wineries.

Liquor and Gaming NSW will have two distinct streams: an operational stream with compliance and licensing functions and a policy stream with policy, strategy and support functions.

The transfer of Independent Liquor and Gaming Authority staff includes those inspectors that have been permanently based at the casino, undertaking casino inspections and compliance activities.

For a long time this group of inspectors has been embedded at the casino and exposed to the risk of regulatory capture.

As part of the broader liquor and gaming inspectorate employed by the Department of Justice, this risk will be significantly reduced and the regulator will be well positioned to effectively regulate the restricted gaming facility at Barangaroo when it comes online in 2019.

The bill removes the definition of a casino inspector for the purposes of the Gaming and Liquor Administration Act with all inspectors with liquor, gaming and casino responsibilities forming part of the compliance and enforcement force within Liquor and Gaming NSW.

This liquor and gaming inspectorate will have compliance and enforcement functions across the liquor gaming registered club and casino sectors and enables inspectors to be rotated across these sectors, allowing knowledge sharing and minimising the risk of regulatory capture.

The Secretary, Department of Justice will continue to be responsible for the appointment of all inspectors under the Gaming and Liquor Administration Act.

Having inspectors with regulatory responsibilities for the casino located within the broader compliance workforce within the Department of Justice will also enable compliance approaches and proactive strategies that are being used to improve liquor serving practices and reduce alcohol-related harms across the State's 16,000 licensed premises to be applied at the casino.

Clearly there is a need to reduce alcohol-related assaults at the casino in line with reductions that have

been recorded across New South Wales.

The reforms will make a larger pool of inspectors available at high-risk times and increase the regulator's operational capacity.

This enables surge activities to be undertaken when required at the casino or when other priority matters need to be addressed.

Liquor and Gaming NSW will also be responsible for providing administrative and secretariat support to the Independent Liquor and Gaming Authority in exercising its statutory functions.

This will include the preparation of material for the authority's meetings, making recommendations to the authority on licensing and disciplinary matters and the preparation and publication of the authority's decisions.

#### Review of statutory decisions

The current regulatory model does not include a merit review mechanism of decisions made by the Independent Liquor and Gaming Authority.

The absence of a review mechanism, particularly in relation to contentious matters that have a strong public interest, such as a new hotel licence, has been problematic for both business operators and local communities.

For business operators there has been no low cost non-technical recourse available for a review of a decision to refuse an application that has involved significant investment over a period of time.

For local communities there has been no low-cost non-technical recourse available for residents and others opposed to a new liquor licence being approved in their neighbourhood.

In fact the problems that led to the 2008 creation of the Independent Liquor and Gaming Authority have been replicated in the current system.

That is, the pre-2008 system was legalistic, adversarial, complex and slow.

The bill provides for licensing decisions to be reviewed in certain circumstances.

For decisions made by the Independent Liquor and Gaming Authority, a review will be available from the New South Wales Civil and Administrative Tribunal in relation to contentious liquor and gaming applications, such as the grant of a new hotel or packaged liquor licence.

The types of applications determined by the Independent Liquor and Gaming Authority that can be reviewed by the New South Wales Civil and Administrative Tribunal will be prescribed by regulation prior to the commencement of the bill.

Standing for seeking a review of a decision made by the authority will be limited to the applicant and those persons who made a submission and who were required to be provided notification of the application.

The bill provides that a review of a decision can be sought within 28 days of the authority's decision being published on the website of Liquor and Gaming NSW.

The fee payable for a review of a decision made by the authority will be prescribed by regulation prior to the commencement of this bill.

Having the New South Wales Civil and Administrative Tribunal review certain licensing decisions made by the Independent Liquor and Gaming Authority builds upon existing arrangements whereby the NSW Civil and Administrative Tribunal [NCAT] can already review certain disciplinary decisions made by the authority.

For instance, NCAT can already review decisions made by the Independent Liquor and Gaming Authority in relation to the imposition of a third strike imposed on a licensed venue, and the issuing of a long-term banning order applying to a person in the Sydney central business district [CBD] and Kings Cross precincts.

The bill also enables delegated decisions made by Liquor and Gaming NSW to be reviewed by the Independent Liquor and Gaming Authority.

This is to ensure that the exercise of the delegation continues to be done in a way that the authority considers to be appropriate.

The delegated decisions that can be reviewed by the authority will be limited to those applications that will be prescribed by regulation and will include the grant or removal of a liquor licence.

Consistent with the review of decisions made by the authority in the first instance, standing for seeking a review of a delegated decision will be limited to the applicant, and those persons who made a submission and who were required to be provided notification of the application.

The fee to seek a review of a delegated decision by the Independent Liquor and Gaming Authority will also be prescribed by regulation prior to the commencement of the bill.

Ministerial directions.

The bill enables the responsible Minister to issue directions to the Independent Liquor and Gaming Authority.

These directions relate to the way it conducts its business, the frequency of its meetings and other administrative arrangements to improve the timeliness and transparency of the authority's decision-making.

These directions will not apply to any advice, report or recommendation made to the Minister or Government.

Nor will they apply to any decision to grant, suspend or cancel a licence or any disciplinary proceedings determined by the authority.

The inclusion of these ministerial directions in the bill recognises the need for processing and administrative improvements to the authority's statutory functions to reduce delays and improve service levels for stakeholders.

For instance, the authority currently meets on a monthly basis to consider licence applications and disciplinary matters.

This arrangement is not appropriate at a time when there are extensive delays in determining both routine and complex licensing and disciplinary matters and matters are adjourned for various reasons adding to the frustration of the applicant and other parties.

The issuing of ministerial directions will provide greater flexibility in the way the authority conducts its business so that these delays are minimised.

However, the issuing of ministerial directions will not interfere with the authority's status in making decisions independent of Government.

It is appropriate that the authority's independent status is maintained so that the public can have confidence that its decisions are free of Government interference.

The bill also makes minor amendments to the Casino Control Act 1992 by no longer requiring the Independent Liquor and Gaming Authority to exercise functions relating to inspecting the operations of the casino and the detection and prosecution of offences at the casino.

Consistent with the Government's objective of centralising compliance and enforcement efforts across the liquor gaming registered club and casino industries the Secretary, Department of Justice will be responsible for compliance and enforcement activities at the casino.

This includes the capacity for the secretary to prosecute offences under the Casino Control Act alongside the Director of Public Prosecutions, the Commissioner of Police and the authority.

Finally the bill requires the Independent Liquor and Gaming Authority to have due regard to any recommendations made by the Secretary, Department of Justice in relation to an application or any other matter under consideration by the authority under the gaming and liquor legislation.

This recognises the extensive liquor and gaming regulatory expertise that is available within the Department of Justice that is to be properly considered by the authority when determining an application or disciplinary matter.

The bill will also require mandated decisions made by the Independent Liquor and Gaming Authority to be published on the website of Liquor and Gaming NSW.

This is consistent with the policy intent of establishing an integrated regulator Liquor and Gaming NSW within the Department of Justice to improve service delivery, minimise duplication of regulatory effort and reduce costs.

Again I can confirm that the bill will not encroach on the policy settings of the Liquor Act 2007 or the Gaming Machines Act 2001.

I commend the bill to the House.