



New South Wales

Liquor Amendment (COVID-19 and Managed Alcohol Program) Regulation 2020

under the

Liquor Act 2007

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Liquor Act 2007*.

VICTOR DOMINELLO, MP
Minister for Customer Service

Explanatory note

The objects of this Regulation are—

- (a) to clarify the application of certain limitations on trading hours for micro-breweries and small distilleries that hold a special drink on-premises authorisation, and
- (b) to make further provision for pop-up licences, including the ability to grant pop-up licences that relate to the promotional supply of liquor by liquor producers, and
- (c) to confirm that the provisions of the *Liquor Act 2007* do not apply to a trial managed alcohol program that is operated by St Vincent's Hospital Sydney Limited for the prevention and minimisation of harm associated with the abuse or misuse of liquor, and
- (d) to provide that an application made during the COVID-19 pandemic to change the boundaries of licensed premises to incorporate footways adjacent to the premises, public roads or community land is exempt from the submission processes and fees prescribed for the making of these applications.

This Regulation is made under the *Liquor Act 2007*, including sections 6(1)(l), 10(1)(g), 11(1)(b), 13, 45(4) and 159 (the general regulation-making power).

Liquor Amendment (COVID-19 and Managed Alcohol Program) Regulation 2020

under the

Liquor Act 2007

1 Name of Regulation

This Regulation is the *Liquor Amendment (COVID-19 and Managed Alcohol Program) Regulation 2020*.

2 Commencement

This Regulation commences on 15 October 2020 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Liquor Regulation 2018

[1] Clause 37 Special drink on-premises authorisations for micro-breweries and small distilleries

Omit “or on a restricted trading day) outside the standard trading period for that day (despite section 50(2)(a) of the Act),” from clause 37(1)(b).

Insert instead—

until 2 am on the next succeeding day, or on a restricted trading day)—

- (i) outside the standard trading period for that day, or
- (ii) if the licensee holds an extended trading authorisation in relation to the licence—
 - (A) outside the period authorised by the authorisation, and
 - (B) between 2 am and 5 am, despite the authorisation and despite section 50(2)(a) of the Act,

[2] Clause 48A Definitions

Omit the definitions of *Night-time economy map* and *trial area*.

Insert in alphabetical order—

pop-up licence (promotion) means a licence issued under this Division to a holder of a producer/wholesaler licence who carries on business as a producer of liquor, for the purposes of the sale or supply of the liquor (the *licensee’s product*)—

- (a) for consumption on the licensed premises for the purpose of tasting, or
- (b) if the licensee’s product is supplied in sealed containers—for consumption away from the licensed premises.

[3] Clause 48A, definition of “pop-up licence”

Omit “or pop-up licence (event)”.

Insert instead “, pop-up licence (event) or pop-up licence (promotion)”.

[4] Clause 48B Authorisation conferred by pop-up licence

Insert “(bar) or pop-up licence (event)” after “A pop-up licence” in clause 48B(2).

[5] Clause 48B(2)

Omit “within the trial area”.

[6] Clause 48B(4)

Insert after clause 48B(3)—

- (4) A pop-up licence (promotion) authorises the licensee, on the day or days specified in the licence, to sell or supply the licensee’s product—
 - (a) for consumption on the licensed premises for the purpose of tasting, or
 - (b) if the licensee’s product is supplied in sealed containers—for consumption away from the licensed premises.

[7] Clause 48C Grant of pop-up licences

Omit “or event” wherever occurring. Insert instead “, event or promotion”.

[8] Clause 48C(1)(b)

Omit “trial area” wherever occurring.

Insert instead “area in which the pop-up bar, event or promotion is located”.

[9] Clause 48C(1)(b)(i)

Omit “after 6 pm”.

[10] Clause 48C(1)(b)(iii)

Insert at the end of clause 48C(1)(b)(ii)—

, or

- (iii) encouraging outdoor dining to create vibrant local communities and additional opportunities for businesses.

[11] Clause 48C(2)

Omit “6 weeks”. Insert instead “12 weeks”.

[12] Clause 48C(2A)

Insert after clause 48C(2)—

- (2A) The Authority may extend the period of a pop-up licence for a further period of up to 12 weeks if—

- (a) the pop-up licence is used for outdoor dining and the sale of liquor with (or ancillary to) outdoor dining, and
- (b) the Authority is satisfied that it is appropriate because special circumstances exist.

Example of ‘special circumstances’— circumstances involving a natural disaster or recovery from a natural disaster

[13] Clause 48C(3)(b)

Omit “having regard to any other pop-up licence granted for substantially the same purpose in close proximity to the proposed licensed premises (whether or not to the same applicant)”.

[14] Clause 48D Conditions of pop-up licences

Insert after 48D(2)(b)—

- (c) in relation to a promotion—between 8 am and midnight on any day or any shorter period as may be specified by a condition imposed by the Authority.

