

# New South Wales Legislation

---

|   |          |
|---|----------|
| <b>NEW SOUTH WALES LEGISLATION</b> .....                | <b>1</b> |
| THE ROLE OF KEY AGENCIES.....                           | 2        |
| THE LEGISLATION .....                                   | 4        |
| RESPONSIBILITIES UNDER THE LEGISLATION.....             | 8        |
| APPLYING FOR A LIQUOR LICENCE .....                     | 8        |
| INTOXICATION DEFINED.....                               | 16       |
| INTOXICATION LAWS .....                                 | 16       |
| WHAT ARE THE DRINK AND DRIVE LIMITS AND PENALTIES?..... | 17       |
| REQUIRED SIGNAGE.....                                   | 18       |
| UNDESIRABLE PRODUCTS AND PROMOTIONS.....                | 19       |
| ENTRY INTO LICENSED PREMISES BY MINORS .....            | 20       |
| SUPPLY ALCOHOL TO A MINOR .....                         | 22       |
| ACCEPTABLE PROOF OF AGE IDENTIFICATION .....            | 23       |
| HOURS OF OPERATION .....                                | 24       |
| LIQUOR FORUMS, ACCORDS AND CAMPAIGNS.....               | 25       |
| NOISE AND AMENITY .....                                 | 26       |
| INDUSTRY ASSOCIATIONS .....                             | 28       |
| OTHER LEGISLATION .....                                 | 28       |
| WHERE TO GET MORE INFORMATION.....                      | 30       |

## The Role of Key Agencies

---

### **NSW Office of Liquor, Gaming and Racing (OLGR)**

The Office of Liquor, Gaming & Racing (OLGR) is responsible for the development, implementation and integrity of the regulatory framework across alcohol, registered clubs, charitable fundraising and gambling activities in NSW. Its role includes:

- Providing strategic policy advice to the Government on alcohol issues;
- Helping to enforce the liquor laws (along with the NSW Police Force);
- Imposing conditions on liquor licences to help reduce and prevent alcohol-related harm and
- Administering the RSA training scheme.

OLGR works with other agencies such as the NSW Police Force to promote practices that ensure the minimisation of harm, often associated with the operations of the liquor venues, as well as facilitating the development and monitoring of compliance strategies – eg. the State's liquor accord program.

OLGR also offers a free eNews service to its stakeholders, including staff and managers working in the liquor industry. The service aims to keep stakeholders up to date on changes which impact them. Anyone can subscribe, go to [www.olgr.nsw.gov.au/website\\_subscribe\\_info.asp](http://www.olgr.nsw.gov.au/website_subscribe_info.asp)

More information about OLGR and its activities can be found in the NSW Trade & Investment Annual Report which can be viewed or downloaded from the web – [www.trade.nsw.gov.au](http://www.trade.nsw.gov.au)

### **Independent Liquor and Gaming Authority**

The Independent Liquor & Gaming Authority (ILGA) is responsible for casino, alcohol and gaming machine decision-making and disciplinary matters, including:

- Determining applications for liquor licences and related authorisations;
- Determining whether to revoke or suspend a person's RSA certification where a person has not met their responsible serving obligations; and
- Determining disciplinary action taken against licensees and others.

### **Secretary, Department of Justice**

The Secretary, Department of Justice has a broad range of statutory functions. These include making a submission on a licence application to the Independent Liquor & Gaming Authority, and taking disciplinary and enforcement action. This can include:

- issuing notices to licensees to restrict or prohibit activities likely to encourage alcohol abuse;
- issuing guidelines relating to intoxication and alcohol promotions;
- imposing licence conditions;
- determining neighbourhood disturbance complaints; and
- registering liquor accords

**OLGR Inspectors**

OLGR inspectors undertake inspections and other enforcement functions under delegation from the Director General, Department of Trade and Investment, Regional Infrastructure and Services. Inspection of licensed venues can result from:

- complaints received from the public or other licensed venues;
- investigating matters referred to the Office;
- inspection programs to determine compliance;
- allegations concerning the suitability of licensees and club secretaries;
- liquor and gambling harm minimisation enforcement programs; and
- covert inspections of licensed venues.

Legislated powers include:

- entering a licensed venue at any time (with or without a police officer) if it is considered reasonable grounds exist that a breach has been, or is being, committed;
- requiring the licensee/secretary to produce all books and records relating to the operation of the venue;
- seize documents and make copies or take extracts from them;
- request identification from a young person suspected of being under 18; and
- interview any person at the venue in relation to any relevant matter.

Compliance officers can undertake desk audits of liquor licences and certificates of registration. They also conduct operations in association with the NSW Police Force.

**NSW Police Force**

Police have wide ranging enforcement powers under the liquor laws. Police can issue penalty notices for breaches of the liquor laws. Police can prosecute a licensee, a staff member or a patron for breaches of the law, or they can take disciplinary action against a licensee on certain grounds prescribed by the liquor laws.

Short term closures of licensed venues are also an effective tool that police can use to prevent serious liquor-related problems escalating in a licensed venue.

## The legislation

---

### **The evolution of NSW liquor laws and Responsible Service of Alcohol**

While the majority of people consume alcohol responsibly, Governments have always recognised the negative impact that alcohol can have on the community. As a result the sale and supply of liquor is appropriately controlled, and sanctions apply where licensed venues are poorly run and irresponsible liquor serving occurs – such as intoxication (i.e. drunkenness) and minors obtaining liquor.

Responsible service of alcohol has been part of the State's liquor laws for nearly 100 years. Responsible service is not new.

For example in the 1912 Liquor Act, a licensee was prohibited from permitting drunkenness on the licensed premises and the onus was on the licensee and employees to establish that they took all reasonable steps to prevent the drunkenness. This requirement remains an important element of current NSW liquor laws.

Until the 1970s, registered clubs were regulated under the *Liquor Act 1912*. In 1976, the Registered Clubs Act was introduced in response to community concerns about the management of clubs and the inappropriate use of members' property. The Registered Clubs Act commenced on 1 July 1978. The Act contains an extensive range of controls applying to the management of registered clubs, and the sale and supply of liquor on club premises.

Since the *Liquor Act 1982* and the *Registered Clubs Act 1976* were introduced, there have been many significant amendments made in response to changing community attitudes and Government policy regarding the sale and supply of alcohol.

Perhaps the most significant changes occurred in 1996 when both Acts were changed to introduce "harm minimisation" (i.e. minimising the harm associated with the misuse and abuse of liquor) as a primary object of both Acts. The move to a harm minimisation approach in the liquor laws followed increasing concern about the extent of alcohol-related crime and violence - particularly in and around licensed venues.

In 2008, new liquor laws commenced, further strengthening harm minimisation controls over the way liquor is sold and consumed and consolidated the regulation of liquor in all premises, including registered clubs, into one Act – the *Liquor Act 2007*.

In 2012, a new disciplinary scheme, known as the Three Strikes scheme, commenced that enables strikes to be imposed when a licensee or approved manager is convicted of one of a range of the most serious offences under the *Liquor Act 2007*.

