



Queensland

Liquor and Other Legislation Amendment Bill 2017



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2017

A Bill

for

An Act to amend the *Liquor Act 1992*, the *Liquor Regulation 2002* and the *Penalties and Sentences Act 1992* for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

- Clause 1 Short title** 3
- This Act may be cited as the *Liquor and Other Legislation Amendment Act 2017*. 4
5
- Clause 2 Commencement** 6
- (1) The following provisions are taken to have commenced on 1 February 2017 immediately after the commencement of the lock out amendments— 7
8
9
- (a) part 2, other than division 3; 10
- (b) part 3. 11
- (2) In this section— 12
- lock out amendments* means the provisions of the *Tackling Alcohol-Fuelled Violence Legislation Amendment Act 2016* mentioned in section 2(2) of that Act. 13
14
15

Part 2 Amendment of Liquor Act 1992 16

Division 1 Preliminary 17

- Clause 3 Act amended** 18
- This part amends the *Liquor Act 1992*. 19

Division 2	Amendments taken to have commenced on 1 February 2017	1 2
Clause 4	Amendment of s 4 (Definitions)	3
	(1) Section 4, definition <i>3a.m. safe night precinct, lock out condition</i> and <i>trading period</i> —	4 5
	<i>omit.</i>	6
	(2) Section 4—	7
	<i>insert</i> —	8
	<i>trading period</i> , for part 5, division 6, see section 142AD.	9 10
Clause 5	Amendment of s 86 (Hours to which application may relate etc.)	11 12
	Section 86(1)(b), ‘3a.m. safe’—	13
	<i>omit, insert</i> —	14
	safe	15
Clause 6	Amendment of s 103G (Authority of extended hours permit)	16 17
	Section 103G, note—	18
	<i>omit.</i>	19
Clause 7	Amendment of s 107C (Commissioner may impose conditions on licences and permits)	20 21
	Section 107C(2), example—	22
	<i>omit.</i>	23
Clause 8	Omission of pt 5, div 5 (Lock out provisions)	24
	Part 5, division 5—	25

[s 9]

omit.

1

Clause 9 Amendment of s 155AD (Who must be present or reasonably available at licensed premises etc.)

2

3

Section 155AD(2)(b)(ii) and (3)(b)(ii), ‘3a.m. safe’—

4

omit, insert—

5

safe

6

Clause 10 Amendment of s 165A (Refusing entry to premises)

7

Section 165A(1)(e), example—

8

omit.

9

Clause 11 Omission of pt 6AB, div 5 (3a.m. safe night precincts)

10

Part 6AB, division 5—

11

omit.

12

Clause 12 Amendment of s 338A (Minister must review)

13

- (1) Section 338A(3), definition *relevant provisions*, paragraphs (b) and (d)—

14

15

omit.

16

- (2) Section 338A(3), definition *relevant provisions*, paragraphs (c) and (e)—

17

18

renumber as paragraphs (b) and (c).

19

Division 3	Amendments commencing on assent	1 2
Clause 13	Amendment of s 103G (Authority of extended hours permit)	3 4
	(1) Section 103G, from ‘at the time’ to ‘in the permit’— <i>omit.</i>	5 6
	(2) Section 103G— <i>insert—</i>	7 8
	(2) The permit authorises the sale of liquor—	9
	(a) during a stated time on a stated day; and	10
	(b) in the licensed premises or a stated part of the licensed premises; and	11 12
	(c) subject to any stated conditions.	13
Clause 14	Amendment of s 103H (Restriction on grant of extended hours permit)	14 15
	Section 103H, heading— <i>omit, insert—</i>	16 17
	103H Grant of permit for Good Friday, Christmas Day or Anzac Day	18 19
Clause 15	Replacement of ss 103I and 103J	20
	Sections 103I and 103J— <i>omit, insert—</i>	21 22
	103I Hours to which applications may relate	23
	An application may be made for an extended hours permit for a licence that, if granted, would extend trading hours on a particular day to include—	24 25 26 27

[s 15]

- | | |
|--|---|
| (a) for a licence other than a community other licence— | 1 |
| | 2 |
| (i) trading between 12a.m. and 5a.m.; or | 3 |
| (ii) trading between 7a.m. and 9a.m.; or | 4 |
| (iii) trading between 9a.m. and 10a.m.; or | 5 |
| (b) for a community club licence—trading between 7a.m. and 9a.m. | 6 |
| | 7 |

