



New South Wales

# Liquor and Registered Clubs Legislation Amendment Bill 1995

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

This Bill amends the *Liquor Act 1982* and the *Registered Clubs Act 1976* to achieve the following objects:

- (a) to provide explicitly that "harm minimisation" (the minimisation of harm associated with misuse and abuse of liquor) is a primary objective of each Act and to provide that due regard is to be had to the need for harm minimisation by persons exercising functions under the Acts, particularly when considering the public interest,
  - (b) to provide for responsible practices in the sale, supply, service and promotion of liquor (by preventing activities that encourage misuse or abuse of liquor and intoxication, and requiring licensees and staff to undergo courses of training in responsible service practices),
  - (c) to increase penalties for offences concerned with the sale or supply of liquor to minors, the exposure of minors to gaming devices, and intoxication and violent behaviour on licensed and club premises,
  - (d) to make miscellaneous and consequential amendments.
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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 for the commencement of the proposed Act on a day or days to be proclaimed.

**Clause 3** gives effect to the amendments to the *Liquor Act 1982* as set out in Schedule 1.

**Clause 4** gives effect to the amendments to the *Registered Clubs Act 1976* as set out in Schedule 2.

**Clause 5** amends the *Liquor Regulation 1983* to extend the training requirements that currently apply to applicants for a hotelier's licence to applicants for a motel licence.

## Amendments (Schedules 1 and 2)

### Harm minimisation

Both Acts are amended to provide that "harm minimisation" (the minimisation of harm associated with misuse and abuse of liquor) is a primary objective of each Act and to provide that persons having functions under the Acts (including the Licensing Court, the Liquor Administration Board, the Director of Liquor and Gaming and the Commissioner of Police) are required to have due regard to the need for harm minimisation when exercising those functions. In particular, due regard is to be had to the need for harm minimisation when considering the public interest. (See Schedules 1 [1] and 2 [1])

### Responsible practices in the sale, supply, service and promotion of liquor

Both Acts are amended to provide for responsible practices in the sale, supply, service and promotion of liquor. The amendments will:

- (a) impose requirements for responsible service practices as a precondition to the grant of a liquor licence or club registration, or an extension of trading hours, (See Schedules 1 [10], [11], [12], [15], [21] and 2 [7])
- (b) allow the Licensing Court to impose conditions on liquor licences and club registrations to restrict activities (such as promotions) that could encourage misuse or abuse of liquor (such as binge drinking or excessive consumption), (See Schedules 1 [8] and 2 [8])



Explanatory note

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- (c) provide new grounds for complaint against licensed premises and registered clubs, based on irresponsible liquor promotions, frequent intoxication on the premises (this already applies to registered clubs), and violent behaviour, (See Schedules 1 [23], [31] and 2 [9], [11])
- (d) introduce a new regulation making power that will authorise the making of regulations requiring or encouraging the adoption of responsible practices in the sale, supply, service and promotion of liquor (such as regulations prohibiting or restricting promotions and other activities (including discounting and supply of free liquor) likely to result in binge drinking or excessive consumption, and requiring licensees, managers and staff to undergo courses of training in responsible service practices). (See Schedules 1 [7], [42] and 2 [8], [23])

### Increased penalties

Penalties under both Acts for offences concerned with the sale or supply of liquor to minors and exposure of minors to gaming machines are increased. Penalties for licensees and staff are increased from 10 and 20 penalty units (\$1,000 and \$2,000) to 50 penalty units (\$5,000). Penalties for other adults are increased from 10 penalty units (\$1,000) to 20 penalty units (\$2,000). In addition, a new higher penalty of 100 penalty units (\$10,000) and/or 12 months imprisonment will be available in the case of the offence of supplying liquor to a minor where the offence is so serious as to warrant a higher penalty (as, for example, in the case of the supply of large amounts of liquor, supply of "hard" liquor, or supply to very young children). Penalties for minors are currently 5 penalty units (\$500) and are not increased. (See Schedules 1 [32]–[39] and 2 [24]–[30]) Penalties are also increased from 20 to 50 penalty units (\$2,000 to \$5,000) for the offences of permitting intoxication or violent behaviour, or selling liquor to intoxicated persons, on licensed premises or club premises. (See Schedules 1 [40], [41] and 2 [22])

### Miscellaneous and consequential amendments

The following miscellaneous and consequential amendments are made:

- (a) The *Liquor Act 1982* currently defines *beer* to include any fermented liquor made from sugar or saccharine matter. The amendments delete this inclusion from the definition (so as to prevent the unintended inclusion of some alcoholic fruit drinks) and replace it with an inclusion of any fermented liquor that is made from hops or that is held out to be beer. (See Schedule 1 [2])

- (b) An amendment is made to the definition of *premises* in the *Liquor Act 1982* to allow a tram car to be licensed under the Act for the sale of liquor. (See Schedule 1 [4])
- (c) The *Liquor Act 1982* currently allows the regulations to require an applicant for any licence to attend a prescribed course of instruction. Another provision requires an applicant for a motel licence to comply with the same requirements as to attendance at a course of instruction as apply to an applicant for a hotel licence. These provisions are amended to delete the requirement that an applicant for a motel licence attend the same course as a hotel applicant, and to provide that the regulations may require an applicant for a licence to attend a course of instruction approved by the Liquor Administration Board (as an alternative to the regulations actually specifying a course). The regulations under the Act are also amended to provide that an applicant for a motel licence is required to complete an appropriate course of instruction. (See proposed clause 5 and Schedule 1 [6] and [44])
- (d) Currently the *Liquor Act 1982* requires an applicant for a licence to keep the Registrar of the Licensing Court informed of any changes in circumstances affecting the application, pending a decision on that application. Those requirements are extended so that they also apply to an applicant for a transfer of a licence, pending the final disposal of the application. (See Schedule 1 [16] and [17])
- (e) Currently the *Liquor Act 1982* allows the Liquor Administration Board to recover any duty or penalty in respect of late payment of licence fee from the licensee. An amendment is made to allow the Board to also recover any such duty or penalty from any person who has a direct interest in the business being conducted pursuant to the licence. (See Schedule 1 [24])
- (f) Under the *Liquor Act 1982* the boundaries of licensed premises in respect of which there is an on-licence for a restaurant can be redefined to include an adjoining motel. An amendment increases the maximum fee for this redefinition so that it corresponds with the fee for the grant of an on-licence for premises that include a motel. This corrects an anomaly whereby the fee payable for a motel endorsement for an on-licence differed depending on whether the endorsement was granted at the same time as the on-licence application was granted or subsequently pursuant to a separate application. (See Schedule 1 [28])



