



New South Wales

Liquor Amendment Bill 1995

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament. The *Registered Clubs Amendment Bill 1995* is cognate with this Bill.

Overview of Bill

The object of this Bill is to amend the *Liquor Act 1982*:

- to change from noon to 10 am the earliest time at which liquor may be sold on Good Friday for consumption on hotel premises
 - to require residents' objections or complaints against licensees to be supported by at least 3 residents
 - to enable refusals, revocations and reductions of trading hour extensions to be re-examined within 6 months after the refusals, revocations and reductions are made if there is a change in circumstances
 - to make certain changes to that Act for the sake of statute law revision, particularly as a result of the administrative changes under which the Chief Secretary's Department became the Department of Gaming and Racing.
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Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the *Liquor Act 1982*.

Schedule 1 Amendments

Trading hours

Schedule 1 (4) amends section 24 to change from noon to 10 am the earliest time at which liquor may be sold on Good Friday for consumption on hotel premises.

Schedule 1 (5)–(8) make parallel amendments to sections 25, 27, 32, and 35A to enable licensees for whom an extension of trading hours has been refused, revoked or reduced to apply to the Licensing Court for review at any time if they can show that there has been a material change in circumstances. At present they must wait 6 months before re-applying.

Schedule 1 (14) amends section 104 to make it clear that a licensee whose extension of trading hours has been affected by a condition imposed by the Liquor Administration Board can object to the Board. This can be done at any time if the licensee can show that there has been a material change in circumstances, and otherwise after 6 months.

Residents' objections

Schedule 1 (10) and (11) amend section 44 to require an objection to an application for an extension of trading hours, if made by residents, to be supported by at least 3 of them. At present, such an objection may be brought by one resident alone.

Schedule 1 (13) likewise amends section 104 to remove the option of a noise complaint in relation to licensed premises being brought by only one resident. The amendment also introduces a list of persons who may complain (residents, the Commissioner of Police, a council representative, a person whose interests are affected and the Director of Liquor and Gaming). At present, section 104 does not specify who may complain.

Schedule 1 (9), (12) and (13) make amendments to sections 44, 67 and 104 to make it clear that when an objection or complaint can be brought on behalf of 3 or more residents, one of those residents can be the complainant.

Statute law revision

Schedule 1 (1)–(3) and (15) amend references in the key officials provisions (sections 4, 105A and 105B) to the Chief Secretary's Department and the Secretary of that Department so that they become references to the Department of Gaming and Racing and the Director-General respectively. The amendment reflects changes already made in 1995 under the *Administrative Changes Act 1976*.

A continuing transitional provision inserted by **Schedule 1 (16)** ensures that section 105B (Restrictions relating to former key officials) applies equally to an official who would have been regarded as a former key official but for a change in the title of the relevant office.

Savings and transitional

Schedule 1 (17) and (18) make amendments of a savings and transitional nature as a consequence of the above amendments.

First print

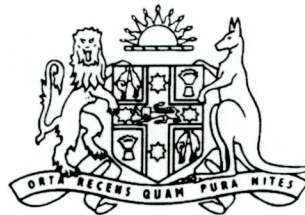


New South Wales

Liquor Amendment Bill 1995

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New South Wales

Liquor Amendment Bill 1995

No. , 1995

A Bill for

An Act to amend the *Liquor Act 1982* with respect to noise complaints, opening hours, statute law revision; and for other purposes.

See also Registered Clubs Amendment Bill 1995.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Liquor Amendment Act 1995*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation. 5

3 Amendment of Liquor Act 1982 No 147

The *Liquor Act 1982* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 4 Definitions

Section 4 (1), definition of key official

Omit "Secretary, Chief Secretary's Department" from paragraph (a). 5
Insert instead "Director-General of the Department of Gaming and Racing".

[2] Section 4 (1), definition of key official

Omit "Chief Secretary's Department" wherever occurring from 10
paragraphs (b) and (c).
Insert instead "Department of Gaming and Racing".

[3] Section 4 (1), definition of key official

Omit "Secretary" from paragraph (c).
Insert instead "Director-General".