103IA Restrictions on grant of permit for trading between 12a.m. and 5a.m.	8
	9

- | | |
|---|----|
| (1) This section applies if an application is made under section 103I(a)(i). | 10 |
| | 11 |
| (2) The commissioner may grant an extended hours permit only if satisfied it is to sell liquor on a special occasion that persons independent of the licensee, and of the owner or occupier of the licensed premises, wish to celebrate on the licensed premises. | 12 |
| | 13 |
| | 14 |
| | 15 |
| | 16 |
| | 17 |
| (3) The commissioner may only grant an extended hours permit for— | 18 |
| | 19 |
| (a) the time the special occasion is happening; and | 20 |
| | 21 |
| (b) a reasonable time, before or after the time the special occasion is happening, the commissioner considers appropriate to ensure the maintenance of a safe environment in and around the licensed premises. | 22 |
| | 23 |
| | 24 |
| | 25 |
| | 26 |
| | 27 |

<i>Example—</i>	28
-----------------	----

On the occasion of an international sporting match being televised from 1a.m. to 3a.m., the commissioner may grant a permit for trading between 12a.m. and 3.30a.m., in order to allow for the gradual arrival and departure of patrons attending the premises for the occasion.	29
	30
	31
	32
	33
	34

-
- (4) The commissioner may not grant extended hours permits relating to the same licensed premises that would extend trading hours on 2 or more consecutive days, or on more than 1 day in a calendar month, unless satisfied the permits are to sell liquor on the same special occasion.
- (5) In this section—
celebrate includes mark.
special occasion means—
- (a) the occasion of a special public event; or
 - (b) a wedding, birthday or other private occasion being celebrated at a function that is not open to the public.
- special public event*—
- (a) means a unique or infrequent event of local, State or national significance; and
Examples—
 - a local music festival happening over a weekend
 - a televised international sporting match involving an Australian team
 - (b) includes an event prescribed by regulation, or of a class of events prescribed by regulation, to be a special public event; and
 - (c) does not include an event prescribed by regulation, or of a class of events prescribed by regulation, not to be a special public event.

103IB Restrictions on grant of permit for trading between 7a.m. and 9a.m.

- (1) On an application under section 103I(a)(ii), the commissioner may grant an extended hours permit only if satisfied it is to sell liquor to or for

[s 15]

- persons genuinely attending a function held on the
licensed premises during the period to which the
permit relates.
- (2) On an application under section 103I(b), the
commissioner may grant an extended hours
permit only if—
- (a) the commissioner is satisfied there is a
demonstrated community need for the
application to be granted; or
- (b) the club to which the licence relates is a
sporting club for a sport prescribed by
regulation.

103IC Restrictions on grant of permit for trading between 9a.m. and 10a.m.

On an application under section 103I(a)(iii), the
commissioner may grant an extended hours
permit only if satisfied there is a demonstrated
community need for the application to be granted.

103J Maximum number of permits that may be granted

- (1) The maximum number of extended hours permits
that may be granted for particular licensed
premises is—
- (a) on an application under section
103I(a)(i)—6 permits in a calendar year; or
- (b) otherwise—4 permits in any 1-year period.
- (2) A reference in subsection (1)(a) or (b) to a number
of permits in a period is a reference to the number
of permits authorising the sale of liquor on a day
in the period (not the number of permits granted
in the period).
- (3) This section applies subject to section 103JAA.

**103JAA Maximum number of late night permits
that may be granted in first calendar year of
licence**

(1) This section applies to licensed premises in relation to the calendar year in which the premises become licensed premises.

(2) Section 103J(1)(a) applies to the premises as if the reference to 6 permits were a reference to a lesser number of permits worked out on a pro rata basis according to the number of calendar months, in the calendar year, in which the premises are licensed premises.

Example—

Premises become licensed premises on 20 July 2018. For the 2018 calendar year, there are 6 calendar months in which the premises are licensed premises. Therefore, section 103J(1)(a) applies as if the reference to 6 permits were a reference to 3 permits.

(3) If the number of permits worked out under subsection (2) is not a whole number, the number must be rounded up to the nearest whole number.

Clause 16 Amendment of s 173EF (Licensed premises to which this division applies)

(1) Section 173EF(1)(b), ‘this Act’—

omit, insert—

an extended trading hours approval

(2) Section 173EF(3)—

omit.