Explanatory note

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- (g) At present the *Liquor Act 1982* allows a person who holds a hotelier's licence in respect of premises rented by him or her to deduct from the rent payable for the premises a proportion of the licence fee payable under the Act. This provision is amended to make it clear that a lessee is not entitled to deduct any proportion of the duty payable by the lessee on approved amusement devices. The amendment is consequential on amendments to the licence fee provisions made in 1994. Accordingly, the amendment is made to apply in respect of rent payable by a lessee on or after the commencement of those 1994 amendments. (See Schedule 1 [45] and [48])
- (h) At present the holder of an approved amusement device dealer's licence or a gaming-related licence is required to wear visible identification when servicing, repairing or maintaining an approved amusement device or poker machine on licensed or registered club premises. This requirement is clarified so that, if the licensee is a corporation, the requirement applies to any person who acts under the authority of the licence. (See Schedules 1 [46] and 2 [35])
- (i) Both Acts prohibit the possession, keeping, use or operation of an approved amusement device or poker machine except in certain circumstances. An exception allows the possession, keeping, use or operation of such a device or machine if it is being used for educational, cultural or promotional purposes. The amendments make it clear that such promotional purposes must relate to promotion of the device or machine itself, not other goods and services. (See Schedules 1 [47] and 2 [36])
- (j) A provision in the *Registered Clubs Act 1976* relating to disclosure under the *Corporations Law* by a director of a registered club of an interest in a contract proposed to be entered into by the club is amended to provide that disclosure is still required (even though the requirement under the *Corporations Law* now only applies to proprietary companies). (See Schedule 2 [20] and [21])
- (k) Certain provisions of both Acts currently give local councils a role in relation to applications, functions, authorities, complaints and variations of trading hours. Those provisions are amended to permit other development consent authorities to perform a similar role. (See Schedules 1 [3], [9], [20], [30] and 2 [2], [3], [9], [12], [13], [14], [16]–[19], [34])

Explanatory note

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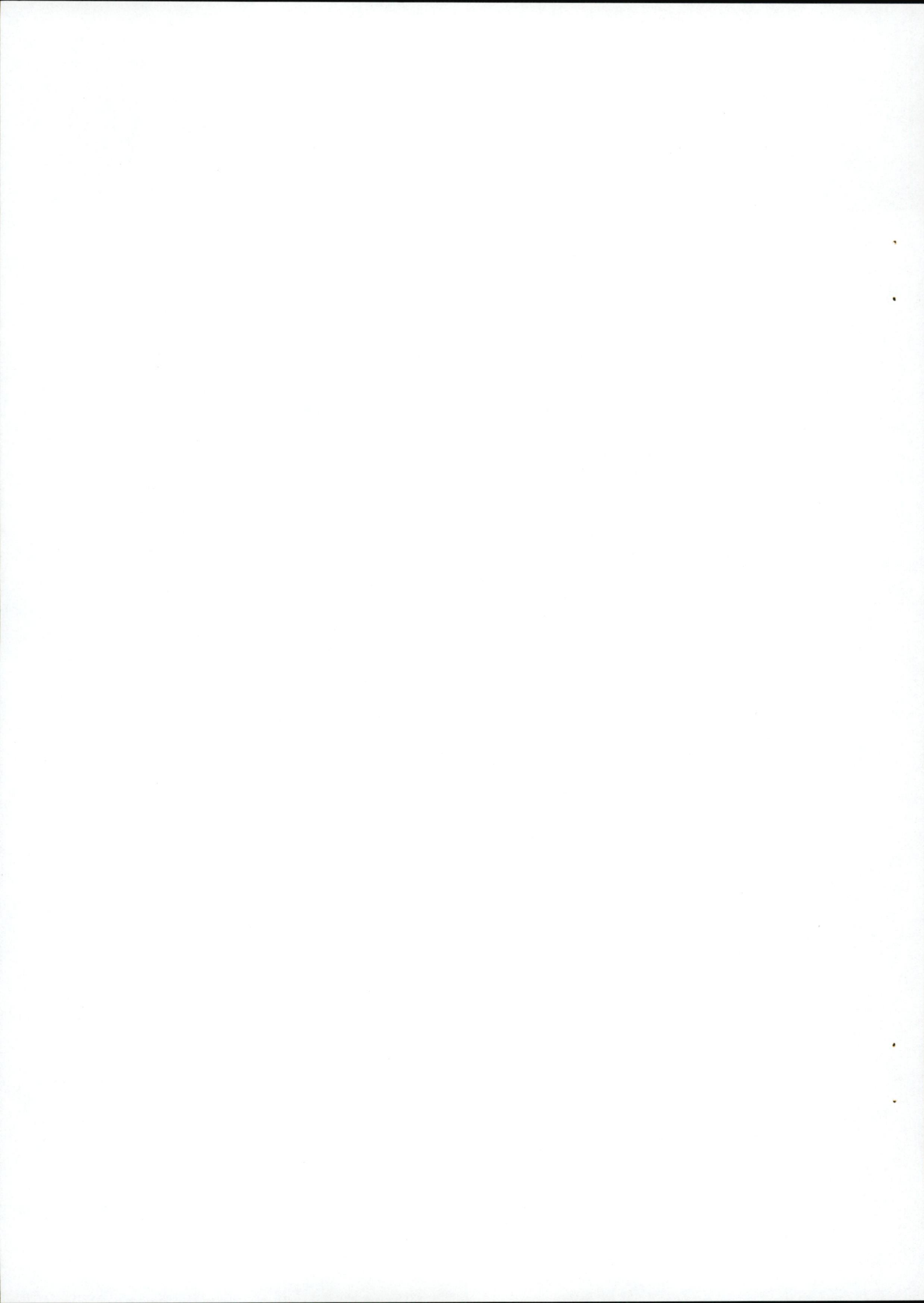
- (l) Under section 16 of the *Liquor Act 1982* as currently worded, the Licensing Court may award costs against parties to proceedings before the Court. The section is amended to enable the Court also to award costs against persons that have a direct interest in an applicant's liquor business or application. (See Schedule 1 [5])
- (m) Section 35 of the *Liquor Act 1982* restricts the serving of liquor on a vessel that has an on-licence to when the vessel has left its berth (ie is on a cruise). The section is amended to provide that liquor may not be served while the vessel is moored during a cruise (after it has left its berth) if persons other than passengers or crew are permitted to board the vessel while it is moored. The section is also amended to clarify the prohibition on selling liquor while on a voyage in Sydney Harbour so that the prohibition applies only to public passenger services (public and private ferries). (See Schedule 1 [13] and [14])
- (n) When a licensee is evicted from licensed premises or the owner of the premises is entitled to exclusive possession of them, an application for a licence in respect of the premises under section 42 of the *Liquor Act 1982* is currently not required to include details of persons that have an interest in the application or business. The section is amended to apply such a requirement to those applications. (See Schedule 1 [18] and [19])
- (o) In calculating for liquor licence fee purposes the price of beer sold by a licensee, the freight costs involved in transporting the beer from a brewery to a regional depot of the brewer are currently excluded (section 78A of the *Liquor Act 1982* and section 4AA of the *Registered Clubs Act 1976*). Those sections are amended to make it clear that costs of transport from an interstate brewery to a regional (NSW) depot are also to be excluded from that calculation. (See Schedules 1 [25]–[27] and 2 [4]–[6])
- (p) Section 97 of the *Liquor Act 1982* and section 68 of the *Registered Clubs Act 1976* refer to the service and maintenance of breath testing devices on licensed premises in accordance with the relevant Australian Standard. The provisions are amended to require the device to comply with the Standard (rather than by requiring its service or maintenance to be in accordance with the Standard). This is because the Standard refers to the characteristics of the device rather than its service or maintenance. (See Schedules 1 [29] and 2 [32])