The Act places obligations on the Independent Liquor and Gaming Authority, the Director General, Department of Trade and Investment, Regional Infrastructure and Services, the Commissioner of Police, licensees, and others in regard to responsible practices in the sale, supply, service and promotion of liquor, and the prevention of activities that encourage misuse or abuse of alcohol.

These laws also place greater responsibility on patrons to drink responsibly to minimise alcohol-related violence and anti-social behaviour in and around licensed venues.

The harm minimisation approach – with emphasis on responsible service and consumption of alcohol, and the responsible operation of licensed venues – is justified on public health and safety grounds. When considering reforms to liquor licensing, a balance must be struck between achieving a fairer, simpler regulatory system and consideration of the impact

irresponsible liquor consumption can have on local communities, road safety and public health.

The protection of local amenity and the probity of industry participants have been identified as important considerations associated with the sale and supply of liquor. For example, alcohol-related nuisance, violence, crime and noise disturbances could erode the quality of life for people living or working in the vicinity of venues serving alcohol.

The liquor laws therefore seek to protect the interests of local communities by protecting and improving local amenity. As a result, the laws include various public interest provisions that allow local communities, local councils, police and other stakeholders to have a say about the conduct of licensed venues.

Today, RSA training is mandatory for everyone in NSW involved in the sale and supply of liquor to the public. This includes licensees, club secretaries, serving staff and security staff working at licensed venues. There are no exemptions from undertaking the course. This mandatory training regime also includes volunteers, promotional staff and contract employees as well as directors of registered clubs who have liquor service responsibilities. Sanctions apply to licensees and staff in cases where RSA training has not been undertaken.

If you are unsure about whether you, or a member of your staff, are required to do RSA training, you should contact the Office of Liquor, Gaming and Racing on (02) 9995 0333.

### **Government and community concerns**

Because the Government regulates liquor sale and supply, there is an onus on those who are responsible for the retailing of that product to do so responsibly by providing a safe and enjoyable environment for patrons. That onus also means serving liquor to ensure that patrons do not become drunk and subsequently a problem for management, staff and the community.

When poor patron behaviour is left unchecked, it has the potential to escalate and can manifest into serious crime, including brawls, affray, sexual assaults and property damage. In recent years, considerable research has been undertaken in New South Wales by the NSW Bureau of Crime Statistics and Research and others to identify the link between irresponsible serving practices and liquor abuse problems.

More than 16,000 venues are licensed to sell liquor in New South Wales, making it readily available and enjoyed by many.

People who drink regularly at higher levels place themselves at substantially increased risk of chronic ill health and premature death, while an episode of heavy drinking places the drinker and others at increased risk of injury and death. For some, particularly among younger age groups, such drinking can form part of a wider pattern of risk-taking behaviour. While health is an important issue, the use of liquor, particularly when it is abused and misused, is associated with crime, violence, anti-social and offensive behaviour. You don't have to drink to experience the harm that can be associated with liquor – assaults, road accidents, property damage and excessive noise can all seriously affect the lives of individuals and the community.

Therefore, governments place restrictions on the age at which liquor can be legally purchased and consumed, and determine the controls over liquor such as how, when, where and by whom liquor can be sold and supplied.

The statutory framework for the sale and supply of liquor in NSW is the *Liquor Act 2007* and regulates licensed venues and those who operate them, and when and how liquor is sold.

All the various State and Territory Liquor Acts aim to ensure that alcohol is sold by responsible people; that liquor venues are operated in a way that does not disturb other residents, and that the possible harmful effects of alcohol are minimised or avoided.

### **Key legislation in New South Wales**

The key legislation in New South Wales that covers the sale and supply of alcohol includes the:

- Liquor Act 2007 : To regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community
- Gaming and Liquor Administration Act 2007 : An Act developed to represent the Independent Liquor and Gaming Authority and to specify its functions; to provide for the honesty of officials under the gaming and liquor legislation; to give investigation and enforcement powers for the purposes of that legislation; and for other purposes.
- The Liquor Regulation 2008 supports the Act by providing additional mandatory conditions, requirements and harm minimisation measures for licensed premises. The Regulation also prescribes requirements for mandatory RSA training, including:
  - the definition of an approved training course and a recognised RSA Competency Card
  - that staff members of licensed premises must not sell, supply or serve liquor by retail on the premises unless they hold a recognised RSA Competency Card
  - Penalties for breaches of the RSA training requirements.
- Liquor Amendment (Kings Cross Plan of Management) Act 2012: This Act includes a range of measures to address alcohol-related crime and anti-social behaviour in the Kings Cross precinct.

The legislation identifies:

- Where alcohol can be sold e.g. on licensed premises
- Who alcohol may not be served to e.g. minors or unduly intoxicated persons
- When alcohol may be consumed e.g. trading hours on licences
- How alcohol may be sold e.g. authorities related to different licence types

The legislation sets out a range of requirements such as:

- The need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),
- The need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
- The need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

In regulating the sale of liquor, sanctions apply for breaches of the liquor laws that may range from a reprimand, a fine through to a suspension or cancellation of a liquor licence.

For more information on the liquor laws visit:

Office of Liquor, Gaming & Racing: [www.olgr.nsw.gov.au/legislation\\_home.asp](http://www.olgr.nsw.gov.au/legislation_home.asp)

**What types of liquor licences can be issued?**

The following table outlines the categories of liquor licence that can be issued under the *Liquor Act 2007*.

| <b>Type of Licence</b>                  | <b>Type of activity</b>  | <b>Community Impact Statement Required</b>   |
|---|--|--|
| Hotel (including a general bar licence) | Hotel, bar, tavern   | Yes  |
| Club                                    | A registered club selling liquor to members and their guests   | Yes  |
| Small Bar                               | Maximum limit of 60 patrons.<br>No takeaway sales  | Yes, but only where a Development Approval is either not required, or not advised to both the police and the Director General NSW Trade & Investment within 2 days of application for Development Approval |
| On-premises                             | Can be tailored for one or more types of business activities including a restaurant, entertainment venue, motel, function centre and other settings where liquor is consumed on the premises | Yes, but only where the on premises licence relates to a restaurant or a public entertainment venue (other than a cinema or theatre).  |
| Packaged liquor                         | Liquor stores, internet operators selling liquor to the public   | Yes  |
| Producer/wholesaler                     | Brewer, distiller winemaker, wholesaler  | No   |
| Limited                                 | Functions held by non profit organisations, as well as special events and trade fairs  | No   |

All liquor licensing applications are determined by the Independent Liquor and Gaming Authority. In many cases, a liquor licence application must be accompanied by a community impact statement (CIS).

A community impact statement allows the Independent Liquor and Gaming Authority to be aware of the impact that granting an application will have on the local community. It does this by ensuring the potential applicant consults with the local community – including the local council – before deciding to go ahead with making an application. The CIS summarises the results of consultation between the applicant and the local community about any issues and concerns with a proposed application.

## Applying for a liquor licence

---

For a venue to apply for a liquor licence, they must apply to OLGR.