[4] Section 24 Hotelier's licence—trading hours

15

Omit "noon" from section 24 (2) (c1).
Insert instead "10 am".

[5] Section 25 Hotelier's licence—variation of trading hours

Insert ", except with the leave of the court granted on the ground that 20
there has been a material change in the facts or circumstances on
which the refusal, revocation or reduction was based" after
"6 months" in section 25 (7A).

[6] Section 27 Off-licence (retail)—variation of trading hours

Insert “, except with the leave of the court granted on the ground that there has been a material change in the facts or circumstances on which the refusal, revocation or reduction was based” after “6 months” in section 27 (4).

5

[7] Section 32 On-licence (restaurant)—variation of trading hours

Insert “, except with the leave of the court granted on the ground that there has been a material change in the facts or circumstances on which the refusal, revocation or reduction was based” after “6 months” in section 32 (5).

10

[8] Section 35A On-licence (vessel)—variation of trading hours

Insert “, except with the leave of the court granted on the ground that there has been a material change in the facts or circumstances on which the refusal, revocation or reduction was based” after “6 months” in section 35A (5).

15

[9] Section 44 Right of objection to application

Insert “or a person who is such a resident and is authorised in writing by 2 or more other such residents” after “situated” in section 44 (1) (b).

[10] Section 44 (1A)

20

Omit section 44 (1A).

[11] Section 44 (2)

Omit “or subsection (1A)”.

[12] Section 67 Summons to show cause against taking of disciplinary action

25

Insert “or a person who is such a resident and is authorised in writing by 2 or more other such residents” after “premises” in section 67 (1) (b).

[13] Section 104 Quiet and good order of neighbourhood

Insert after section 104 (1A):

(1AA) A complaint under this section can be made only by:

- (a) a person authorised in writing by 3 or more persons residing in the neighbourhood of the licensed premises or a person who is such a resident and is authorised in writing by 2 or more other such residents, or 5
- (b) the Commissioner of Police, or
- (c) a person authorised by the council of the local government area (including the City of Sydney) in which the licensed premises are situated, or 10
- (d) a person who satisfies the Board that his or her interests, financial or other, are adversely affected by the undue disturbance to which the person's complaint relates, or 15
- (e) the Director.

[14] Section 104 (9)

Insert after section 104 (8):

- (9) If a condition restricting the trading hours of a licensee is imposed under this section, an application may be made to the Board to vary or revoke the condition. The application may not be made by or on behalf of the licensee during the period of 6 months that next succeeds the imposition of the condition, except with the leave of the Board granted on the ground that there has been a material change in the facts or circumstances on which the imposition of the condition was based. The application may be dealt with by the Board in such manner as the Board determines. 20
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[15] Sections 105A and 105B

Omit "Secretary, Chief Secretary's Department" wherever occurring from sections 105A (2)–(4) and (6) and 105B (3) and (4).
Insert instead "Director-General of the Department of Gaming and Racing".

5

[16] Section 105B Restrictions relating to former key officials

Insert after section 105B (5):

- (6) If a reference ("the original reference") in this Act to a position, officer or Department is replaced with, or required to be read or construed as, a reference ("the replacement reference") to another position, officer or Department, the replacement reference is for the purposes of the operation of this section to be read as including the original reference.

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[17] Schedule 1 Savings and transitional provisions

15

Insert after the matter relating to the *Liquor (Amendment) Act 1994* in clause 1 (1):
Liquor Amendment Act 1995

[18] Schedule 1

Insert after clause 30:

20

Part 5 Liquor Amendment Act 1995

31 Complaints as to quiet and good order of neighbourhood

A complaint duly made to the Board under section 104 before the amendment of that section by the *Liquor Amendment Act 1995* is taken to have been made in accordance with that section as so amended.

25

32 References to former key officials

Section 105B (6), as inserted by the *Liquor Amendment Act 1995*, is taken to have commenced on the commencement of section 105B.