Clause 17 Amendment of s 173EH (Scanning obligations of licensees for regulated premises)

Section 173EH(9), definition *regulated hours*, paragraph (b), after ‘following day’—

[s 18]

insert—

(whether under the authority of a licence,
extended hours permit or extended trading hours
approval)

Clause 18 Insertion of new s 173NCA

After section 173NC—

insert—

173NCA Changing area of safe night precincts

- (1) This section applies in relation to an amendment of a regulation under section 173NC to change the area of a safe night precinct if—
 - (a) as a result of the amendment, particular licensed premises cease to be in the safe night precinct; and
 - (b) an extended trading hours approval (the *approval*) is in force for the licensed premises that extends trading hours to include trading between 12a.m. and 3a.m.
- (2) From the day the amendment commences, the approval has effect only to extend trading hours to include trading between 12a.m. and 2a.m.
- (3) Subsection (2) does not affect any later amendment or revocation of the approval.
- (4) The regulation containing the amendment must provide for the amendment to commence on a day no earlier than 7 days after the regulation is made.
- (5) As soon as practicable after the regulation containing the amendment is made, the commissioner must give the licensee written notice—
 - (a) that, when the amendment commences, the premises cease to be in the safe night precinct; and

[s 19]

	(b) of the changed effect of the approval under subsection (2).	1 2
	(6) Failure to give the notice does not affect the operation of subsection (2).	3 4
	(7) No compensation is payable to any person because of the operation of this section.	5 6
Clause 19	Amendment of s 336 (Applications for extended trading hours between 2a.m. and 5a.m)	7 8
	Section 336—	9
	<i>insert—</i>	10
	(5) This section applies subject to section 351.	11
Clause 20	Amendment of s 337 (Existing extended trading hours approvals for trading between 2a.m. and 5a.m.)	12 13
	Section 337—	14
	<i>insert—</i>	15
	(5) This section applies subject to section 351.	16
21	Amendment of s 338 (Effect of certain court or tribunal decisions relating to extended trading hours approvals)	17 18
	Section 338—	19
	<i>insert—</i>	20
	(5) This section applies subject to section 351.	21
22	Insertion of new pt 12, div 19	22
	Part 12—	23
	<i>insert—</i>	24
	Division 19 Transitional and declaratory provisions for	25 26

[s 22]

Liquor and Other	1
Legislation Amendment	2
Act 2017	3
346 Definitions for division	4
In this division—	5
<i>2017 late night permit</i> means an extended hours	6
permit that extends trading hours, on a day in	7
2017, to include trading for all or part of the	8
period between 12a.m. and 5a.m.	9
<i>amending Act</i> means the <i>Liquor and Other</i>	10
<i>Legislation Amendment Act 2017</i> .	11
347 Declaration about period between 1 February	12
2017 and commencement	13
(1) This section applies in relation to the period (the	14
<i>relevant period</i>) from the commencement of the	15
amending Act, part 2, division 2 on 1 February	16
2017 to the commencement of this section.	17
(2) To remove any doubt, it is declared that, during	18
the relevant period—	19
(a) no licence or permit is taken to have been	20
subject to a lock out condition by force of	21
repealed section 142AB; and	22
(b) the granting of an extended trading hours	23
approval, and anything done in relation to an	24
extended trading hours approval, was as	25
valid as it would have been if a reference in	26
section 86(1)(b) or 155AD to a 3a.m. safe	27
night precinct were a reference to a safe	28
night precinct.	29
(3) The rights and liabilities of all persons are	30
declared to be, and to have been throughout the	31
relevant period, for all purposes the same as if—	32

-
- (a) repealed section 142AB had never been in force; and
- (b) a reference in section 86(1)(b) or 155AD to a 3a.m. safe night precinct were a reference to a safe night precinct.
- (4) Subsections (2) and (3)—
- (a) do not apply for the purpose of a legal proceeding decided before the commencement; but
- (b) otherwise apply for all purposes, including—
- (i) a legal proceeding started, but not decided, before the commencement; and
- (ii) a legal proceeding started after the commencement.
- (5) However, despite subsection (3)(b), an act done or omission made during the relevant period is not an offence against section 155AD(2)(b)(ii) or (3)(b)(ii) to the extent it would not have been an offence against that provision if the amending Act, section 9 had not commenced.
- (6) In this section—
- lock out condition*** has the meaning given by repealed section 142AB.
- repealed section 142AB*** means section 142AB inserted in this Act by the *Tackling Alcohol-Fuelled Violence Legislation Amendment Act 2016*, section 38.
- Note—*
- Repealed section 142AB was repealed, immediately after it commenced, by the *Liquor and Other Legislation Amendment Act 2017*, section 8.