## Responsibilities under the legislation

---

The responsible service of alcohol means: complying with the law by serving liquor responsibly and legally; by looking after patrons; and, by being aware of the rights of neighbours and the general community to remain undisturbed by the operation of the venue. Licensees have an obligation under the liquor laws to:

- Minimise the harm associated with liquor abuse;
- Encourage responsible attitudes towards the sale and consumption of liquor; and
- Ensure the sale and consumption of liquor contributes to, and does not detract from, the amenity of community life.

Working in the hospitality industry carries responsibilities. Responsibility for the general public is not just the concern of the licensee. Staff can also be held accountable for their actions. This statutory training course is designed to ensure that you are aware of your role and responsibilities as well as the penalties that can arise from irresponsible service.

Knowledge of the liquor laws will help you avoid situations caused by alcohol abuse and misuse. It will also help you identify potential compliance risks at your venue, and how to take action to prevent abuses occurring.

The following individuals have responsibilities under the legislation and can face fines if they do not comply with the requirements.

- Licensee
- Manager
- Bar staff
- Security
- Hosts/Hostesses
- Glassies
- Any staff involved in the sale or supply of Alcohol
- Customers.



| <b>Responsibilities</b>  |  |   |   |
|--|--|---|---|
| <b>Licensee</b>  | <b>Bar staff/ Hosts/<br/>Glassies/ Other<br/>sale staff/ Security</b>  | <b>Minors</b>   | <b>Customers (non-<br/>minors)</b>  |
| Ensure liquor is not sold or supplied to: <ul style="list-style-type: none"> <li>• Minors (under 18 years of age)</li> <li>• Unduly intoxicated patrons</li> <li>• Disorderly patrons</li> </ul> | Ensure liquor is not sold or supplied to: <ul style="list-style-type: none"> <li>• Minors (under 18 years of age)</li> <li>• Unduly intoxicated patrons</li> <li>• Disorderly patrons</li> </ul> | Not enter the licensed premises without reason if a minor       | Not sell or supply alcohol to any another patron who is a minor, unduly intoxicated or disorderly |
| Ensure a minor does not enter the premise and remove a minor who is in the licensed area without sufficient reason   | Ensure a minor does not enter the premises   | Not consume or possess liquor on a licensed premises if a minor | Leave a venue when requested and do not attempt to re-enter within the given timeframe            |
| Cooperate with Liquor Licensing investigations and NSW Police  | Maintain confidentiality while checking ID   | Not falsely represent themselves to be of age if a minor        | Cooperate with Liquor Licensing investigations NSW police   |
| Provide a safe environment and deter practices that promote rapid or excessive consumption of liquor   | Cooperate with Liquor Licensing investigations NSW police  | Cooperate with Liquor Licensing investigations NSW police       |   |
| Provide water to customers for free  | Provide water to customers for free  |   |   |
| Display certain signs in their licensed premises   |  |   |   |

| Fines and penalties for: Licensee  |   |   |   |
|--|---|---|---|
| Responsibilities   | Fines and penalties   | Fines and penalties   | Fines and penalties   |
| Ensure liquor is not sold or supplied to: <ul style="list-style-type: none"> <li>Minors (under 18 years of age)</li> <li>Unduly intoxicated patrons</li> <li>Disorderly patrons</li> </ul> | Supplying liquor to a minor <b>\$11,000 and/or 12 months imprisonment or \$1,100 on the spot fine</b>               | Supplying liquor to a person who is intoxicated <b>\$11,000 and/or 12 months imprisonment or \$1,100 on the spot fine</b> | Allowing liquor to be sold/supplied to a minor on licensed premises <b>\$11,000 and/or 12 months imprisonment or \$1,100 on the spot fine</b> |
| Ensure a minor does not enter the premise and remove a minor who is in the licensed area without sufficient reason   | Allowing entry to a minor into a licensed premises <b>\$5,500 or \$1,100 on the spot fine</b>                       | Failure to remove a minor from the licensed premises <b>\$5,500 or \$1,100 on the spot fine</b>                           | Failure to refuse entry to a minor into a licensed premises <b>\$5,500 or \$550 on the spot fine</b>  |
| Ensure a minor does not serve liquor   | Allowing a minor to serve liquor without approval <b>\$5,500 or \$550 on the spot fine</b>                          |   |   |
| Cooperate with Liquor Licensing investigations and NSW Police  | Failure to answer questions asked by an investigator <b>\$11,000</b>  | Failure to answer NSW Police questions <b>Criminal charges or fines</b>   | Make a false or misleading statement <b>\$11,000</b>  |
| Provide a safe environment and deter practices that promote rapid or excessive consumption of liquor   | Licensee engages in practices or promotions that encourage rapid or excessive consumption of alcohol <b>\$5,500</b> | Licensee does not display statutory signs in the licensed venue <b>\$2,200</b>  |   |

To avoid prosecution for the offence of permitting intoxication, the licensee must be able to prove that the intoxicated person was not served any alcohol on the premises, and as a minimum, took the following steps:

- asked the person to leave the licensed premises;
- contacted, or attempted to contact, police for assistance in removing the person from the premises; and
- refused to serve the person any alcohol after becoming aware that the person is intoxicated.

Additional steps should also be in place that can be used in mitigation for permitting intoxication that shows the venue is committed to the responsible service of alcohol. Such steps could include:

- Being an active member of the local liquor accord;
- Ensuring compliance with all regulatory requirements;

- Providing ongoing training to staff in implementing the venue's responsible serving house policy (in addition to mandatory RSA training);
- Not conducting promotions or entertainment likely to encourage liquor abuse;
- Having quality food available whenever liquor is served; and
- Promoting the venue as one that is committed to the responsible service of alcohol.

Where liquor is served to an intoxicated person in a licensed venue, an offence is committed. This offence can apply to anyone – a licensee, a staff member, a club director or volunteer (who has liquor service responsibilities) or a patron. There is no statutory defence or mitigating steps available for the offence of serving liquor to an intoxicated person.

| <b>Fines and penalties for: Bar staff/ Hosts/ Glassies/ Other sale staff/ Security</b>   |  |  |   |   |
|--|--|--|---|---|
| <b>Responsibilities</b>  | <b>Fines and penalties</b>   | <b>Fines and penalties</b>   | <b>Fines and penalties</b>  | <b>Fines and penalties</b>                              |
| Ensure liquor is not sold or supplied to: <ul style="list-style-type: none"> <li>• Minors (under 18 years of age)</li> <li>• Unduly intoxicated patrons</li> <li>• Disorderly patrons</li> </ul> | Supplying liquor to a minor<br><b>\$11,000 and/or 12 months imprisonment or \$1,100 on the spot fine</b> | Supplying liquor to a person who is intoxicated<br><b>\$11,000 and/or 12 months imprisonment or \$1,100 on the spot fine</b> | Supplying liquor to a person who is disorderly<br><b>\$11,000 and/or 12 months imprisonment or \$1,100 on the spot fine</b> |   |
| Ensure a minor does not enter the premises   | Failure to refuse entry to a minor<br><b>\$5,500 or \$550 on the spot fine</b>                           |  |   |   |
| Cooperate with Liquor Licensing investigations NSW police  | Failure to give or give false name, age or address<br><b>\$2,200 or criminal charges</b>                 | Failure to answer other questions asked by an investigator<br><b>\$2,200 or criminal charges</b>                             | Obstructing a NSW Police officer or investigator<br><b>Criminal charges</b>   | Make a false or misleading statement<br><b>\$11,000</b> |