New South Wales

Liquor Amendment Act 1995 No 34

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New South Wales

Liquor Amendment Act 1995 No 34

Act No 34, 1995

An Act to amend the *Liquor Act 1982* with respect to noise complaints, opening hours, statute law revision; and for other purposes. [Assented to 25 September 1995]

See also Registered Clubs Amendment Act 1995.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Liquor Amendment Act 1995*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Liquor Act 1982 No 147

The *Liquor Act 1982* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 4 Definitions

Section 4 (1), definition of key official

Omit "Secretary, Chief Secretary's Department" from paragraph (a).
Insert instead "Director-General of the Department of Gaming and Racing".

[2] Section 4 (1), definition of key official

Omit "Chief Secretary's Department" wherever occurring from paragraphs (b) and (c).
Insert instead "Department of Gaming and Racing".

[3] Section 4 (1), definition of key official

Omit "Secretary" from paragraph (c).
Insert instead "Director-General".

[4] Section 25 Hotelier's licence—variation of trading hours

Insert ", except with the leave of the court granted on the ground that there has been a material change in the facts or circumstances on which the refusal, revocation or reduction was based" after "6 months" in section 25 (7A).

[5] Section 27 Off-licence (retail)—variation of trading hours

Insert ", except with the leave of the court granted on the ground that there has been a material change in the facts or circumstances on which the refusal, revocation or reduction was based" after "6 months" in section 27 (4).

[6] Section 32 On-licence (restaurant)—variation of trading hours

Insert ", except with the leave of the court granted on the ground that there has been a material change in the facts or circumstances on which the refusal, revocation or reduction was based" after "6 months" in section 32 (5).

[7] Section 35A On-licence (vessel)—variation of trading hours

Insert “, except with the leave of the court granted on the ground that there has been a material change in the facts or circumstances on which the refusal, revocation or reduction was based” after “6 months” in section 35A (5).

[8] Section 44 Right of objection to application

Insert “or a person who is such a resident and is authorised in writing by 2 or more other such residents” after “situated” in section 44 (1) (b).

[9] Section 44 (1A)

Omit section 44 (1A).

[10] Section 44 (2)

Omit “or subsection (1A)”.

[11] Section 67 Summons to show cause against taking of disciplinary action

Insert “or a person who is such a resident and is authorised in writing by 2 or more other such residents” after “premises” in section 67 (1) (b).

[12] Section 104 Quiet and good order of neighbourhood

Insert after section 104 (1A):

(1AA) A complaint under this section can be made only by:

- (a) a person authorised in writing by 3 or more persons residing in the neighbourhood of the licensed premises or a person who is such a resident and is authorised in writing by 2 or more other such residents, or
- (b) the Commissioner of Police, or
- (c) a person authorised by the council of the local government area (including the City of Sydney) in which the licensed premises are situated, or

- (d) a person who satisfies the Board that his or her interests, financial or other, are adversely affected by the undue disturbance to which the person's complaint relates, or
- (e) the Director.

[13] Section 104 (9)

Insert after section 104 (8):

- (9) If a condition restricting the trading hours of a licensee is imposed under this section, an application may be made to the Board to vary or revoke the condition. The application may not be made by or on behalf of the licensee during the period of 6 months that next succeeds the imposition of the condition, except with the leave of the Board granted on the ground that there has been a material change in the facts or circumstances on which the imposition of the condition was based. The application may be dealt with by the Board in such manner as the Board determines.

[14] Sections 105A and 105B

Omit "Secretary, Chief Secretary's Department" wherever occurring from sections 105A (2)–(4) and (6) and 105B (3) and (4).

Insert instead "Director-General of the Department of Gaming and Racing".

[15] Section 105B Restrictions relating to former key officials

Insert after section 105B (5):

- (6) If a reference ("the original reference") in this Act to a position, officer or Department is replaced with, or required to be read or construed as, a reference ("the replacement reference") to another position, officer or Department, the replacement reference is for the purposes of the operation of this section to be read as including the original reference.