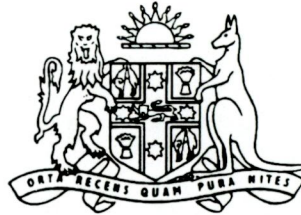
Explanatory note

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- (q) Section 55 of the *Registered Clubs Act 1976* currently prohibits the making of false or misleading statements in applications and other instruments provided to the Court or the registrar. The section is extended to statements made to the Board and to other documents submitted to the Court, the Director, the registrar or the Board for the purposes of the Act. (See Schedule 2 [31]) The penalty for the offence is increased to 20 penalty units (\$2,000) to bring it into line with the corresponding offence under the *Liquor Act 1982*. The corresponding offence under the *Liquor Act 1982* (which currently applies only to false and misleading statements in affidavits and statutory declarations) is extended to bring it into line with the new broader offence under the *Registered Clubs Act 1976*. (See Schedule 1 [43])
- (r) Section 85 (8) of the *Registered Clubs Act 1976* requires poker machine duty to be paid to the Housing Account under the *Housing Act 1912* and the Hospitals Fund under the *Public Hospitals Act 1929*. This requirement is omitted as the purposes of those accounts are now served by other arrangements. (See Schedule 2 [33])
- (s) A statute law revision amendment is made to the *Liquor Act 1982* to provide that a reference in certain disciplinary provisions to a manager of licensed premises includes a reference to a former manager. The amendment will complement an existing provision that provides that a reference in those disciplinary provisions to a licensee includes a reference to a former licensee. (See Schedule 1 [22])