| <b>Fines and penalties for: Minors</b>  |  |   |   |
|---|--|---|---|
| <b>Responsibilities</b>   | <b>Fines and penalties</b>   | <b>Fines and penalties</b>  | <b>Fines and penalties</b>  |
| Obtain alcohol from a licensed premises                                       | Drink alcohol on licensed premises <b>\$1,100</b>  | Carry away alcohol from licensed premises <b>\$1,100</b>                                    | Send anyone under 18 to premises to obtain alcohol <b>\$2,200</b> |
| Enter or remain in a licensed premises or area                                | Enter or remain in a restricted area of a hotel <b>\$2,200 or \$220 on the spot fine</b>                               | Enter or remain in a bar area of a registered club <b>\$2,200 or \$220 on the spot fine</b> |   |
| Refuse to give name and address or age when requested by an authorised person | Refuse to give name and address or age when requested by an authorised person <b>\$2,200 or \$220 on the spot fine</b> |   |   |
| Use false evidence of age   | Use false evidence of age <b>\$2,200 or \$220 on the spot fine</b>   | Tamper with a proof of age card <b>\$2,200</b>  |   |

| <b>Fines and penalties for: Customers (non-minors)</b>  |   |  |   |
|---|---|--|---|
| <b>Responsibilities</b>   | <b>Fines and penalties</b>  | <b>Fines and penalties</b>   | <b>Fines and penalties</b>                                    |
| Not sell or supply alcohol to any another patron who is a minor, unduly intoxicated or disorderly | Supplying liquor to a minor <b>\$11,000 and/or 12 months imprisonment or \$1,100 on the spot fine</b> | Supplying liquor to a person in a state of intoxication <b>\$1,100</b>                 | Supplying liquor to a person who is disorderly <b>\$1,100</b> |
| Not be unduly intoxicated or disorderly on a licensed premises                                    | Unduly intoxicated (Drunk) or disorderly on licensed premises <b>\$2,200</b>                          |  |   |
| Cooperate with Liquor Licensing investigations NSW police   | Failure to give or give false name, age or address <b>\$2,200 or \$220 on the spot fine</b>           | Give a false Proof of Age Card to another person to use as proof of age <b>\$2,000</b> |   |
| Leave a venue when requested by staff   | Failure to leave when requested <b>\$5,500</b>  |  |   |

### **Voluntary Exclusions**

The law provides for people with a drinking problem to exclude themselves from licensed premises in a similar manner to people with a gambling problem who can exclude themselves from gambling venues. In the case of venues that are part of a liquor accord, this exclusion can extend to other venues that are part of that accord if they are specified in the agreement. Licensees are obligated to comply with a request from a person to be self-excluded from a venue.

**Fail to Leave**

As described above, the NSW liquor laws provide a framework that prohibits intoxicated patrons being served liquor, as well as people who are intoxicated being admitted to a venue. At the same time, patrons also commit an offence where they are drunk or disorderly and refuse to leave the premises, or the vicinity of the premises, when asked to by police or venue staff.

The vicinity of the premises is defined to include a radius of 50 metres from the boundary of the licensed premises, but provides exemptions for people remaining in the vicinity for a lawful purpose e.g. waiting for transport or where they live near the venue.

These fail to leave provisions, which carry penalties of a \$5,500 fine or a \$550 penalty notice, provide a safety net to licensees in certain circumstances where drunk people attempt to enter the premises before being detected by staff and are then immediately asked to leave.

In these situations, where police are called for assistance and are satisfied that an offence has occurred, the patron will be issued with a \$550 penalty notice.

These provisions also prohibit the person from re-entering, or attempting to re-enter, the premises for 24 hours. Also, the person must not re-enter the vicinity of the premises within 6 hours.

This does not override the intoxication provisions of the liquor laws. In simple terms, an offence is still committed where an intoxicated patron continues to be served liquor, but is only asked to leave for other reasons, such as acts of violence or anti-social behaviour. In these instances, police could obtain evidence to determine whether the patron was intoxicated while liquor was still being served to that person, and what steps, if any, were taken at the time by staff to remove the patron.

This enables police to consider the merits of taking disciplinary action against the venue (or its staff) for intoxication offences and against the patron for the fail to leave offence. If police are continually called to the same premises to assist in removing drunken patrons or enforcing the fail to leave offence, a disciplinary complaint can be taken on the ground that intoxicated persons have frequently been on the premises or have been seen frequently leaving the premises.

**Banning orders**

Where a person has been excluded from a licensed premises for being reportedly drunk, violent or disorderly an application can be made by a licensee, who is a member of the local liquor accord, to the Authority for the person to be barred for up to six months.

In imposing a ban on a patron, the Authority must be satisfied that that the person has been repeatedly drunk, violent, quarrelsome or disorderly on or in the immediate vicinity of the premises.

A person banned by the Authority commits an offence if they attempt to enter, or remain in, the licensed premises to which the order relates.

## RSA and Kings Cross

There are a number of conditions that specifically affect staff working within the Kings Cross precinct.

### Competency cards

All licensees, bar staff, RSA marshals and security staff working in the Kings Cross precinct must hold a current recognised Responsible Service of Alcohol (RSA) Photo Competency Card, or from 18 July 2014, a valid Interim Certificate. For the Kings Cross precinct:

### Suspending or revoking competency cards

Staff working in the Kings Cross precinct should be aware that they could have their RSA card suspended, disqualified or revoked if they are found to have contravened their obligations in relation to the responsible service of alcohol or ID scanning privacy.

Following an application from the Commissioner of Police or the Director General, Trade & Investment, the Authority can suspend or disqualify a person's card for a period of up to 12 months. The person is not permitted to work in any capacity in any licensed premises in NSW during the suspension or disqualification period.

### Privacy training

Licensees and staff members in the Kings Cross precinct who use patron ID scanners must undertake an approved privacy course and hold an RSA competency card with a privacy endorsement. A privacy training certificate issued by the Director General is valid for 28 days after the completion of the course until an updated card is acquired.

### Banning Orders

There are two types of banning order that can prevent a troublesome patron entering any licensed premises in the Kings Cross precinct.

a) **Temporary banning orders** are issued by police where a person commits a „Fail to Quit“ offence or does not comply with a „Move on“ direction and police believe that the person will continue to cause a nuisance. In these instances the person can be banned from Kings Cross premises for a period of up to 48 hours.

b) **Long-term banning orders** are issued by the Authority where a person has been subject to three temporary banning orders or has been charged with, or convicted of a serious indictable offence. In these instances the person can be banned from High Risk premises for a period of up to 12 months.