[16] Schedule 1 Savings and transitional provisions

Insert after the matter relating to the *Liquor (Amendment) Act 1994* in clause 1 (1):

Liquor Amendment Act 1995

[17] Schedule 1

Insert after clause 30:

Part 5 Liquor Amendment Act 1995

31 Complaints as to quiet and good order of neighbourhood

A complaint duly made to the Board under section 104 before the amendment of that section by the *Liquor Amendment Act 1995* is taken to have been made in accordance with that section as so amended.

32 References to former key officials

Section 105B (6), as inserted by the *Liquor Amendment Act 1995*, is taken to have commenced on the commencement of section 105B.

[Minister's second reading speech made in—

Legislative Assembly on 24 May 1995

Legislative Council on 31 May 1995]

BY AUTHORITY

LEGISLATIVE COUNCIL - SECOND READING SPEECH

**LIQUOR AMENDMENT BILL 1995
REGISTERED CLUBS AMENDMENT BILL 1995**

MR PRESIDENT

I MOVE THAT THESE BILLS BE NOW READ A SECOND TIME.

MR PRESIDENT, THE LIQUOR AND CLUBS INDUSTRIES MAKE AN IMPORTANT CONTRIBUTION TO THE ECONOMIC AND SOCIAL WELL BEING OF THIS STATE. LABOR HAS A LONG HISTORY OF WORKING CLOSELY WITH THESE INDUSTRIES, AND VALUES THE MANY BENEFITS THEY BRING TO THE PEOPLE OF NEW SOUTH WALES.

PRIOR TO THE RECENT ELECTION, LABOR ISSUED COMPREHENSIVE POLICY STATEMENTS AIMED AT SECURING THE FUTURE OF THESE INDUSTRIES IN UNCERTAIN AND CHANGING TIMES. THOSE POLICIES WERE EXTENSIVELY RESEARCHED AND DEVELOPED IN CONSULTATION WITH RELEVANT INDUSTRY GROUPS, TO ENSURE THAT THEY WOULD ADDRESS THE ISSUES WHICH THOSE GROUPS RAISED WITH LABOR WHILE IN OPPOSITION.

THE BILLS NOW BEFORE THE HOUSE REPRESENT THE IMPORTANT FIRST STEP IN IMPLEMENTING THOSE POLICIES. OTHER AMENDMENTS WILL BE MADE FOLLOWING FURTHER POLICY DEVELOPMENT AND CONSULTATION.

MR PRESIDENT, THERE ARE SEVERAL SPECIFIC ITEMS ADDRESSED IN THE BILLS, AND I WOULD LIKE NOW TO TURN TO THE FIRST OF THOSE, WHICH DEALS WITH NOISE COMPLAINTS IN RELATION TO LICENSED PREMISES AND REGISTERED CLUBS.

.../2...A GENERAL COMPLAINT ABOUT THE CONDUCT ...

A GENERAL COMPLAINT ABOUT THE CONDUCT OF LICENSED PREMISES MAY BE MADE BY, AMONGST OTHERS, A PERSON AUTHORISED IN WRITING BY 3 OR MORE PERSONS RESIDING IN THE VICINITY OF THE LICENSED PREMISES. THE REQUIREMENT THAT A MINIMUM OF 3 RESIDENTS LODGE A COMPLAINT CLEARLY AIMS TO PREVENT VEXATIOUS OR FRIVOLOUS COMPLAINTS BEING MADE.

HOWEVER, IN THE SPECIFIC CASE OF A COMPLAINT ABOUT NOISE OR DISTURBANCE TO THE NEIGHBOURHOOD, NO MINIMUM NUMBER OF RESIDENTS IS REQUIRED AND THEREFORE ONE PERSON ALONE CAN MAKE A COMPLAINT. THIS SITUATION ARISES FROM AMENDMENTS MADE BY THE FORMER COALITION GOVERNMENT IN 1989 AND 1990.

IN 1993, THE COALITION GOVERNMENT MADE FURTHER AMENDMENTS WHICH ALSO REDUCED THE NUMBER OF RESIDENTS NEEDED TO OBJECT TO AN APPLICATION FOR EXTENDED TRADING HOURS TO ONE.

