

# **Liquor and Another Regulation Amendment Regulation (No. 1) 2014**

Explanatory notes for SL 2014 No. 319

made under the

*Liquor Act 1992*

*State Penalties Enforcement Act 1999*

## **General Outline**

### **Short title**

*Liquor and Another Regulation Amendment Regulation (No. 1) 2014*

### **Authorising law**

- Sections 173NB, 173NC and 235 of the *Liquor Act 1992*
- Section 165 of the *State Penalties Enforcement Act 1999*

### **Policy objectives and the reasons for them**

The policy objectives of the *Liquor and Another Regulation Amendment Regulation (No. 1) 2014* (Amendment Regulation) are to amend the *Liquor Regulation 2002* (Liquor Regulation) and the *State Penalties Enforcement Regulation 2014* (SPE Regulation) to –

- Provide a map for Caloundra, which is part of the Sunshine Coast safe night precinct (SNP), in Schedule 13 of the Liquor Regulation;
- Prescribe incorporated associations as local boards to manage the Airlie Beach CBD and Surfers Paradise CBD SNPs, in Schedule 17 of the Liquor Regulation;
- Clarify the licensees who are exempt from SNP local board association membership;
- Amend existing and introduce new penalty infringement notice (PIN) fines for offences under the *Liquor Act 1992* (Liquor Act) in relation to amendments made by the *Safe Night Out Legislation Amendment Act 2014* (Safe Night Out Amendment Act).

### Inclusion of map for Caloundra

When the Sunshine Coast SNP was prescribed as part of the *Safe Night Out Legislation Amendment Regulation (No. 1) 2014*, maps were provided for Maroochydore and Mooloolaba in schedule 13, part 1 and part 2 respectively. A map for Caloundra now also needs to be included in Schedule 13 as part 3.

### Prescribing SNP boards

Boards have already been prescribed for the Broadbeach CBD, Bundaberg CBD, Fortitude Valley, Gladstone CBD, Inner West Brisbane, Ipswich CBD, Rockhampton CBD, Sunshine Coast and Toowoomba CBD SNPs in the *Safe Night Out Legislation Amendment Regulation (No. 1) 2014* and *Liquor Amendment Regulation (No. 4) 2014*.

This regulation prescribes two additional boards for the Airlie Beach CBD and Surfers Paradise CBD SNPs.

### Clarification of licensees who are exempt from local board association membership

Part 6AB of the Liquor Act provides that licensees within an SNP must be a member of a local board association unless they are exempted.

Section 3A of the Liquor Regulation currently provides that subsidiary on-premises licensees are exempt where:

- the licensed premises are a boat, used mainly for commercial carriage of passengers; or
- the licensed premises are used mainly as a cinema; or
- the principal activity of the business is the provision of meals or accommodation, and the licensee does not sell liquor after 12 midnight on a regular basis.

The Office of Liquor and Gaming Regulation (OLGR) has identified that the way the provision is currently drafted is resulting in licensees intended to be exempt appearing as non-exempt.

OLGR has requested that the provision be redrafted to exempt all subsidiary on-premises licensees unless they are operating primarily as nightclubs or bars (rather than listing out licensee types specifically), and provided the licensee does not have approval to sell liquor at the licensed premises after 12 midnight on a regular basis.

### Amendments to the *State Penalties Enforcement Regulation 2014*

The Amendment Regulation will make the following amendments to the SPE Regulation, as a consequence of the Safe Night Out Amendment Act:

- prescribing new PIN offences which relate to:
  - risk-assessed management plans for licensed premises;
  - the responsible service, supply and promotion of liquor and preservation of amenity;
  - compliance with licence conditions;
  - requirements of licensees where an SNP has a local board;

- increasing the penalty amount for two existing PIN offences, which relate to compliance orders for licensed premises, and abatement notices; and
- removing one existing PIN offence.

## **Achievement of policy objectives**

The policy objectives are achieved by:

- Amending section 3B of the Liquor Regulation to provide for a map of Caloundra to be inserted in schedule 13, part 3 of the Liquor Regulation as part of the Sunshine Coast SNP;
- Amending schedule 13 of the Liquor Regulation to insert a map for Caloundra as part of the Sunshine Coast SNP;
- Amending schedule 17 of the Liquor Regulation to prescribe 'Safe Night Airlie Beach CBD Precinct Inc' as the local board for Airlie Beach CBD SNP and prescribe 'Safe Night Surfers Paradise CBD Precinct Inc' as the local board for Surfers Paradise CBD SNP;
- Amending section 3A of the Liquor Regulation to clarify that a subsidiary on-premises licence is exempt from membership of a local SNP board if the licensed premises are not used primarily as a bar or nightclub and the licence does not have approval to sell liquor at the licensed premises after 12 midnight on a regular basis.
- Amending the Liquor Act entry for the SPE Regulation in the following ways:
  - Renumbering the reference to section 46(3) to be section 46(4) (Compliance orders for licensed premises) and increasing the PIN amount from 5 penalty units to 10 penalty units for individuals and 20 penalty units for corporations;
  - Inserting a new reference to section 52A(4) (Commissioner may direct licensee to change plan) for a PIN amount of 2 penalty units;
  - Inserting a new reference to section 142ZZ(1) (Unacceptable practices and promotions) for a PIN amount of 10 penalty units;
  - Inserting a new reference to section 142ZZA(1) (Responsible practices and promotions) for a PIN amount of 10 penalty units;
  - Inserting a new reference to section 142ZZB(6) and 142ZZB(7) (Providing a safe environment and preserving amenity) for a PIN amount of 10 penalty units;
  - Renumbering the reference to section 148B(2) to be section 142ZZC(1) and inserting a new reference for section 142ZZC(4) (Advertising) for a PIN amount of 10 penalty units;
  - Inserting a new reference to section 142ZZD(4) (Compliance notices) for a PIN amount of 10 penalty units;
  - Inserting a new reference to section 148AA(2) (Licensees subject to conditions about closed circuit television equipment) for a PIN amount of 10 penalty units;
  - Inserting a new reference to section 173NF(1)(a) (Relevant licensee must be member of local board) for a PIN amount of 10 penalty units and section 173NF(1)(b) for a PIN amount of 2 penalty units;
  - Inserting a new reference to section 173NG(3) (Commissioner may require exempt licensee to become member of local board) for a PIN amount of 2 penalty units;
  - Amending the reference to section 187(4) (Abatement of nuisance or dangerous activity) to increase the PIN fine from 5 penalty units to 20 penalty units.

## **Consistency with policy objectives of authorising law**

The subordinate legislation is consistent with the objectives of the authorising Acts.

## **Inconsistency with policy objectives of other legislation**

The subordinate legislation is consistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

There are no significant implementation costs relating to this Amendment Regulation.

The introduction of the new PIN fines provides an administratively efficient penalty option for both the Government and the public.

## **Consistency with fundamental legislative principles**

The subordinate legislation is consistent with fundamental legislative principles.

## **Consultation**

The Office of Best Practice Regulation has advised the Amendment Regulation does not require a Regulatory Impact Statement.

The Department of the Premier and Cabinet and Queensland Treasury and Trade have been consulted and have raised no issues with the Amendment Regulation.

Strategic Policy and Legal Services, in the Department of Justice and Attorney-General, was consulted on the PIN fine amendments.