Information on the Kings Cross precinct (including lists of which venues are within the precinct boundaries) can be found at:

[http://www.olgr.nsw.gov.au/liquor\\_kingscross\\_precinct.asp](http://www.olgr.nsw.gov.au/liquor_kingscross_precinct.asp)

## RSA and Sydney CBD

The Plan of Management for the Sydney CBD Entertainment Precinct is a comprehensive set of measures designed to reduce alcohol-related violence and anti-social behaviour in the precinct.

The Plan of Management complements the initiatives the Government has already implemented to reduce alcohol-related violence. The measures are tailored to the CBD night-time entertainment precinct. They focus on three key areas: safer venues; safer environments; and safer transport.

The Plan of Management includes liquor licence conditions. Some conditions apply to all licensed premises within the precinct. Others only apply to certain licence categories, or specific licences which are declared by the Secretary of NSW Trade & Investment.

Licence conditions that apply to all licensed premises in the Sydney CBD Entertainment Precinct are:

- 'Round the clock' incident registers
- Notification of violent incidents to police
- Exclusion of persons seen drinking, or with open alcohol, on approach to the venue if the venue is located in or near an alcohol-free zone or an alcohol-prohibited area
- Exclusion of outlaw motorcycle-related gangs from licensed premises
- Certain drinks and other types of liquor sales prohibited during the late trading period
- Certain promotional activity prohibited
- Updated RSA training requirements

The Secretary, NSW Trade & Investment may designate that a venue is subject to the following controls relating to glass and RSA Marshals where there is evidence or history of violence. These are:

- Glass prohibited during late trading period on any day
- Requirement for RSA marshals during RSA supervised trading period

|   |   |
|---|---|
|  <p><b>No entry or re-entry after 1:30 am</b></p>  | <p><b>For venues in the Sydney CBD Entertainment Precinct</b></p> <p><b>At all times</b></p> <ul style="list-style-type: none"> <li> No clothing, jewellery or accessories of outlaw motorcycle organisations</li> </ul> <p><b>After midnight</b></p> <ul style="list-style-type: none"> <li> No sale of shooters, shots, doubles, bombs, or any drink designed for rapid consumption</li> <li> No sale of RTDs over 5%</li> <li> No sale of more than 4 alcoholic drinks per person at a time (or one bottle of wine)</li> </ul> <p><b>After 2am</b></p> <ul style="list-style-type: none"> <li> No sale of more than 2 alcoholic drinks per person at a time</li> </ul> <p><b>After 3am</b></p> <ul style="list-style-type: none"> <li> No sale of alcoholic drinks</li> </ul> <p>For transport options in Sydney, visit <a href="http://131500.info">131500.info</a> or phone 131500</p> |
|  <p><b>No entry if you are seen drinking or with open alcohol on approach</b><br/>If in/near an Alcohol Free Zone or Alcohol Prohibited Area</p>                           |   |
|  <p><b>No entry to any person wearing gang colours</b><br/>This includes any person wearing any form of clothing, jewellery or other accessory associated with a gang.</p> |   |
|  <p><b>MAKING YOUR NIGHT OUT SAFER</b><br/>SYDNEY - A SAFE AND FRIENDLY CITY TO VISIT</p>  |  <p><b>MAKING YOUR NIGHT OUT SAFER</b><br/>SYDNEY - A SAFE AND FRIENDLY CITY TO VISIT</p>  |

## Intoxication defined

---

Intoxication is defined to assist industry comply with their responsible serving obligations and enhance enforcement efforts by police and inspectors.

A person is considered to be intoxicated if:

- The person's speech, balance, coordination or behaviour is noticeably affected; and
- It is reasonable, in the circumstances, to believe that the affected speech, balance, coordination or behaviour is the result of the consumption of alcohol.

The Secretary, Department of Justice, has issued guidelines to assist the industry to determine whether a person may be intoxicated.

These guidelines are available from the Office of Liquor, Gaming & Racing at: [www.olgr.nsw.gov.au/liquor\\_fact\\_sheets.asp](http://www.olgr.nsw.gov.au/liquor_fact_sheets.asp).

The noticeable signs of intoxication include:

- **Speech** – The person is slurring words, talking in rambling or unintelligible sentences, incoherent or muddled speech.
- **Balance** – The person is unsteady on their feet, is stumbling or bumping into people or objects, is swaying uncontrollably or cannot stand or walk straight.
- **Coordination** – The person may be (for example) fumbling to light a cigarette, having difficulty in counting money or paying, spilling or dropping drinks, having difficulty in opening or closing doors.
- **Behaviour** – The person is rude, aggressive, or offensive, is unable to concentrate or follow instructions, is boisterous or is pestering other patrons.

These guidelines recognise the need to form a reasonable belief that the person is intoxicated as a result of alcohol consumption. The guidelines also recognise that some medical conditions, disabilities or the use of drugs may cause similar behaviours without the person being intoxicated as a result of consuming alcohol.

## Intoxication laws

---

If an intoxicated person is detected on the licensed premises, the licensee is taken to have permitted intoxication, unless it is proven that the licensee or staff:

- Refused to serve the intoxicated person any more alcohol;
- Asked the intoxicated person to leave the premises; and
- Contacted, or attempted to contact, the police for assistance in removing the person.

Alternatively, a licensee would need to prove that:

- They took all of the steps set out in guidelines issued by the Secretary, Department of Justice, relating to the prevention of intoxication on licensed premises; or
- The intoxicated person did not consume alcohol on the licensed premises.



Guidelines have been issued by the Secretary, Department of Justice, that include practical steps that licensees can take to manage the risk of intoxication. The guidelines are available at [www.olgr.nsw.gov.au/liquor\\_preventing\\_intoxication.asp](http://www.olgr.nsw.gov.au/liquor_preventing_intoxication.asp)

Intoxication offences can also result in a strike being incurred by licensed premises under the three strikes disciplinary scheme. Where three strikes are incurred within three years, a licence can be suspended or cancelled (see section 2.4 for further information about the three strikes scheme).

## What are the drink and drive limits and penalties?

---

Under the New South Wales legislation, the limits include:

- No alcohol limit which is a BAC of below 0.05
- Low alcohol limit which is a BAC of 0.05 to 0.08
- Middle alcohol limit which is a BAC of 0.08 to 0.15, and
- High alcohol limit which is a BAC of equal to or more than 0.15.

## Required signage

In New South Wales, the exterior signage must include the business name, trading name, Licensee, licence number, licence type and the trading hours. The sign must be displayed so it can be read by a person from outside of the front of the premises.

The interior signage must be prominently displayed.



## Undesirable products and promotions

Targeted action can be taken by the Director General against specific venues where undesirable liquor products are sold that:

- are indecent or offensive by virtue of its name, design or packaging;
- encourage rapid consumption of the product by virtue of its name, design or packaging;
- are likely to be attractive to minors or have special appeal to minors;
- are likely to be confused with soft drink or confectionery; or
- are not in the public interest to be sold.

Undesirable liquor products can also be banned from sale in all licensed premises in NSW under regulation making powers on the same grounds above.