CLEARLY A NEED EXISTS FOR A MECHANISM TO ALLOW RESIDENTS DISTURBED BY EXTENDED TRADING OR THE BEHAVIOUR OF PATRONS OF LICENSED PREMISES TO COMPLAIN. HOWEVER, THIS MUST BE BALANCED BY THE RIGHT OF SMALL BUSINESSES TO OPERATE WITHOUT HARASSMENT FROM INDIVIDUALS WHOSE COMPLAINTS MAY BE SUPERFICIAL AND PETTY FOR WHATEVER REASONS.

THE BILLS NOW BEFORE THE HOUSE WILL RESTORE THE MINIMUM NUMBER OF RESIDENTS REQUIRED FOR A NOISE COMPLAINT TO THREE, BRINGING THAT INTO LINE WITH THE GENERAL COMPLAINT PROVISIONS. THE BILLS ALSO RESTORE THE MINIMUM NUMBER REQUIRED TO OBJECT TO EXTENDED TRADING HOURS TO THREE SO THAT THE COMPLAINT AND OBJECTION PROVISIONS OF BOTH ACTS ARE CONSISTENT.

.../3...MR PRESIDENT, ANOTHER OF THE CHANGES ...

MR PRESIDENT, ANOTHER OF THE CHANGES MADE BY THE FORMER COALITION GOVERNMENT IN 1993 CONCERNS APPLICATIONS BY LICENSEES AND CLUBS FOR EXTENDED TRADING HOURS. THOSE CHANGES PREVENT AN APPLICATION BEING MADE FOR 6 MONTHS AFTER EITHER A REFUSAL OF AN APPLICATION FOR EXTENDED TRADING, OR A REDUCTION IN TRADING HOURS ARISING FROM A NOISE COMPLAINT.

AT THE TIME THIS AMENDMENT WAS MADE I INDICATED THAT IT WOULD BE CHANGED AS PART OF LABOR POLICY. LABOR CONSIDERS THAT LICENSEES AND CLUBS SHOULD BE ABLE TO APPLY TO HAVE CONDITIONS REMOVED OR ALTERED, LEAVING THE COURT TO DETERMINE WHETHER THAT WILL LEAD TO ANY FURTHER PROBLEMS. IF LICENSEES AND CLUBS COMPLY WITH CONDITIONS, AND THE PROBLEM CEASES TO EXIST, WHY SHOULD THERE BE A SIX-MONTH WAIT?

THESE ARE MATTERS WHICH SHOULD BE DEALT WITH BY THE COURT OR THE LIQUOR ADMINISTRATION BOARD. LICENSEES AND CLUBS WHO DO THE RIGHT THING SHOULD NOT PENALISED BY INFLEXIBLE STATUTORY PROHIBITIONS. THE BILLS WILL THEREFORE AMEND THE SIX MONTHS PROHIBITION TO ALLOW AN EARLIER APPLICATION IF IT CAN BE SHOWN THAT THERE HAS BEEN A MATERIAL CHANGE IN THE CIRCUMSTANCES.

MR PRESIDENT, THE REGISTERED CLUBS AMENDMENT BILL ADDRESSES AN ISSUE OF CONCERN TO MANY CLUBS IN THIS STATE. I AM SURE THAT HONOURABLE MEMBERS OF THIS HOUSE WILL NO DOUBT APPRECIATE THE CONTRIBUTION MADE BY CLUBS IN NEW SOUTH WALES IN PROMOTING FRIENDLY COMPETITION ACROSS A WIDE RANGE OF SPORTING AND SOCIAL ACTIVITIES.

.../4...IN RECOGNISING THIS VALUABLE ROLE ...

IN RECOGNISING THIS VALUABLE ROLE, THE REGISTERED CLUBS ACT PROVIDES THAT A MEMBER OF A CLUB WHO IS VISITING A HOST CLUB TO PARTICIPATE IN AN ORGANISED SPORT OR COMPETITION CAN BE DEEMED A TEMPORARY MEMBER OF THE HOST CLUB FOR THE TIME OF THE COMPETITION. AS A TEMPORARY MEMBER, THE VISITOR IS ENTITLED TO USE THE FACILITIES AND ACCOMMODATION OF THE CLUB.