[15] Clause 48D(2A) and (2B)

Insert after clause 48D(2)—

- (2A) Despite subclause (2), liquor may be sold or supplied under a pop-up licence (bar) or pop-up licence (event) for a period until 2 am on any day if—

- (a) the licence is used for outdoor dining and the sale of liquor with (or ancillary to) outdoor dining, and
- (b) the Authority has provided written approval for the licensee to sell or supply liquor for the period.

- (2B) Liquor may only be sold or supplied under a pop-up licence (promotion) if the liquor is not sold or supplied as—

- (a) a drink that is designed to be consumed rapidly (commonly referred to as a “shot”, a “shooter” or a “bomb”), or
- (b) a ready to drink beverage with an alcohol by volume content of more than 5%.

[16] Clause 48D(3)

Omit the subclause.

[17] Clause 48E Trial area for pop-up licences

Omit the clause.

[18] Clause 115A

Insert after clause 115—

115A Exemption relating to certain treatments for misuse or abuse of liquor

- (1) The provisions of the Act relating to the sale or supply of liquor do not apply to a trial managed alcohol program that is—
 - (a) operated by St Vincent’s Hospital Sydney Limited, ACN 054 038 872 (*St Vincent’s Hospital Sydney*), and
 - (b) carried out at one or more of the following premises (the *approved premises*)—
 - (i) the Matthew Talbot Hostel at 22 Talbot Place, Woolloomooloo,
 - (ii) other premises nominated by St Vincent’s Hospital Sydney and approved in writing by the Authority.
- (2) The Authority may require St Vincent’s Hospital Sydney to provide information or documents that the Authority considers necessary for its proper consideration of premises nominated under subclause (1)(b)(ii).
- (3) In this clause—

medical care provider means a person who is a—

 - (a) medical practitioner, or
 - (b) pharmacist, or
 - (c) registered nurse, or
 - (d) nurse practitioner.

trial managed alcohol program means a program that—

 - (a) provides medical care to an adult to prevent or minimise harm associated with the adult’s misuse or abuse of alcohol, and
 - (b) requires the preparation of an alcohol management plan for each adult participating in the program, and
 - (c) permits a medical care provider, or a person under the direction or supervision of a medical care provider, to supply liquor to an adult in accordance with the adult’s alcohol management plan, and
 - (d) requires the liquor supplied to the adult to be consumed—
 - (i) on the approved premises, and
 - (ii) in accordance with the adult’s alcohol management plan.
- (4) This clause is repealed on 1 June 2026.

[19] Clause 130B

Insert before Part 11—

130B COVID–19 pandemic—application for temporary change to boundary for outdoor dining purposes

- (1) Section 94(3) and (4) of the Act do not apply to an application for a change to the boundaries of licensed premises if the application meets the requirements mentioned in subclauses (2)–(7).
- (2) The applicant must be the owner, or the licensee, of premises to which 1 of the following licences relates—
 - (a) hotel licence,
 - (b) registered club licence,
 - (c) small bar licence,
 - (d) on-premises licence that relates to a public entertainment venue,
 - (e) on-premises licence that relates to a restaurant,
 - (f) producer/wholesaler licence endorsed with a drink on-premises authorisation.
- (3) The applicant must have been granted, or applied for—
 - (a) an approval under section 125 of the *Roads Act 1993* to use part of a footway adjacent to the licensed premises for the purposes of a restaurant (the **approved footway**), or
 - (b) an approval under section 68 of the *Local Government Act 1993* to engage in a trade or business on community land (the **approved community land**),
 - (c) a consent under Part 9, Division 3 of the *Roads Act 1993* to erect a structure or carry out a work in, on or over a public road (the **approved road**).
- (4) The application may only apply to the sale or supply of liquor on an approved footway, approved community land or an approved road between 10 am and midnight, or a shorter period—
 - (a) determined in the approval to use the approved footway or approved community land, or consent to use the approved road, or
 - (b) authorised by the licensee’s licence.
- (5) The application must not seek to increase the patron capacity of the licensed premises.
- (6) The change of boundary proposed in the application must be intended to incorporate the approved footway, approved community land or approved road within the boundary of the premises.
- (7) The change of boundary proposed in the application must be intended to apply for a period during the prescribed period.
- (8) In this clause—

community land has the same meaning as in the *Local Government Act 1993*.
footway has the same meaning as in the *Roads Act 1993*.
prescribed period means the period—

 - (a) starting on 15 October 2020, and
 - (b) ending at the end of 31 October 2021.

public road has the same meaning as in the *Roads Act 1993*.

[20] Schedule 5 Special events extended trading for hotels and clubs

Omit “4 October” from Column 2 of the matter relating to the NRL Grand Final.

Insert instead “25 October”.