

**LIQUOR (AMENDMENT) BILL, 1984**

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**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The objects of this Bill are—

- (a) to provide that a device may be declared by the regulations to be, or not to be, an approved amusement device only after the Minister has considered a recommendation of the Liquor Administration Board with respect to the device, and to enable that Board to conduct an investigation with respect to a device before making such a recommendation (Schedule 1);
- (b) to make further provision with respect to objections taken on the ground that a person is not a fit and proper person to be the holder of a licence or to have an interest in a business carried on pursuant to a licence (Schedule 2);
- (c) to provide that a magistrate who constituted, or was a member of, the Licensing Court from which an appeal to the Supreme Court was instituted may, in certain circumstances, be replaced by another magistrate when the matter of the appeal is remitted by the Supreme Court for determination by the Licensing Court (Schedule 3 (3));
- (d) to provide that a liquid that is, for the purposes of sale, held out to be liquor within the meaning of the Liquor Act, 1982, attracts that meaning (Schedule 4); and
- (e) to make other provisions ancillary to the foregoing.

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**LIQUOR (AMENDMENT) BILL, 1984**

No. , 1984.

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**A BILL FOR**

An Act to amend the Liquor Act, 1982, with respect to amusement devices and objections and in certain other respects.

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*Liquor (Amendment) 1984*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**5 Short title.**

1. This Act may be cited as the "Liquor (Amendment) Act, 1984".

**Commencement.**

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.
- 10 (2) Schedule 4, and section 6 in its application to that Schedule, shall be deemed to have commenced on 1st July, 1984.

**Principal Act.**

3. The Liquor Act, 1982, is referred to in this Act as the Principal Act.

**15 Schedules.**

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENT TO THE PRINCIPAL ACT RELATING TO AMUSEMENT DEVICES.

20 SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO OBJECTIONS.

SCHEDULE 3.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 4.—AMENDMENT TO DEFINITION OF "LIQUOR" IN THE PRINCIPAL ACT.

**Application of certain provisions.**

5     **5.** The Principal Act, as amended by Schedule 2 and section 6 in its application to that Schedule, applies to and in respect of an application made, but not determined, before the date of assent to this Act in the same way as it applies to and in respect of an application made on or after that date.

**Amendment of Act No. 147, 1982.**

6. The Principal Act is amended in the manner set forth in Schedules 1-4.

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**SCHEDULE 1.**

(Sec. 6.)

**AMENDMENT TO THE PRINCIPAL ACT RELATING TO AMUSEMENT DEVICES.****Section 37A—**

After section 37, insert:—

15     **Investigation of certain devices.**

37A. (1) Subject to this section, the holder of an amusement device dealer's licence may apply to the Board for an investigation relating to a device claimed by the licensee to be suitable for declaration as an approved amusement device.

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(2) Upon making an application referred to in subsection (1), the applicant shall be deemed to have agreed to pay to the Board in accordance with this section an amount determined by the Board as the cost of the investigation having regard to—

- (a) disbursements made by the Board;
- 25     (b) time spent by the Board, the superintendent of licences and persons subject to their direction and control; and
- (c) such other matters as the Board considers to be relevant.

*Liquor (Amendment) 1984*

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SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO AMUSEMENT  
DEVICES—*continued.*

5 (3) Upon receipt of an application under subsection (1), the Board shall decide whether or not to proceed with an investigation of the device to which the application relates and, if it decides to proceed shall make an estimate of the cost of the investigation applied for.

10 (4) Upon payment by the applicant within a time specified by the Board (or within such further time as the Board may allow) of such part of the estimated cost as the Board requires, the Board shall cause an investigation to be made, by such person or persons as the Board thinks fit, of the device to which the application relates.

(5) The Board may—

- 15 (a) require the applicant for investigation of a device to provide such information, or such further information, in relation to the device as the Board thinks fit; and
- (b) delay commencement of, or discontinue, the investigation pending receipt of the information.

20 (6) On completion of an investigation under this section, the Board shall determine the cost of the investigation and, upon payment of any balance unpaid of the amount so determined, the Board shall consider the results of the investigation and—

- 25 (a) recommend to the Minister whether or not the device investigated should be declared to be an approved amusement device; or
- (b) decide not to make any recommendation to the Minister in relation to the device.

