

## House of Assembly

As passed all stages and awaiting assent.

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South Australia

# Liquor Licensing (Entertainment on Licensed Premises) Amendment Bill 2015

A BILL FOR

An Act to amend the *Liquor Licensing Act 1997*.

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**The Parliament of South Australia enacts as follows:**

## Part 1—Preliminary

### 1—Short title

This Act may be cited as the *Liquor Licensing (Entertainment on Licensed Premises) Amendment Act 2015*.

### 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

### **3—Amendment provisions**

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

## **Part 2—Amendment of *Liquor Licensing Act 1997***

### **4—Amendment of section 52—Certain applications to be advertised**

Section 52(1)(g)—delete paragraph (g) and substitute:

- (g) consent of the licensing authority under section 105;

### **5—Amendment of section 57—Requirements for premises**

Section 57—after subsection (1) insert:

- (1a) However, the licensing authority must, in respect of the operation of subsection (1)(b)(i), disregard any entertainment that may be provided on the premises without the consent of the licensing authority under section 105.

### **6—Amendment of section 77—General right of objection**

Section 77—after subsection (5) insert:

- (6) However—
  - (a) the grounds of an objection cannot relate to entertainment that may be provided on the premises or proposed premises without the consent of the licensing authority under section 105 (and any objection relating to such entertainment will, to the extent that it so relates, be taken to be void and of no effect); and
  - (b) the licensing authority must, in respect of the operation of this section, disregard any entertainment that may be provided on the premises without the consent of the licensing authority under section 105.

### **7—Substitution of section 105**

Section 105—delete section 105 and substitute:

#### **105—Entertainment on licensed premises**

- (1) A licensee must not use any part of licensed premises for the purpose of providing entertainment between the hours of midnight and 11 am except in accordance with the consent of the licensing authority.

Maximum penalty:

- (a) for a first offence—\$10 000;
- (b) for a second or subsequent offence—\$20 000.

Expiation fee: \$1 200.

- (2) A licensee must not use any part of licensed premises for the purpose of providing prescribed entertainment except in accordance with the consent of the licensing authority.

Maximum penalty:

- (a) for a first offence—\$10 000;
- (b) for a second or subsequent offence—\$20 000.

Expiation fee: \$1 200.

- (3) The licensing authority may only grant its consent under this section if satisfied that—
- (a) the giving of the consent is consistent with the objects of this Act; and
  - (b) the entertainment is unlikely to give undue offence to people who reside, work or worship in the vicinity of the premises.
- (4) The consent of the licensing authority under this section—
- (a) may be conditional or unconditional; and
  - (b) may be varied or revoked by the licensing authority.
- (5) For the purposes of this section, a reference to *licensed premises* will be taken to include a reference to any area adjacent to the licensed premises that is under the control of the licensee for the licensed premises.
- (6) In this section—
- prescribed entertainment* means—
- (a) entertainment of a sexually explicit nature; or
  - (b) a professional or public boxing or martial art event within the meaning of the *Boxing and Martial Arts Act 2000*; or
  - (c) any other entertainment of a kind prescribed by the regulations for the purposes of this definition,

but does not include entertainment of a kind excluded by the regulations from the ambit of this definition.

## **Schedule 1—Transitional provisions**

### **1—Interpretation**

- (1) In this Schedule—

*consent* means a consent granted under section 105 of the *Liquor Licensing Act 1997* (as in force before the commencement of section 7 of this Act);

*entertainment* has the same meaning as in the *Liquor Licensing Act 1997*;

***entertainment condition*** means a condition of a licence or consent that has the effect of limiting the entertainment that may be provided on licensed premises, or any area adjacent to licensed premises, or the methods by which such entertainment may be provided or promoted, but does not include—

- (a) a condition referred to in section 35(2) or 40A(3) of the *Liquor Licensing Act 1997*; or
- (b) a condition relating to the provision of prescribed entertainment; or
- (c) a condition declared by the Commissioner not be an entertainment condition;

***licence, licensed premises*** and ***licensee*** have the same meanings as in the *Liquor Licensing Act 1997*;

***prescribed entertainment*** has the same meaning as in section 105 of the *Liquor Licensing Act 1997* (as enacted by this Act).

- (2) Nothing in this Schedule affects—
  - (a) a condition added to a licence, or varied, by an order made under section 106 of the *Liquor Licensing Act 1997* after the commencement of this clause; or
  - (b) the operation of any other Act or law.

**Note—**

For example, requirements relating to approvals under the *Development Act 1993*.

## **2—Certain consents under section 105 of the *Liquor Licensing Act 1997* to continue in force**

- (1) Subject to this Schedule, a consent that is in force immediately before the commencement of this clause will be taken to—
  - (a) continue in force according to its terms; and
  - (b) be subject to any conditions to which it was subject immediately before the commencement of this clause; and
  - (c) be a consent granted by the licensing authority under section 105 of the *Liquor Licensing Act 1997* (as enacted by this Act).
- (2) An entertainment condition of a consent referred to in subclause (1) that purports to have effect between the hours of 11 am and midnight on any day will be taken to be of no effect during those hours.

## **3—Commissioner may grant transitional entertainment consents**

- (1) This clause applies in relation to a licensee who, in the 12 months preceding the commencement of this clause, was lawfully using licensed premises the subject of the licence, or any area adjacent to the licensed premises, for the purpose of providing prescribed entertainment.
- (2) The Commissioner may, on application or on his or her own motion, grant his or her consent for a licensee to whom this clause applies to use part of licensed premises for the purpose of providing prescribed entertainment.
- (3) An application under this clause must be made in a manner and form determined by the Commissioner.

- (4) A consent under this clause may be conditional or unconditional.
- (5) A consent under this clause will be taken to be a consent granted under section 105 of the *Liquor Licensing Act 1997* (as enacted by this Act).
- (6) If the Commissioner grants a consent under this clause—
  - (a) any previous consent granted to the licensee under section 105 of the *Liquor Licensing Act 1997* before the commencement of this clause is, by force of this subclause, revoked; and
  - (b) any condition of the previous consent that, pursuant to that section, has effect as a condition of the licence will be taken to be of no effect.
- (7) To avoid doubt, the following provisions of the *Liquor Licensing Act 1997* do not apply in respect of the operation of this clause:
  - (a) section 22;
  - (b) Part 4;
  - (c) section 105(3) (as enacted by this Act).

#### **4—Certain entertainment conditions of licences to be of no effect**

Without limiting clause 2 or 3, an entertainment condition of a licence that purports to have effect between the hours of 11 am and midnight on any day will be taken to be of no effect during those hours.

#### **5—Commissioner may revoke or vary conditions of licences etc for transitional purposes**

- (1) The Commissioner may, on application or on his or her own motion, add, substitute, vary or revoke a condition of a licence or a consent if, in the opinion of the Commissioner, it is necessary or desirable to do so as a consequence of the enactment of this Act.
- (2) An application under this clause must be made in a manner and form determined by the Commissioner.
- (3) To avoid doubt, the following provisions of the *Liquor Licensing Act 1997* do not apply in respect of the operation of this clause:
  - (a) section 22;
  - (b) section 43;
  - (c) Part 4;
  - (d) section 105(3) (as enacted by this Act).