The maximum penalty for selling an undesirable liquor product is \$5,500. Products already banned from sale under the NSW liquor laws include:

- Alcoholic iceblocks
- Alcohol aerosol products
- Alcoholic milk
- Alcohol vapour

### Prohibiting Undesirable Liquor Promotions

Under the liquor laws the Director General, Department of Trade and Investment, Regional Infrastructure and Services may issue a written order to a licensee prohibiting them from carrying on, or being involved in, a particular liquor promotion. An order may be issued if the Director General considers that:

- the promotion is likely to have a special appeal to minors;
- because of the use of designs, motifs or characters in the promotion that are, or are likely to be, attractive to minors, or
- it is indecent or offensive; or
- involves the supply of liquor in non-standard measures or the use of emotive marketing that encourages irresponsible drinking likely to cause intoxication; or
- involves the supply of free alcohol, or extreme discounts, or discounts that are only available for a short period of time and create an incentive for patrons to drink rapidly
- the promotion is not in the public interest.

Maximum penalties of \$5,500 apply for not complying with an order issued by the Director General. The Director General, Department of Trade and Investment, Regional Infrastructure and Services has issued guidelines to indicate the types of liquor promotions and activities that are likely to result in an order being issued against a licensee.

### Three strikes disciplinary scheme for licensed premises

Under the Three Strikes scheme, strikes can be imposed where a licensee or approved manager is convicted of one of a range of the most serious offences under the Liquor Act. A strike can be incurred for a number of offences, including permitting intoxication or violence, serving liquor to a minor and selling liquor outside approved trading hours. Where staff commit a three strikes offence, the licensee may be liable under the scheme and a strike may be incurred by the venue's licence. A first strike is automatically incurred upon conviction for a single offence and is active for three years from the date of the offence. A second and third strike is discretionary, and can be incurred upon conviction for further offences committed within three years of the first offence. Conditions can be imposed where

strikes are incurred. A third strike can result in the imposition of licence conditions, licence suspension for up to 12 months, licence cancellation and a moratorium on a new liquor licence being granted for the same business operators at the venue for up to 12 months, and/or disqualification of a licensee for any period of time.

For registered clubs, a third strike can result in imposition of licence conditions, disqualification of a club secretary, dismissal of any or all of the club directors, and/or the appointment of an administrator to manage the club.

## Entry into licensed premises by minors

The liquor laws allow minors to enter most licensed premises under certain circumstances.

### Hotels

Whilst most parts of a hotel are a bar area (ie. minors are not permitted under any circumstances), there are some areas where a minor can enter provided certain conditions are met.

For instance, an unaccompanied minor is allowed to be in the dining room of a hotel, or in the accommodation area of the hotel.

The hotel may also have an area known as a minors area approved for use by minors (with a responsible adult) such as a bistro or lounge area. (*see page 26 for the definition of a responsible adult*).

The licensee is liable for fines of up to \$5,500 (\$550 penalty notice) if a minor is found in a bar area of the premises. A minor can be fined up to \$2,200 (\$220 penalty notice) if they enter a bar area, or are in a minors area without a responsible adult.

A „walk through“ defence provision exists, which provides a statutory defence where a minor passes through a bar area to access a minors area, provided that the minor is with a responsible adult and does not stop while in the bar area. For example, a minor may pass through a bar area to use the bathroom facilities if they are with a responsible adult.

Other defences also include:

Both the licensee and minor have a defence if the minor is an apprentice and was in the bar area for the purpose of receiving training.

The licensee also has a defence if the minor was over 14 years of age, and prior to the minor entering the bar area, the minor produced documentary evidence (driver licence, Photo Card, etc) that could reasonably indicate that the minor was over 18.

The licensee has a defence if the minor is performing in a show or as part of a performance in the bar area.

A minor has a defence if they believed that they were on a part of the premises in which a minor's functions authority was in force.

### Registered Clubs

Minors are prohibited from being in certain parts of a registered club such as bar and gaming machine areas. However, like hotels, there are circumstances where minors may be in a registered club if certain conditions are met.

A minor can be admitted into a registered club's non restricted area if:

They are accompanied by a member (who is over 18) of the club; or

In the case of a temporary member, they are in the company and immediate presence of that member (who must be a responsible adult).

A 'walk through' defence provision exists, which provides a statutory defence where a minor passes through a restricted area to access an authorised area, provided that the minor is with a responsible adult and does not stop while in the restricted area.

Other defences also include:

Both the secretary and minor have a defence if the minor is an apprentice and was in the bar area for the purpose of receiving training.

The secretary also has a defence if the minor was over 14 years of age, and prior to the minor entering the bar area, the minor produced documentary evidence (drivers licence, photo ID card) that could reasonably indicate that the minor was 18 years or older.

The licensee has a defence if the minor is performing in a show or as part of a performance in the bar area.

A minor has a defence if they believed that they were on a part of the premises in which a minor's functions authority was in force.

### **Premises Type**

Small bar licence

On premises licence

Packaged liquor licence

Limited licence

Producer/wholesaler licence

### **Restrictions**

Minors are not permitted on licensed premises during liquor trading hours. Outside of liquor trading hours there is no restriction.

In most cases, unrestricted to minors. The exception to this is where the on premises licence relates to a public entertainment venue. In this instance, minors must be with a responsible adult.

Unrestricted to minors.

Unrestricted to minors.

Unrestricted to minors.

## Supply alcohol to a minor

---

There is a general prohibition on the supply of alcohol to a person who is under 18 years of age (a minor) in a licensed venue. In most instances, this prohibition also extends to private settings. In a licensed venue, those liable for the offence of supplying alcohol include the licensee, staff, and other patrons, including minors (where alcohol is supplied to other minors).

Penalties of up to \$11,000 and/or 12 months imprisonment (or \$1,100 penalty notices) apply to adults convicted of underage alcohol supply offences. Minors are also liable for the offences of obtaining and drinking alcohol on licensed premises. These offences carry maximum court penalties of \$2,200 (or a \$220 penalty notice).

Statutory defences for the offence of selling or supplying alcohol, or allowing alcohol to be sold or supplied, to a minor on licensed premises are available to a licensee in certain circumstances. The statutory defences are:

- If the minor was over 14 years of age, and produced to the licensee (or an employee or agent of the licensee) documentary evidence (eg. A driver licence or a photo card) that could reasonably indicate that the minor was over 18 years of age; or
- If the alcohol is supplied to a minor by their parent or guardian.

The Three Strikes disciplinary scheme allows a liquor licence to be suspended or cancelled where alcohol is sold to a minor on licensed premises (see section 2.4 for details of this scheme). In addition, an escalating regime of sanctions also applies where the offence of selling alcohol to a minor has occurred on licensed premises, resulting in:

- A court conviction;
- Payment of a penalty notice; or
- A penalty notice enforcement order is issued by the state debt recovery office.

Significant sanctions apply, including automatic cancellation of a licence, where three offences occur in 12 months.

For a first offence, a licensee is given the opportunity to explain to the Secretary, Department of Justice, why their licence should not be suspended for up to 28 days. In considering whether to suspend a licence, the Secretary may take into consideration the compliance history and other factors relating to the licensed premises.