30 (7) Where a payment made under subsection (4) in relation to an investigation exceeds the amount determined under subsection (6) in relation to the investigation, the Board shall refund the difference to the applicant for the investigation.

*Liquor (Amendment) 1984*SCHEDULE 1—*continued.*AMENDMENT TO THE PRINCIPAL ACT RELATING TO AMUSEMENT  
DEVICES—*continued.*

5 (8) A determination by the Board of the cost of an investigation  
is reviewable only by the Board.

(9) Where, for the purposes of subsection (6), the Board has  
determined the cost of an investigation, it shall direct the applicant for the  
investigation to pay an amount equal to the unpaid balance of the cost  
within a time specified by the Board.

10 (10) Where—

(a) a direction is given under subsection (9);

(b) the amount directed to be paid is not paid in accordance with that  
direction; and

15 (c) a certificate by the Board as to the amount directed to be paid is  
filed, together with any other prescribed documents, in a court of  
petty sessions having jurisdiction under the Courts of Petty Sessions  
(Civil Claims) Act, 1970,

20 the direction may be enforced as a judgment of that court for payment  
to the Board of the amount certified (whether or not the court is  
competent to give judgment for that amount).

(11) Unless the Board otherwise directs in a particular case, a  
payment made as a consequence of enforcement action under subsection  
(10) is not a payment for the purposes of subsection (6).

25 (12) A regulation that declares a device or a device of a class or  
description of devices—

(a) to be an approved amusement device; or

(b) not to be an approved amusement device,

may be made only after the Minister has considered a recommendation  
made by the Board under subsection (6) in relation to the device.

*Liquor (Amendment) 1984*SCHEDULE 1—*continued.*AMENDMENT TO THE PRINCIPAL ACT RELATING TO AMUSEMENT  
DEVICES—*continued.*

(13) Nothing in this section—

- 5 (a) confers on any person a right to have a device investigated under this section; or
- (b) prevents the Board from terminating an investigation under this section for any reason that it thinks fit.

## SCHEDULE 2.

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(Sec. 6.)

## AMENDMENTS TO THE PRINCIPAL ACT RELATING TO OBJECTIONS.

(1) Section 38 (3) (b) (ii)—

Omit “principal”.

(2) (a) Section 45 (1)—

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Omit the subsection, insert instead:—

(1) Objection to the grant of an application may be taken on one or more of the following grounds:—

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- (a) that the applicant is not a fit and proper person to be the holder of a licence;
- (b) that a person directly or indirectly interested in the application or in the business, or the profits of the business, to be carried on pursuant to the licence if the application is granted is not a fit and proper person to be so interested;



*Liquor (Amendment) 1984*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO OBJECTIONS—  
*continued.*

- 5 (c) that, for reasons other than the grounds specified in paragraphs (a) and (b) and subsections (2) and (3), it would not be in the public interest to grant the application.
- (b) Section 45 (3)—  
Omit “the” where firstly occurring, insert instead “a”.
- 10 (c) Section 45 (3) (a)—  
Omit “or is of bad repute”.
- (d) Section 45 (3) (e)—  
Omit “granted;”, insert instead “granted.”.
- (e) Section 45 (3) (f), (g)—  
15 Omit the paragraphs.
- (f) Section 45 (4)—  
Omit the subsection, insert instead:—
- (4) Where an objection to an application is taken on a  
20 ground referred to in subsection (1) (a) or (b) or in subsection (2), the onus is on the applicant to satisfy the court—
- (a) in the case of an objection on the ground specified in subsection (1) (a)—that the applicant is a fit and proper person to be the holder of a licence;
- 25 (b) in the case of an objection on the ground specified in subsection (1) (b)—that the person to whom the objection relates is a fit and proper person to be directly or indirectly interested in the application or in the business, or the profits of the business, to be carried on pursuant to the licence if the application is granted; or

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO OBJECTIONS—  
*continued.*

- 5 (c) in the case of an objection on the ground specified in subsection (2)—that the needs of the public in the neighbourhood of the premises to which the application relates cannot be met by facilities for the supply of liquor existing in, and outside, the neighbourhood.