New South Wales

# Liquor and Registered Clubs Legislation Amendment Bill 1995

## Contents

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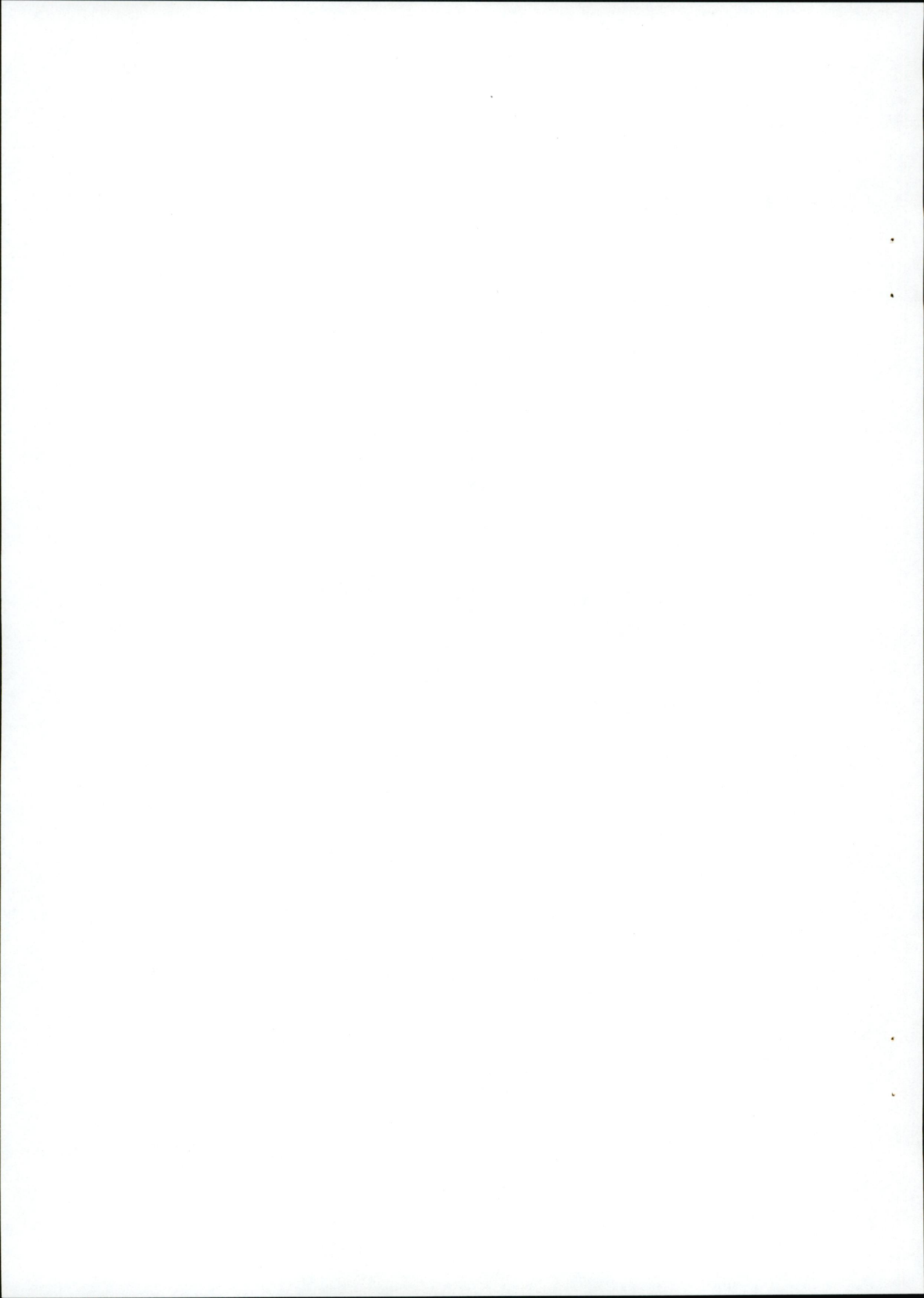
	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Liquor Act 1982 No 147	2
4 Amendment of Registered Clubs Act 1976 No 31	2
5 Amendment of Liquor Regulation 1983	2

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## Schedules

1 Amendment of Liquor Act 1982	3
2 Amendment of Registered Clubs Act 1976	15

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New South Wales

## Liquor and Registered Clubs Legislation Amendment Bill 1995

No. , 1995

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### **A Bill for**

An Act to amend the *Liquor Act 1982* and the *Registered Clubs Act 1976* to provide for harm minimisation and responsible service practices, to make further provision with respect to the duties of licensees, to increase penalties and to make miscellaneous amendments; and for other purposes.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Liquor and Registered Clubs Legislation Amendment Act 1995*.

**2 Commencement**

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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.

**4 Amendment of Registered Clubs Act 1976 No 31**

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The *Registered Clubs Act 1976* is amended as set out in Schedule 2.

**5 Amendment of Liquor Regulation 1983**

The *Liquor Regulation 1983* is amended by inserting the words “, a motel licence” after the words “a hotelier’s licence” in clause 27 (Completion of course of instruction). 15

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## Schedule 1 Amendment of Liquor Act 1982

(Section 3)

### [1] Section 2A

Insert after section 2:

#### 2A Harm minimisation is a primary object of the Act

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A primary object of this Act is harm minimisation, that is, the minimisation of harm associated with misuse and abuse of liquor (such as harm arising from violence and other anti-social behaviour). The court, the Board, the Director, the Commissioner of Police and all other persons having functions under this Act are required to have due regard to the need for harm minimisation when exercising functions under this Act. In particular, due regard is to be had to the need for harm minimisation when considering for the purposes of this Act what is or is not in the public interest.

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### [2] Section 4 Definitions

Omit "made from sugar or saccharine matter" from the definition of *beer* in section 4 (1).

Insert instead "made from hops or that for the purposes of sale is held out to be beer".

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### [3] Section 4 (1)

Omit the definition of *local council*. Insert instead:

*local consent authority*, in relation to licensed premises or proposed licensed premises, means:

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- (a) (unless paragraph (b) applies) the council in whose area (within the meaning of the *Local Government Act 1993*) the premises are, or will be, situated, or



- (b) if consent to the carrying out of development on the land concerned is required from a person or body other than the council (such as the Darling Harbour Authority, for example)—that person or body. 5
- [4] Section 4 (1)**  
Insert “, a tram car (whether or not running on rails or self-propelled)” after “railway train” in the definition of *premises*.
- [5] Section 16 Costs**  
Insert after section 16 (1): 10  
(1A) If the court orders an applicant under Part 3 to pay costs, the court may also order that a person who is directly interested in the application, or in the business (whether proposed or actual) to which the application relates, or in the profits of that business, is to be jointly and severally liable (with the applicant) for the payment of those costs. 15
- [6] Section 18 Court may grant licence**  
Omit section 18 (13) (c).
- [7] Section 20 Conditions of licences**  
Insert after section 20 (2) (a): 20  
(a1) a condition that the licensee comply with any provision of the regulations under section 125C (Responsible service) with which the licensee is required to comply,
- [8] Section 20 (2A)**  
Insert after section 20 (2): 25  
(2A) Without limiting this section, a condition can be imposed under this section that prohibits or restricts activities (such as promotions or discounting) that could encourage misuse or abuse of liquor (such as binge drinking or excessive consumption). 30

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**[9] Sections 25, 27, 32, 35A, 44 (1) (e), 67 (1) (d)**

Omit "local council" wherever occurring.  
Insert instead "local consent authority".