If a second offence is committed within 12 months of the first offence (and more than 28 days after the first offence), the licence is automatically suspended for 28 days.

A licence is automatically cancelled and the licensee disqualified from holding a licence for 12 months where a third offence occurs more than 28 days after the second offence, but within 12 months of the first offence.

## Second party sales

---

Second party sales occur when a person purchases alcohol on behalf of a minor. The person supplying the alcohol to the minor (either on licensed premises or elsewhere) is committing an offence which can attract fines of up to \$11,000 and/or 12 months imprisonment (or a \$1,100 penalty notice).

It is a defence if the person who sold or supplied alcohol to a minor is the minor's parent or guardian, or if that person has been authorised to do so by the minor's parent or guardian. However, this defence does not apply to the sale or supply of alcohol on licensed premises.

## Acceptable proof of age identification

---

In New South Wales, the acceptable forms of proof of age identification include a current:

- Australian Learners, Provisional or Open Driver's Licence
- Australian or foreign passport
- Interstate Proof of Age Card (such as an 18+ card from any Australian State or Territory), or
- New South Wales RTA Photo Card.

## Hours of Operation

The opening hours for New South Wales are outlined in the table below for you to review.

|  | Monday – Saturday                   | Sunday                              | Good Friday   | Christmas Day   | New Year's Eve  |
|--|-------------------------------------|-------------------------------------|---|---|---|
| Hotels, registered clubs, on-premises licences (except vessels)  | 5am-midnight*                       | 10am-10pm                           | Midday to 10pm served with or ancillary to a meal in a dining area<br><i>(except for airports, catering services and tertiary institutions)</i> | Midday to 10pm served with or ancillary to a meal in a dining area<br><i>(except for airports, catering services and tertiary institutions)</i> | From the start of standard trading to 2am the next day<br><i>(unless extended trading hours have been approved)</i> |
| Standard packaged liquor licence   | 5am to 10pm                         | 10am to 10pm                        | No trading permitted  | No trading permitted  | 10am to 10pm  |
| Small bar  | Midday to 2:00am                    | Midday to 2:00am                    | No trading permitted  | No trading permitted  | From the start of standard trading to 2am the next day<br><i>(unless extended trading hours have been approved)</i> |
| Restaurants  | 5am – midnight*                     | 10am - 10pm                         | Midday to 10pm<br><i>(alcohol can only be served between 5am and midnight with or ancillary to a meal in a dining area)</i>                     | Midday to 10pm<br><i>(alcohol can only be served between 5am and midnight with or ancillary to a meal in a dining area)</i>                     | From the start of standard trading to 2am the next day<br><i>(unless extended trading hours have been approved)</i> |
| Hotels, registered clubs, nightclubs and licenced karaoke bars across the new Sydney CBD Entertainment Precinct. | 1.30am lockouts and 3am last drinks | 1.30am lockouts and 3am last drinks | Midday to 10pm served with or ancillary to a meal in a dining area<br><i>(except for airports, catering services and tertiary institutions)</i> | 1.30am lockouts and 3am last drinks   | 1.30am lockouts and 3am last drinks   |
| Small bars in the Kings Cross, Sydney CBD Entertainment, and Oxford Street, Darlinghurst freeze precincts        | Midday to midnight                  | Midday to midnight                  | No trading permitted  | No trading permitted  | Midday to midnight  |

\*Standard trading hours are subject to the 6-hour closure period



## Liquor Forums, Accords and Campaigns

In NSW there are two types of liquor accords:

### 1. Local liquor accords

Local liquor accords are voluntary industry-based partnerships working in local communities to introduce practical solutions to liquor-related problems. They reach agreements on ways to improve the operation of licensed venues so that venues and precincts are safe and enjoyable. Most local liquor accords include members from the local business community, local councils, police, government departments and other community organisations.

### 2. Precinct liquor accords

Precinct liquor accords have been established in designated late-night entertainment precincts, namely Sydney Central (George Street South, Kings Cross, Oxford Street and The Rocks), Manly, Newcastle/Hamilton, Wollongong and Parramatta. These accords bring together a diverse range of stakeholders with the aim of reducing alcohol related violence and fostering safer, more vibrant entertainment precincts. Membership of, and active participation in, these accords is mandatory for late-night licensed venues within the precinct liquor accords boundary.

While some accords simply reflect a commitment to requirements contained in the liquor laws – such as preventing intoxication and underage drinking – others add value by adopting measures to deal with local problems and issues. This can include programs:

- to improve patron awareness of the responsible serving laws;
- to prevent underage drinking, and in particular, second party sales; and
- provide a coordinated approach for patron transport from local venues late at night.

Well run accords can bring about genuine benefits for everyone involved including:

- safer and more welcoming local neighbourhoods;
- enhanced local reputations for concerned and active licensees;
- an improved business environment;
- constructive working relationships between licensees, councils, patrons, residents and police;
- improved compliance with the liquor laws;
- reduced under-age drinking;
- reduced anti-social behaviour and crime; and
- reduced alcohol-related violence.

In New South Wales, you can refer to the 'Office of Liquor, Gaming and Racing' via the following website: [http://www.olgr.nsw.gov.au/accords\\_posters\\_downloads.asp](http://www.olgr.nsw.gov.au/accords_posters_downloads.asp)

An example of a campaign would be 'Still on the spot? On the spot fine' posters which inform patrons that offenders face on-the-spot fines of \$550 for each offence and maximum court fines of \$5,500 for offences such as supplying alcohol to intoxicated persons, refusing to leave a licensed venue when asked by staff and attempting to re-enter or remain in the vicinity of premises.



## Noise and amenity

---

### Disturbance Complaints

A complaint about undue disturbance caused by the conduct of a licensed venue and/or its patrons can be made to the Director General, Department of Trade and Investment, Regional Infrastructure and Services NSW by police, councils, residents and others.

Many noise disturbance complaints stem from serious problems relating to the management and operation of the venue, or violent, anti-social or criminal activity involving patrons in the vicinity of the venue. Disturbances and criminal activity involving patrons can often be linked back to their levels of intoxication and the questionable serving practices of the venue in the first instance.

Where a complaint is established, conditions can be imposed on a venue to restore the amenity of the neighbourhood and to ensure the venue operates in the public interest. These conditions often call for additional security, a reduction in trading hours / entertainment and requiring management to adopt further responsible serving practices.

In those cases where conditions have been imposed and enforced, and responsible serving principles are followed, there is usually a reduction in noise and associated anti-social behaviour.

### Disciplinary Complaints

A disciplinary complaint can be lodged by the Director General, Department of Trade and Investment, Regional Infrastructure and Services and police with the Independent Liquor and Gaming Authority against a venue operator on prescribed grounds. A number of these grounds are used to take action where the venue has been operated unlawfully and / or where liquor has been served in a way that is likely to lead to excessive consumption and intoxication.