## (3) Section 46 (1) (b)—

10 Omit the paragraph, insert instead:—

- (b) where a ground for the objection is a ground specified in section 45 (1)—specifies the reasons why the objector considers—
- 15 (i) in the case of an objection on the ground specified in section 45 (1) (a)—that the applicant is not a fit and proper person to be the holder of a licence;
- 20 (ii) in the case of an objection on the ground specified in section 45 (1) (b)—that the person to whom the objection relates is not a fit and proper person to be directly or indirectly interested in the application or in the business, or the profits of the business, to be carried on pursuant to the licence if the application is granted; or
- 25 (iii) in the case of an objection on the ground specified in section 45 (1) (c)—that it would not be in the public interest to grant the application.
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## SCHEDULE 3.

(Sec. 6.)

## MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

## (1) Section 3—

5 Omit the section.

## (2) Section 101 (4) (a) (ii)—

Omit “principal”.

## (3) Section 146 (4), (5)—

After section 146 (3), insert:—

10 (4) Where a matter is remitted to the court under subsection (2) (a), the Chairman may replace with another magistrate referred to in section 9 or 10 the magistrate so referred to who constituted, or a magistrate so referred to who was a member of, the court to whose adjudication the matter remitted relates if—

15 (a) the magistrate being replaced has ceased to hold office as a magistrate; or

(b) the magistrate being replaced is absent, ill or otherwise unavailable for duty.

20 (5) A magistrate who, pursuant to subsection (4), replaces another magistrate for the purpose of determining a matter remitted to the court under subsection (2) (a) may do any act or thing in connection with the remitted matter that could have been done by the replaced magistrate if the replaced magistrate had constituted, or been a member of, the court determining the remitted matter and, for that purpose—

25 (a) may read as evidence for any party the depositions of all witnesses in the proceedings; and

*Liquor (Amendment) 1984*SCHEDULE 3—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) may decide, or join in deciding, to grant leave for further evidence to be called by a party to the proceedings.

5 (4) Section 156 (1) (f)—

After “fees”, insert “and fees payable to the Board”.

## SCHEDULE 4.

(Sec. 6.)

## AMENDMENT TO DEFINITION OF “LIQUOR” IN THE PRINCIPAL ACT.

10 Section 4 (1), definition of “liquor”—

Omit the definition, insert instead:—

“liquor” includes—

- (a) wine, spirits, beer, porter, stout, ale, cider, perry and mead;
- (b) any prescribed spirituous or fermented fluid; and
- 15 (c) anything that, for the purposes of sale, is held out to be a fluid referred to in paragraph (a) or (b);

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984

LIQUOR (AMENDMENT) ACT, 1984, No. 139

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

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Act No. 139, 1984.

An Act to amend the Liquor Act, 1982, with respect to amusement devices and objections and in certain other respects. [Assented to, 4th December, 1984.]

*Liquor (Amendment) 1984*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**Short title.**

1. This Act may be cited as the "Liquor (Amendment) Act, 1984".

**Commencement.**

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Schedule 4, and section 6 in its application to that Schedule, shall be deemed to have commenced on 1st July, 1984.

**Principal Act.**

3. The Liquor Act, 1982, is referred to in this Act as the Principal Act.

**Schedules.**

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENT TO THE PRINCIPAL ACT RELATING TO AMUSEMENT DEVICES.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO OBJECTIONS.

SCHEDULE 3.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 4.—AMENDMENT TO DEFINITION OF "LIQUOR" IN THE PRINCIPAL ACT.

*Liquor (Amendment) 1984*

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**Application of certain provisions.**

5. The Principal Act, as amended by Schedule 2 and section 6 in its application to that Schedule, applies to and in respect of an application made, but not determined, before the date of assent to this Act in the same way as it applies to and in respect of an application made on or after that date.

**Amendment of Act No. 147, 1982.**

6. The Principal Act is amended in the manner set forth in Schedules 1-4.

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SCHEDULE 1.

(Sec. 6.)

AMENDMENT TO THE PRINCIPAL ACT RELATING TO AMUSEMENT DEVICES.