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

Insert after section 25 (1):

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(1A) An application may not be granted under this section for an extension of trading hours unless the court is satisfied that practices are in place and will remain in place at the licensed premises that ensure as far as reasonably practicable that liquor is sold, supplied and served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises.

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

Insert after section 27 (2):

(2A) An application may not be granted under this section for an extension of trading hours unless the court is satisfied that practices are in place and will remain in place at the licensed premises that ensure as far as reasonably practicable that liquor is sold and supplied responsibly on the premises.

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

Insert after section 32 (1):

(1A) An application may not be granted under this section for an extension of trading hours unless the court is satisfied that practices are in place and will remain in place at the licensed premises that ensure as far as reasonably practicable that liquor is sold, supplied and served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises.

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**[13] Section 35 On-licence (vessel or aircraft)—trading hours**

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Omit "in the course of plying" from section 35 (a).  
Insert instead "that is part of a regular passenger ferry service".

**[14] Section 35 (2) and (3)**

Insert at the end of section 35:

- (2) Liquor must not be sold or supplied to a passenger on a vessel to which an on-licence relates while the vessel is moored (after it has left its berth) unless no persons other than passengers and crew are permitted to board the vessel while it is moored. 5
- (3) In this section, *passenger* on a vessel means a person who joins the vessel for the whole or part of its voyage.

**[15] Section 35A On-licence (vessel)—variation of trading hours** 10

Insert after section 35A (1):

- (1A) The court may not grant an application under this section for an extension of trading hours unless the court is satisfied that practices are in place and will remain in place at the licensed premises that ensure as far as reasonably practicable that liquor is sold, supplied and served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises. 15

**[16] Section 37 Making of application** 20

Omit “before an application for a licence is granted or refused” from section 37 (5).

Insert instead “before an application for a licence or transfer of a licence is disposed of”.

**[17] Section 37 (6)** 25

Insert after section 37 (5):

- (6) For the purposes of subsection (5), an application is disposed of when the application is granted or refused. In the case of an application for transfer of a licence that is granted provisionally, the application is not disposed of until the provisional grant is confirmed by the court or it ceases to have effect. 30



**[18] Section 38 Affidavit as to interested persons**

Omit “an application for a licence made under section 42 or” from section 38 (1).

**[19] Section 38 (2) (c)**

Insert at the end of section 38 (2) (b):

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, or

(c) for transfer of a licence under section 42,

**[20] Section 47A**

Insert after section 47:

**47A Refusal of application—responsible service standards**

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The court is to refuse an application for a licence unless satisfied that practices will be in place at the licensed premises as soon as the licence is granted that ensure as far as reasonably practicable that liquor is sold, supplied and served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place.

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**[21] Section 66 Interpretation**

Insert “and a reference to a manager includes a reference to a former manager” after “former licensee” in section 66 (2).

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**[22] Section 67 (1A)**

Omit “council” wherever occurring.  
Insert instead “local consent authority”.

**[23] Section 68 Grounds for complaint**

Insert after section 68 (1) (d):

- (d1) that the licensee or manager has engaged in conduct or activities that are likely to encourage misuse or abuse of liquor (such as binge drinking or excessive consumption), 5
- (d2) that intoxicated persons have frequently been on the licensed premises or have frequently been seen to leave those premises,
- (d3) that acts involving violence against persons or damage to property have frequently been committed on or near the licensed premises by persons who have been on the licensed premises, 10

**[24] Section 78AA**

Insert after section 78: 15

**78AA Liability of persons interested in licensed business for fees and penalties under this Part**

When the Board is entitled to recover any amount payable under this Part from a licensee or former licensee, the Board may also recover the amount, as a debt due to the Crown, from any person who, at the time the licensee or former licensee became liable to pay the amount, was directly interested in the business, or the profits of the business, carried on under the licence. 20

**[25] Section 78A Freight costs to brewers' regional depots not to be included in price of beer** 25

Omit "an off-licence for a brewer" from section 78A (2).  
Insert instead "a licence for a brewer".

**[26] Section 78A (2)**

Omit "that off-licence". Insert instead "that licence". 30

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**[27] Section 78A (2A)**

Insert after section 78A (2):

(2A) In subsection (2):

- (a) a reference to a licence for a brewer is a reference to an off-licence for a brewer under this Act or a corresponding licence of another jurisdiction (that is, a licence that corresponds to an off-licence for a brewer under a law in force in another State or in a Territory that corresponds to this Act), and 5
- (b) a reference to licensed premises of the brewer includes (in the case of a corresponding licence of another jurisdiction) licensed premises under that corresponding licence. 10

**[28] Section 90 Boundaries of licensed premises**

Omit "the prescribed fee has been paid" from section 90 (3). 15  
Insert instead "the appropriate fee has been paid. The appropriate fee is such fee, not exceeding \$4000, as is fixed by the Board for the redefinition."