Those grounds relevant to RSA training include:

- Breach of licence condition;
- Licence not exercised in the public interest e.g. Allowing patrons to conduct drinking competitions;
- Intoxicated persons have frequently been on or leaving the premises;
- The licensee / manager has engaged in activities likely to encourage liquor abuse e.g. Irresponsible liquor promotions such as all you can drink offers; and
- Acts of violence involving patrons have frequently occurred on or near the premises.

Where a disciplinary complaint is upheld, heavy sanctions can be imposed. Among the sanctions that can be imposed is the cancellation or suspension of the licence and disqualification of the licensee / club secretary. Further conditions can also be imposed, while the Authority also has the option of imposing penalties.

### Temporary Closure Orders

The Independent Liquor and Gaming Authority or a magistrate can order the closure of a licensed venue for up to 72 hours where it is considered there is a threat to public health or safety, a risk of serious property damage or a risk of serious breaches being committed on the premises.

While the temporary closure provisions are often used to address drug dealing and other criminal activity occurring in a venue, they are also used where serious alcohol related incidents occur or are likely to occur, such as brawls, violence and affray. In more extreme cases, closure orders can be made for up to six months.

### **Declared Premises**

In 2009 a new scheme was introduced to regulate venues that have recorded a high number of assault incidents. The scheme divides venues into three categories based on the number of assaults recorded in a twelve month period.

Category 1 venues are venues that have 19 or more assaults and are subject to the following conditions:

- A mandatory 2am lockout of patrons (except members of a registered club);
- Cessation of alcohol service 30 minutes prior to closure;
- No glass containers to be used after midnight;
- No shots and drink limitations after midnight;
- 10 minute alcohol sales timeout every hour after midnight or active distribution of water and/or food, and
- Additional security measures.

Category 2 venues are venues with 12 to 18 assaults and are subject to three conditions:

- No glass containers to be used after midnight;
- 10 minute alcohol sales time out every hour after midnight or active distribution of water and/or food, and
- Cessation of alcohol service 30 minutes before closing.

Category 3 venues are venues that have 8 to 11 assaults and are provided with additional support from OLGR to strengthen alcohol and security management.

## Industry Associations

---

Examples of industry associations in New South Wales include:

- Australian Hotels Association NSW
- The NSW Wine Industry Association
- Hunter Valley Vineyard Association, and
- Restaurant & Catering - New South Wales.

## Other legislation

---

It is important to be aware of the other legislation that a licensed venue must comply with, such as:

- Work Health and Safety Act 2011
  - The WHS Act 2011 is legislation enacted by government to ensure a safe environment for all staff, contractors (agents) and guest's. The Act was established to reasonably prevent illness, injury or death to any persons within a workplace. Personnel can be fined or imprisoned for breaches of this Act.

Further information is available at:  
<http://www.comlaw.gov.au/Details/C2011A00137>

- Trade Measurement Act 1990 and the Trade Measurement (Miscellaneous) Regulation 1991.
  - The Act and regulation sets out the correct and approved measuring instruments for alcoholic beverages including Beer and Spirits. It also provides guidelines for the capacity and specifications of glasses and jugs. It ensures consumers receive the same measurement no matter which establishment they attend.

Further information is available at:  
[https://www.legislation.qld.gov.au/LEGISLTN/REPEALED/T/TradeMeasMisR91\\_001\\_070201.pdf](https://www.legislation.qld.gov.au/LEGISLTN/REPEALED/T/TradeMeasMisR91_001_070201.pdf)

- Food Act 2006
  - All venues that provide food service must adhere to the requirements of the Food Act 2006 in relation food safety and hygiene. It means that food set for sale must be safe and suitable for human consumption and establishments must not mislead consumers with the sale of food.

Further information is available at:

[http://www.health.qld.gov.au/foodsafety/food\\_act\\_2006/default.asp](http://www.health.qld.gov.au/foodsafety/food_act_2006/default.asp) and  
<http://www.foodstandards.gov.au/>

- Gaming Machine Act 1991
  - This Act describes who the laws related to supply, compliance and operating Poker Machines. A Machine Gaming License can only be issued to an applicant who already holds a Liquor License and states that they must provide high standards of machine gaming.

Further information is available at:

<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/G/GamingMachA91.pdf>

- Tobacco and Other Smoking Products Act 1998
  - This Act aims to reduce smoking and minimise exposure to passive smoking, discourage young people from smoking and supports those trying to quit. From the 1<sup>st</sup> of July 2006 amendments were made to the Act which state that 100% of indoor and poker machine areas must be designated as smoke free. Outdoor areas which are used for the service and consumption of food must also be designated non-smoking areas, if a venue creates an area for smoking they have to list it as a Designated Outdoor Smoking Area (DOSA) and abide by the guidelines set in sections 26ZA – 26ZC of the Act.

Further information is available at: <http://www.health.qld.gov.au/tobaccolaws/>

- Fire and Rescue Services Act 1990
  - The Fire and Rescue Services Act 1990 covers the appropriate systems establishments must have in place to ensure employees or visitors are safe in the case of an emergency. It sets out the appropriate exit lighting, alarms and directional equipment, fire fighting and suppression equipment, staff training and emergency exit requirements.

Further information is available at: <http://www.fire.qld.gov.au/buildingsafety>

- Anti Discrimination Act 1991
  - This Act was designed to make sure everyone is treated equally. It explains that a person should not be treated unfairly due to their sex, relationship or parental status, religion, politics, disability or impairment, trade union, pregnancy or breast feeding needs, family responsibilities, gender identity or sexuality, age or race.

Further information is available at: <http://www.adcq.qld.gov.au/> and  
<http://www.humanrights.gov.au/guide-australias-anti-discrimination-laws>

- Security Providers Act 1993
  - Sets out the requirements for security providers and the legislative requirements for working in the industry. It also regulates Private Investigators and describes their legal allowances and non allowances with regards to dealing for the benefit of the public.

Further information is available at:  
<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/S/SecurityProvA93.pdf>

- Industrial Relations Act 1999
  - Describes the legal rights for worker's undertaking any type of employment. It sets out to protect workers' rights with regards to employment conditions, awards, types of leave and protection against unfair dismissal.

Further information is available at:  
<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/I/IndustRelA99.pdf>

- Workers Compensation and Rehabilitation Act 2003
  - This act was created to make sure workers are appropriately compensated for injuries they have sustained while either in transit or undertaking work tasks for their employer. It sets out the requirements for employers to hold duty of care for the injured workers and the rehabilitation that is required through the appropriate government organisations.

Further information is available at:  
<https://www.legislation.qld.gov.au/legisltn/current/w/workerscompa03.pdf>

- Business Name Act 1962
  - Describes the business names that need to be registered, when businesses have to display their name or trading name and the regulations and penalties for misleading consumers or failing to provide correct business information.

Further information is available at:  
<http://www.fairtrading.qld.gov.au/legislation.htm>

- Other local by-laws outlined by local government.

## Where to get more information

---

To get more information on the legislation in New South Wales, up to date fines and penalties, community awareness campaigns and any other information, go to the OLGR website:

<http://www.olgr.nsw.gov.au/>