Section 37A—

After section 37, insert:—

**Investigation of certain devices.**

37A. (1) Subject to this section, the holder of an amusement device dealer's licence may apply to the Board for an investigation relating to a device claimed by the licensee to be suitable for declaration as an approved amusement device.

(2) Upon making an application referred to in subsection (1), the applicant shall be deemed to have agreed to pay to the Board in accordance with this section an amount determined by the Board as the cost of the investigation having regard to—

- (a) disbursements made by the Board;
- (b) time spent by the Board, the superintendent of licences and persons subject to their direction and control; and
- (c) such other matters as the Board considers to be relevant.

*Liquor (Amendment) 1984*SCHEDULE 1—*continued.*AMENDMENT TO THE PRINCIPAL ACT RELATING TO AMUSEMENT  
DEVICES—*continued.*

(3) Upon receipt of an application under subsection (1), the Board shall decide whether or not to proceed with an investigation of the device to which the application relates and, if it decides to proceed shall make an estimate of the cost of the investigation applied for.

(4) Upon payment by the applicant within a time specified by the Board (or within such further time as the Board may allow) of such part of the estimated cost as the Board requires, the Board shall cause an investigation to be made, by such person or persons as the Board thinks fit, of the device to which the application relates.

(5) The Board may—

- (a) require the applicant for investigation of a device to provide such information, or such further information, in relation to the device as the Board thinks fit; and
- (b) delay commencement of, or discontinue, the investigation pending receipt of the information.

(6) On completion of an investigation under this section, the Board shall determine the cost of the investigation and, upon payment of any balance unpaid of the amount so determined, the Board shall consider the results of the investigation and—

- (a) recommend to the Minister whether or not the device investigated should be declared to be an approved amusement device; or
- (b) decide not to make any recommendation to the Minister in relation to the device.

(7) Where a payment made under subsection (4) in relation to an investigation exceeds the amount determined under subsection (6) in relation to the investigation, the Board shall refund the difference to the applicant for the investigation.



SCHEDULE 1—*continued.*AMENDMENT TO THE PRINCIPAL ACT RELATING TO AMUSEMENT  
DEVICES—*continued.*

(8) A determination by the Board of the cost of an investigation is reviewable only by the Board.

(9) Where, for the purposes of subsection (6), the Board has determined the cost of an investigation, it shall direct the applicant for the investigation to pay an amount equal to the unpaid balance of the cost within a time specified by the Board.

(10) Where—

- (a) a direction is given under subsection (9);
- (b) the amount directed to be paid is not paid in accordance with that direction; and
- (c) a certificate by the Board as to the amount directed to be paid is filed, together with any other prescribed documents, in a court of petty sessions having jurisdiction under the Courts of Petty Sessions (Civil Claims) Act, 1970,

the direction may be enforced as a judgment of that court for payment to the Board of the amount certified (whether or not the court is competent to give judgment for that amount).

(11) Unless the Board otherwise directs in a particular case, a payment made as a consequence of of enforcement action under subsection (10) is not a payment for the purposes of subsection (6).

(12) A regulation that declares a device or a device of a class or description of devices—

- (a) to be an approved amusement device; or
- (b) not to be an approved amusement device,

may be made only after the Minister has considered a recommendation made by the Board under subsection (6) in relation to the device.

*Liquor (Amendment) 1984*

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SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO AMUSEMENT  
DEVICES—*continued.*

- (13) Nothing in this section—
- (a) confers on any person a right to have a device investigated under this section; or
  - (b) prevents the Board from terminating an investigation under this section for any reason that it thinks fit.
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SCHEDULE 2.

(Sec. 6.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO OBJECTIONS.

- (1) Section 38 (3) (b) (ii)—

Omit “principal”.