**[29] Section 97 Breath analysis equipment**

Omit section 97 (2) (a). Insert instead: 20

- (a) the breath analysing instrument concerned did not comply with the relevant Australian Standard (as in force at the date of the manufacture of the instrument), or

**[30] Section 104 Quiet and good order of neighbourhood**

Omit section 104 (1AA) (c) (as inserted by the *Liquor Amendment Act 1995*). Insert instead: 25

- (c) a person authorised by the local consent authority in relation to the licensed premises, or



**[31] Section 104 (4) (d)**

Insert at the end of section 104 (4) (c):

, or

- (d) prohibition of or restriction on activities (such as promotions or discounting) that could encourage misuse or abuse of liquor (such as binge drinking or excessive consumption). 5

**[32] Section 114 Sale or supply of liquor to a minor**

Omit "20 penalty units" from section 114 (1), (3) and (4) wherever occurring. 10

Insert instead "50 penalty units or, if circumstances of aggravation exist in relation to the offence, 100 penalty units or 12 months imprisonment (or both)".

**[33] Section 114 (4A)**

Insert after section 114 (4): 15

(4A) For the purposes of this section, circumstances of aggravation exist in relation to an offence under this section if (and only if) both of the following apply:

- (a) the information by which the proceedings for the offence are instituted alleges that the offence is (for the reasons specified in the information) so serious as to warrant the imposition of a penalty in excess of 50 penalty units, 20

- (b) the court that convicts the person for the offence is of the opinion (having regard to the quantity or nature of the liquor involved or the young age of the person involved, or other relevant considerations) that the offence is so serious as to warrant the imposition of a penalty in excess of 50 penalty units. 25 30

**[34] Section 115 Consumption etc of liquor by minor**

Omit "10 penalty units" from section 115 (3).

Insert instead "20 penalty units".

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- [35] **Section 116 Sale or supply of liquor by a minor**  
Omit "10 penalty units". Insert instead "50 penalty units".
- [36] **Section 116B Offences by licensees in relation to minors**  
Omit "20 penalty units" wherever occurring.  
Insert instead "50 penalty units". 5
- [37] **Section 116D Offence by adult accompanying minor**  
Omit "10 penalty units". Insert instead "20 penalty units".
- [38] **Section 117B Entry on licensed premises by minor**  
Omit "10 penalty units". Insert instead "20 penalty units".
- [39] **Section 117C Licensee liable for use of approved amusement device by minor** 10  
Omit "20 penalty units" from section 117C (1).  
Insert instead "50 penalty units".
- [40] **Section 125 Conduct on licensed premises** 15  
Omit "20 penalty units" from section 125 (1).  
Insert instead "20 penalty units in the case of an offence under paragraph (a) or 50 penalty units in the case of an offence under paragraph (b)".
- [41] **Section 125 (3)** 20  
Omit "20 penalty units". Insert instead "50 penalty units".
- [42] **Section 125C**  
Insert after section 125B:
- 125C Responsible service**
- (1) The regulations may make provision for or with respect to requiring or encouraging the adoption of responsible practices in the sale, supply, service and promotion of liquor. 25

- (2) In particular, the regulations may make provision for or with respect to the following:
- (a) restricting or prohibiting the conduct of promotions or other activities (including discounting or supply of liquor free of charge) that could result in misuse or abuse of liquor, such as binge drinking or excessive consumption, 5
  - (b) the standards to be observed on licensed premises in the sale and service of liquor, for the purpose of preventing misuse or abuse of liquor, 10
  - (c) requiring licensees, managers and other persons engaged in the sale, supply, service and promotion of liquor and other activities on the licensed premises to undergo courses of training that will promote responsible practices in those activities. 15
- (3) Without limiting subsection (2) (b), the regulations may adopt with or without modification the standards contained in an industry code of practice as standards to be observed on licensed premises in the sale, supply, service and promotion of liquor. 20
- (4) The regulations under this section can create offences punishable by a penalty not exceeding 50 penalty units.

**[43] Section 139**

Omit the section. Insert instead:

**139 False or misleading statements** 25

- (1) A person must not, in an official document under this Act, make a statement that the person knows:
- (a) is false or misleading in a material respect, or
  - (b) omits material matter.



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- (2) A document is an official document under this Act if it is an application, declaration, affidavit, instrument or other document that is delivered to or lodged with the Board, the court, the Director or the registrar, for the purposes of this Act. 5  
Maximum penalty: 20 penalty units.
- [44] Section 150 Courses of instruction**  
Insert "or approved by the Board" after "prescribed by the regulations".
- [45] Section 154 Liability of lessor for proportion of licence fee** 10  
Omit "so much of each licence fee payable by the licensee as is referred to in section 80 (2) (a) (i) or (ii), whichever is applicable" from section 154 (2).  
Insert instead "the licence fee payable by the licensee referred to in section 80 (2) (a) (i)". 15
- [46] Section 182 Gaming-related licensees to display identification**  
Insert after section 182 (1):  
(1A) If the holder of a dealer's licence is a corporation, a reference in this section to the holder of the licence includes a reference to a person acting under the authority of the licence. 20
- [47] Section 200 Approved amusement devices not used for gaming**  
Omit section 200 (2) (b). Insert instead:  
(b) it is used only for educational or cultural purposes or for the purpose of promoting the approved amusement device (but not for the purpose of promoting other goods or services), and 25

**[48] Schedule 1, Part 6**

Insert after clause 32:

**Part 6 Liquor and Registered Clubs Legislation  
Amendment Act 1995**

**33 Liability of lessor for proportion of licence fee** 5

The amendment made to section 154 (Liability of lessor for proportion of licence fee) by the *Liquor and Registered Clubs Legislation Amendment Act 1995* extends to apply in respect of rent that became payable by the holder of a hotelier's licence on or after 1 November 1994 (the date of commencement of Schedule 1 (11) (a) to the *Liquor (Further Amendment) Act 1994*). 10

**34 Brewery regional depot freight charges** 15

The amendments made to section 78A (Freight costs to brewers' regional depots not to be included in price of beer) by the *Liquor and Registered Clubs Legislation Amendment Act 1995* do not apply for the purposes of a licensing period before the licensing period commencing on 16 January 1997. 20