HOWEVER, THIS PROVISION ONLY APPLIES TO MEMBERS WHO ARE VISITING FROM OTHER CLUBS WITHIN NEW SOUTH WALES. THE GOVERNMENT'S PRE-ELECTION POLICY INCLUDED A COMMITMENT TO AMEND THE ACT TO RECOGNISE MEMBERS WHO ARE VISITING FROM CLUBS ELSEWHERE IN AUSTRALIA.

THIS IS ESPECIALLY IMPORTANT FOR BORDER CLUBS AND THOSE ACTIVELY INVOLVED IN PROMOTING INTERSTATE COMPETITIONS. THE SPIRIT OF THE REGISTERED CLUBS ACT CLEARLY RECOGNISES THE VALUE OF INTER-CLUB COMPETITIONS, AND THERE IS NO REASON TO RESTRICT THIS TO CLUBS WITHIN NEW SOUTH WALES.

MR PRESIDENT, LAST YEAR THE FORMER GOVERNMENT AMENDED THE LIQUOR ACT TO ALLOW HOTELS TO SELL LIQUOR WITHOUT A MEAL ON GOOD FRIDAY. HOWEVER, THE RESTRICTED HOURS OF MIDDAY TO 10 PM REMAINED. AT THE TIME, LABOR ATTEMPTED TO AMEND THE LEGISLATION TO ALLOW HOTELS TO TRADE FROM 10 AM UNTIL 10 PM, BUT THIS ATTEMPT WAS UNSUCCESSFUL.

THEREFORE, THE LIQUOR AMENDMENT BILL AMENDS HOTEL TRADING HOURS ON GOOD FRIDAY TO ALLOW TRADING FROM 10 AM. IT IS LABOR'S BELIEF THAT THIS SMALL CHANGE IS APPROPRIATE TO COMPENSATE FOR THE FACT THAT CLUBS AND, WITH THE APPROPRIATE APPROVAL, RESTAURANTS CAN TRADE FOR 24 HOURS ON GOOD FRIDAY.

.../5...FINALLY, THE BILLS ALSO MAKE A RANGE ...

FINALLY, THE BILLS ALSO MAKE A RANGE OF STATUTE LAW AMENDMENTS WHICH ARISE OUT THE GOVERNMENT'S NEW, MORE EFFECTIVE ADMINISTRATIVE ARRANGEMENTS FOR THE LIQUOR AND REGISTERED CLUBS ACTS. THESE AMENDMENTS REPLACE REFERENCES ASSOCIATED WITH THE FORMER CHIEF SECRETARY'S DEPARTMENT NOW THAT A NEW GAMING AND RACING ADMINISTRATION HAS BEEN FORMED.

MR PRESIDENT, THE BILLS NOW BEFORE THE HOUSE REPRESENT A SMALL BUT IMPORTANT STEP IN IMPLEMENTING THE GOVERNMENT'S POLICIES FOR THE LIQUOR AND CLUBS INDUSTRIES. THEY CLEARLY DEMONSTRATE THAT LABOR WILL IMPLEMENT THOSE POLICIES WITHOUT UNNECESSARY DELAY SO THAT THE INDUSTRIES CAN BENEFIT FROM THEM AS SOON AS POSSIBLE.

AT THE SAME TIME, WHERE FURTHER POLICY DEVELOPMENT AND CONSULTATION IS REQUIRED, THAT WILL BE UNDERTAKEN. THIS GOVERNMENT WILL ENSURE THAT CHANGES TO THE LIQUOR AND REGISTERED CLUBS ACTS ARE IMPLEMENTED PROPERLY WITH MAXIMUM BENEFITS FOR LICENSED PREMISES AND CLUBS IN NEW SOUTH WALES.

I COMMEND THE BILLS.

(end)

C-011
Ind (Nile)

LEGISLATIVE COUNCIL

Liquor Amendment Bill 1995

First Print

Amendment to be moved in Committee

- No. 1 Page 3, Schedule 1 (4), lines 16 and 17. Omit all words on those lines. Insert instead:

Omit section 24 (2) (c1).