[s 22]

348 Cancellation of current 2017 late night permits	1
(1) This section applies to a 2017 late night permit granted to a licensee before the commencement that extends trading hours on a day on or after the commencement.	2 3 4 5
(2) On the commencement, the permit is cancelled by force of this section.	6 7
(3) As soon as practicable after the commencement, the commissioner must—	8 9
(a) refund to the licensee the fee paid for the application for the permit; and	10 11
(b) give the licensee written notice that—	12
(i) the permit has been cancelled; and	13
(ii) the licensee may make a further application for an extended hours permit under part 4A, division 4.	14 15 16
 349 Counting 2017 late night permits for s 103J	 17
(1) This section applies to a 2017 late night permit granted to a licensee before the commencement that extended trading hours on a day before the commencement.	18 19 20 21
(2) In deciding, for section 103J, the number of 2017 late night permits granted for the licensed premises, a permit mentioned in subsection (1) is to be counted.	22 23 24 25
 350 Current applications and legal proceedings relating to extended hours permits	 26 27
(1) An application under this Act for an extended hours permit made, but not decided, before the commencement must be decided under this Act as in force from the commencement.	28 29 30 31

-
- | | |
|--|---|
| (2) Part 4A, division 4, as in force before the | 1 |
| commencement, continues to apply for the | 2 |
| purpose of a legal proceeding started under this | 3 |
| Act but not decided before the commencement. | 4 |

351 Retrospective change to operation of ss	5
336–338	6

- | | |
|---|----|
| (1) Section 336 applies, and is taken to have applied | 7 |
| since 1 February 2017, as if the reference in | 8 |
| section 336(4)(a) to a 3a.m. safe night precinct | 9 |
| were a reference to a safe night precinct. | 10 |
| (2) Section 337 applies, and is taken to have applied | 11 |
| since 1 February 2017, as if the reference in | 12 |
| section 337(4)(a) to a 3a.m. safe night precinct | 13 |
| were a reference to a safe night precinct. | 14 |
| (3) Section 338 applies, and is taken to have applied | 15 |
| since 1 February 2017, as if the reference in | 16 |
| section 338(4)(a) to a 3a.m. safe night precinct | 17 |
| were a reference to a safe night precinct. | 18 |
| (4) The rights and liabilities of all persons are | 19 |
| declared to be, and to have been since 1 February | 20 |
| 2017, for all purposes the same as if the references | 21 |
| in section 336(4)(a), 337(4)(a) and 338(4)(a) to a | 22 |
| 3a.m. safe night precinct were references to a safe | 23 |
| night precinct. | 24 |

352 No compensation	25
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Despite any Act or law, no compensation is	26
payable by the State to a person because of the	27
operation of the amending Act.	28

[s 23]

Part 3	Amendment of Liquor Regulation 2002	1 2
23	Regulation amended	3
	This part amends the <i>Liquor Regulation 2002</i> .	4
24	Omission of s 3EA (3a.m. safe night precincts—Act, s 173P)	5 6
	Section 3EA—	7
	<i>omit</i> .	8
25	Omission of sch 16A (3a.m. safe night precincts)	9
	Schedule 16A—	10
	<i>omit</i> .	11
Part 4	Amendment of Penalties and Sentences Act 1992	12 13
26	Act amended	14
	This part amends the <i>Penalties and Sentences Act 1992</i> .	15
27	Amendment of s 43J (Making a banning order)	16
	Section 43J(1)(a)—	17
	<i>omit, insert—</i>	18
	(a) the offender has been convicted of—	19
	(i) an offence that involved the use, threatened use or attempted use of unlawful violence to a person or property; or	20 21 22 23

	(ii) an offence against the <i>Drugs Misuse Act 1986</i> , section 5 or 6; and	1 2
28	Insertion of new pt 14, div 19	3
	Part 14—	4
	<i>insert—</i>	5
	Division 19	6
	Transitional provision for	7
	Liquor and Other	8
	Legislation Amendment	9
	Act 2017	
	 254 Banning orders	10
	A court may make a banning order under section	11
	43J if the offender is convicted of an offence	12
	mentioned in section 43J(1)(a)(i) or (ii) after the	13
	commencement, even if the offence was	14
	committed, or the offender was charged with the	15
	offence, before the commencement.	16