**35 Effect of amendments on pending applications**

An amendment made by the *Liquor and Registered Clubs Legislation Amendment Act 1995* does not apply to an application pending under this Act at the commencement of the amendment. 25

**36 False statements**

Section 139 continues to apply to an affidavit or statutory declaration made before the substitution of that section by the *Liquor and Registered Clubs Legislation Amendment Act 1995* as if the section had not been substituted. 30

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## Schedule 2 Amendment of Registered Clubs Act 1976

(Section 4)

[1] **Section 3**

Insert after section 2:

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**3 Harm minimisation is a primary object of the Act**

A primary object of this Act is harm minimisation, that is, the minimisation of harm associated with misuse and abuse of liquor (such as harm arising from violence and other anti-social behaviour). The Licensing Court, the Board, the Director, the Commissioner of Police and all other persons having functions under this Act are required to have due regard to the need for harm minimisation when exercising functions under this Act. In particular, due regard is to be had to the need for harm minimisation when considering for the purposes of this Act what is or is not in the public interest.

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[2] **Section 4 Definitions**

Omit the definition of *council* in section 4 (1).

[3] **Section 4 (1)**

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Omit the definition of *local government area*. Insert instead:

*local consent authority*, in relation to premises or proposed premises of a registered club, means:

(a) (unless paragraph (b) applies) the council in whose area (within the meaning of the *Local Government Act 1993*) the premises are, or will be, situated, or

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(b) if consent to the carrying out of development on the land concerned is required from a person or body other than the council (such as the Darling Harbour Authority, for example)—that person or body.

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**[4] Section 4AA Freight costs to brewers' regional depots not to be included in price of beer**

Omit "an off-licence for a brewer" from section 4AA (2).  
Insert instead "a licence for a brewer".

**[5] Section 4AA (2) 5**

Omit "that off-licence". Insert instead "that licence".

**[6] Section 4AA (2A)**

Insert after section 4AA (2):

(2A) In subsection (2):

- (a) a reference to a licence for a brewer is a reference 10  
to an off-licence for a brewer under the *Liquor Act*  
*1982* or a corresponding licence of another  
jurisdiction (that is, a licence that corresponds to  
an off-licence for a brewer under a law in force in  
another State or in a Territory that corresponds to 15  
that Act), and
- (b) a reference to licensed premises of the brewer  
includes (in the case of a corresponding licence of  
another jurisdiction) licensed premises under that  
corresponding licence. 20

**[7] Section 9 Determination of application for certificate of registration**

Insert after section 9 (2A):

- (2B) The Licensing Court must not grant an application made 25  
under section 7 unless satisfied that practices will be in  
place at the club as soon as the application is granted that  
ensure as far as reasonably practicable that liquor is sold,  
supplied and served responsibly on the premises of the  
club and that all reasonable steps are taken to prevent  
intoxication on the premises, and that those practices will 30  
remain in place.

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**[8] Section 9A Conditions relating to certificate of registration**

Insert after section 9A (1):

- (1A) It is a condition of the certificate of registration of a club that the club must comply with any provision of the regulations under section 44B (Responsible service) with which the club is required to comply. 5
- (1B) Without limiting this section, a condition can be imposed under this section that prohibits or restricts activities (such as promotions or discounting) that could encourage misuse or abuse of liquor (such as binge drinking or excessive consumption). 10

**[9] Section 17 Determination of complaints against registered clubs**

Insert after section 17 (1AA) (a) (xiv):

- (xv) that the club has engaged in conduct or activities that are likely to encourage misuse or abuse of liquor (such as binge drinking or excessive consumption), 15
- (xvi) that acts involving violence against persons or damage to property have frequently been committed on or near the premises of the club by persons who have been on the premises of the club, 20

**[10] Section 17 (1AA)**

Omit "a council or person specified in section 26 (2) (a), (b) or (c)".

Insert instead "the local consent authority or a person specified in section 26 (2) (b) or (c)". 25

**[11] Section 17 (1AA) (a) (xiii)**

Omit "have been". Insert instead "have frequently been".

**[12] Section 17 (1AC)**

Omit "The council of the local government area within which the premises of any registered club are situated".

Insert instead "The local consent authority in relation to the premises of a club".

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**[13] Section 17 (1AC)**

Omit "of the council".

Insert instead "of the local consent authority".

**[14] Section 17AA Quiet and good order of neighbourhood**

Omit section 17AA (1AA) (a) and (c) (as inserted by the *Registered Clubs Amendment Act 1995*).

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Insert instead:

(a) a person authorised in writing by 3 or more persons residing in the neighbourhood of the club premises or a person who is such a resident and is authorised in writing by 2 or more other such residents, or

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(c) a person authorised by the local consent authority in relation to the club premises, or

**[15] Section 17AA (4) (d)**

Insert at the end of section 17AA (4):

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, or

(d) prohibition of or restriction on activities (such as promotions or discounting) that could encourage misuse or abuse of liquor (such as binge drinking or excessive consumption).

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**[16] Section 23A Procedure for grant of functions authority**

Omit "a person authorised by the council of the area under the *Local Government Act 1993* (including the City of Sydney) within the boundaries of which the premises of the club are situated" from section 23A (5).

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Insert instead "a person authorised by the local consent authority in relation to the premises of the club".



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**[17] Section 23B Cancellation etc of functions authority**

Omit "or a person authorised by the council of the area under the *Local Government Act 1993* (including the City of Sydney) within the boundaries of which the premises of the club are situated," from section 23B (1).

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Insert instead ", or a person authorised by the local consent authority in relation to the premises of the club,".

**[18] Section 26 Objectors**

Omit "or by the council of the local government area within which the premises or proposed premises of the club are, or are to be, situated" from section 26 (2).