- (2) (a) Section 45 (1)—

Omit the subsection, insert instead:—

(1) Objection to the grant of an application may be taken on one or more of the following grounds:—

- (a) that the applicant is not a fit and proper person to be the holder of a licence;
- (b) that a person directly or indirectly interested in the application or in the business, or the profits of the business, to be carried on pursuant to the licence if the application is granted is not a fit and proper person to be so interested;

*Liquor (Amendment) 1984*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO OBJECTIONS—  
*continued.*

- (c) that, for reasons other than the grounds specified in paragraphs (a) and (b) and subsections (2) and (3), it would not be in the public interest to grant the application.
- (b) Section 45 (3)—  
Omit “the” where firstly occurring, insert instead “a”.
- (c) Section 45 (3) (a)—  
Omit “or is of bad repute”.
- (d) Section 45 (3) (e)—  
Omit “granted;”, insert instead “granted.”.
- (e) Section 45 (3) (f), (g)—  
Omit the paragraphs.
- (f) Section 45 (4)—  
Omit the subsection, insert instead:—
- (4) Where an objection to an application is taken on a ground referred to in subsection (1) (a) or (b) or in subsection (2), the onus is on the applicant to satisfy the court—
- (a) in the case of an objection on the ground specified in subsection (1) (a)—that the applicant is a fit and proper person to be the holder of a licence;
- (b) in the case of an objection on the ground specified in subsection (1) (b)—that the person to whom the objection relates is a fit and proper person to be directly or indirectly interested in the application or in the business, or the profits of the business, to be carried on pursuant to the licence if the application is granted; or

*Liquor (Amendment) 1984*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO OBJECTIONS—  
*continued.*

- (c) in the case of an objection on the ground specified in subsection (2)—that the needs of the public in the neighbourhood of the premises to which the application relates cannot be met by facilities for the supply of liquor existing in, and outside, the neighbourhood.

## (3) Section 46 (1) (b)—

Omit the paragraph, insert instead:—

- (b) where a ground for the objection is a ground specified in section 45 (1)—specifies the reasons why the objector considers—
    - (i) in the case of an objection on the ground specified in section 45 (1) (a)—that the applicant is not a fit and proper person to be the holder of a licence;
    - (ii) in the case of an objection on the ground specified in section 45 (1) (b)—that the person to whom the objection relates is not a fit and proper person to be directly or indirectly interested in the application or in the business, or the profits of the business, to be carried on pursuant to the licence if the application is granted; or
    - (iii) in the case of an objection on the ground specified in section 45 (1) (c)—that it would not be in the public interest to grant the application.
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## SCHEDULE 3.

(Sec. 6.)

## MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

## (1) Section 3—

Omit the section.

## (2) Section 101 (4) (a) (ii)—

Omit "principal".

## (3) Section 146 (4), (5)—

After section 146 (3), insert:—

(4) Where a matter is remitted to the court under subsection (2) (a), the Chairman may replace with another magistrate referred to in section 9 or 10 the magistrate so referred to who constituted, or a magistrate so referred to who was a member of, the court to whose adjudication the matter remitted relates if—

(a) the magistrate being replaced has ceased to hold office as a magistrate; or

(b) the magistrate being replaced is absent, ill or otherwise unavailable for duty.

(5) A magistrate who, pursuant to subsection (4), replaces another magistrate for the purpose of determining a matter remitted to the court under subsection (2) (a) may do any act or thing in connection with the remitted matter that could have been done by the replaced magistrate if the replaced magistrate had constituted, or been a member of, the court determining the remitted matter and, for that purpose—

(a) may read as evidence for any party the depositions of all witnesses in the proceedings; and

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SCHEDULE 3—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) may decide, or join in deciding, to grant leave for further evidence to be called by a party to the proceedings.

(4) Section 156 (1) (f)—

After “fees”, insert “and fees payable to the Board”.

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SCHEDULE 4.

(Sec. 6.)

AMENDMENT TO DEFINITION OF “LIQUOR” IN THE PRINCIPAL ACT.

Section 4 (1), definition of “liquor”—

Omit the definition, insert instead:—

“liquor” includes—

- (a) wine, spirits, beer, porter, stout, ale, cider, perry and mead;
- (b) any prescribed spirituous or fermented fluid; and
- (c) anything that, for the purposes of sale, is held out to be a fluid referred to in paragraph (a) or (b);

*In the name and on behalf of Her Majesty I assent to this Act.*

J. A. ROWLAND,  
*Governor.*

*Government House,  
Sydney, 4th December, 1984.*