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Insert instead "or by the local consent authority in relation to the premises or proposed premises of the club".

**[19] Section 26 (2) (b)**

Omit "a local government area (other than a local government area".  
Insert instead "an area, within the meaning of the *Local Government Act 1993* (other than an area".

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**[20] Section 39 Disclosure of interests of governing body of registered club**

Omit "section 231 (1) of the *Corporations Law*".  
Insert instead "subsection (2)".

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**[21] Section 39**

Insert at the end of the section:

- (2) A director of a company that is a registered club who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company must, as soon as practicable after the relevant facts have come to the director's knowledge, declare the nature of the interest at a meeting of the directors. Section 231 (2), (3) and (5) of the *Corporations Law* apply to and in respect of this subsection in the same way as they apply to and in respect of section 231 (1) of that Law.

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**[22] Section 44A Conduct on club premises**

Omit "20 penalty units" from section 44A (1) and (2) wherever occurring.

Insert instead "50 penalty units".

**[23] Section 44B**

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Insert after section 44A:

**44B Responsible service**

- (1) The regulations may make provision for or with respect to requiring or encouraging the adoption of responsible practices in the sale, supply, service and promotion of liquor. 10
- (2) In particular, the regulations may make provision for or with respect to the following:
  - (a) restricting or prohibiting the conduct of promotions or other activities (including discounting or supply of liquor free of charge) that could result in misuse or abuse of liquor, such as binge drinking or excessive consumption, 15
  - (b) the standards to be observed on the premises of clubs in the sale and service of liquor, for the purpose of preventing misuse or abuse of liquor, 20
  - (c) requiring the secretary of a registered club and other persons engaged in the administration of the club or in the sale, supply, service and promotion of liquor and other activities on the premises of a club to undergo courses of training that will promote responsible practices in those activities. 25
- (3) Without limiting subsection (2) (b), the regulations may adopt with or without modification the standards contained in an industry code of practice as standards to be observed on the premises of a club in the sale, supply, service and promotion of liquor. 30
- (4) The regulations under this section can create offences punishable by a penalty not exceeding 50 penalty units.

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**[24] Section 50 Restrictions on sales etc of liquor by registered clubs**

Omit "20 penalty units" from section 50 (1).

Insert instead "50 penalty units or, if circumstances of aggravation exist in relation to the offence, 100 penalty units or 12 months imprisonment (or both)".

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**[25] Section 50 (1A)**

Insert after section 50 (1):

(1A) For the purposes of this section, circumstances of aggravation exist in relation to an offence under this section if (and only if) both of the following apply:

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(a) the information by which the proceedings for the offence are instituted alleges that the offence is (for the reasons specified in the information) so serious as to warrant the imposition of a penalty in excess of 50 penalty units,

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(b) the court that convicts the person for the offence is of the opinion (having regard to the quantity or nature of the liquor involved or the young age of the person involved, or other relevant considerations) that the offence is so serious as to warrant the imposition of a penalty in excess of 50 penalty units.

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**[26] Section 50 (2) and (2A)**

Omit "10 penalty units" wherever occurring.  
Insert instead "20 penalty units".

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**[27] Section 50A Minors not permitted in poker machine areas**

Omit "20 penalty units" from section 50A (1).  
Insert instead "50 penalty units".



**[28] Section 50A (2)**

Omit "10 penalty units". Insert instead "20 penalty units".

**[29] Section 52B Minor attempting to enter club premises or obtain liquor**

Omit "20 penalty units" wherever occurring.  
Insert instead "50 penalty units".

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**[30] Section 53 Sending person under 18 years for liquor**

Omit "10 penalty units". Insert instead "20 penalty units".

**[31] Section 55**

Omit the section. Insert instead:

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**55 False or misleading statements**

(1) A person must not, in an official document under this Act, make a statement that the person knows:

- (a) is false or misleading in a material respect, or
- (b) omits material matter.

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(2) A document is an official document under this Act if it is an application, declaration, affidavit, instrument or other document that is delivered to or lodged with the Board, the Licensing Court, the Director or the registrar, for the purposes of this Act.

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Maximum penalty: 20 penalty units.

**[32] Section 68 Breath analysis equipment**

Omit section 68 (2) (a). Insert instead:

- (a) the breath analysing instrument concerned did not comply with the relevant Australian Standard (as in force at the date of the manufacture of the instrument), or

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- [33] Section 85 Duty on poker machines**  
Omit section 85 (8).
- [34] Section 97 Who may object**  
Omit "the council of the local government area within the boundaries of which are situated the premises" from section 97 (1) (c). 5  
Insert instead "the local consent authority in relation to the premises".
- [35] Section 122B Gaming-related licensee to display identification**  
Insert after section 122B (1): 10  
(1A) If the holder of a dealer's licence is a corporation, a reference in this section to the holder of the licence includes a reference to a person acting under the authority of the licence.
- [36] Section 123 Poker machines not used for gaming** 15  
Omit section 123 (2) (b). Insert instead:  
(b) it is used only for educational or cultural purposes or for the purpose of promoting the poker machine (but not for the purpose of promoting other goods or services), and 20
- [37] Schedule 2, Part 9**  
Insert after clause 60:
- Part 9 Liquor and Registered Clubs Legislation Amendment Act 1995**
- 61 Brewery regional depot freight charges** 25  
The amendments made to section 4AA (Freight costs to brewers' regional depots not included in price of beer) by the *Liquor and Registered Clubs Legislation Amendment Act 1995* do not apply for the purposes of a registration period before the registration period commencing on 16 January 1997. 30

**62 Effect of amendments on pending applications**

An amendment made by the *Liquor and Registered Clubs Legislation Amendment Act 1995* does not apply to an application pending under this Act at the commencement of the amendment.

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