

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

### **REPORT**

The *Liquor Licensing Act 1997* ("the Act") regulates the sale, supply and consumption of liquor. Section 105(1) of the Act requires a licensee to apply to the licensing authority for consent to provide entertainment on the licensed premises or any area adjacent to the licensed premises ("entertainment consent"). The licensing authority has the power to grant its consent subject to the conditions it considers necessary or desirable under section 105(3) of the Act. Conditions may also be imposed under section 43 of the Act which is the general power of the licensing authority to impose conditions.

The Government is aware of industry concerns regarding the entertainment consent process and has decided to introduce this Bill to remove unnecessary regulation. Many of the concerns relate to the nature of the conditions imposed on entertainment. While this proposal does not seek to remove the entertainment consent process entirely, the Government considers that this Bill does strike a balance in reducing red tape but still maintaining adequate regulation for entertainment.

The main change proposed in the Bill is that a licensee will not be required to apply to obtain the consent of the licensing authority for entertainment provided on licensed premises (as defined in the Bill) between the hours of 11am and midnight. However a licensee will be required to obtain the consent of the licensing authority outside of those hours or if the entertainment is prescribed entertainment, as defined in the Bill.

The Bill provides for transitional provisions which are outlined in Schedule 1 of the Bill. These transitional provisions are aimed to ensure a smooth implementation of the reform. Existing entertainment consents will continue in force and be subject to existing conditions. However, existing entertainment conditions (as defined in the Bill) will have no effect during the hours of 11am and midnight. Conditions imposed on the premises under other laws, such as approvals under the *Development Act 1993*, will not be affected by the Bill (which is expressly stated in Schedule 1 clause 1(2) of the Bill).

The process under section 106 of the Act relating to noise complaints will remain unchanged. Section 106 of the Act currently allows for a complaint to be made to the Liquor and Gambling

Commissioner ("the Commissioner") regarding noise from licensed premises. A complaint may be lodged under section 106 if an activity on, or noise emanating from, licensed premises or the behaviour of persons making their way to or from licensed premises, is unduly offensive, annoying, disturbing or inconvenient to a person who resides, works or worships in the vicinity of the licensed premises. A complaint may be lodged by persons that satisfy the requirements of section 106 of the Act.

In most instances the Commissioner attempts to resolve the issues by conciliation. If the matter of the complaint is not to be conciliated or is not resolved by conciliation, the matter is determined by either the Commissioner or the Licensing Court of South Australia. The parties may nominate the forum in which the matter is heard/resolved.

The Commissioner or the Licensing Court may make an order that adds to or varies the condition of the licence. Schedule 1 clause 1(2) of the Bill makes it clear that nothing affects a condition added to a licence, or varied, by an order made under section 106 after the commencement of the Bill. Therefore any condition added to a licence, or varied under section 106 of the Act, after commencement of the Bill, will apply.

Schedule 1 clause 3 of the Bill is a transitional provision in respect to those licensed premises that currently provide prescribed entertainment. That transitional provision has been drafted such as to enable the continuation of business with minimal interruption. The provision provides the Commissioner with flexibility for the purpose of granting consent to those licensed premises that have been lawfully providing prescribed entertainment as required by the Bill.

Another important transitional provision is Schedule 1 clause 5 of the Bill which provides the Commissioner with power to add, substitute, vary or revoke a condition of a licence or consent if necessary or desirable to do so as a result of the reforms in the Bill. This power will enable the Commissioner to vary or revoke existing conditions that may be superfluous in light of the reforms in the Bill.

The Bill also includes other consequential changes that are necessary to ensure the full effectiveness of the proposed reforms, these include changes to section 57 (requirements for premises) of the Act and section 77 (general right of objection) of the Act.

The purpose of the Bill is to cut red tape, reduce cost to businesses as well as encouraging the live music industry.

The changes will mean, for example, restaurants can have a violinist or acoustic guitar playing in the background during the hours of 11am and midnight, without having to seek the consent of the licensing authority. The Bill will also make entertainment consent for all venues more consistent with that of small venues. Licensees that have a small venue licence are currently not required to apply for entertainment consent for entertainment provided between 11am and midnight.

This Bill strikes an appropriate balance between reducing red tape and maintaining regulation of entertainment during the hours in which noise from licensed premises is most likely to impact upon residents (after midnight and through the early hours of the morning).

I commend the Bill to Members.

## **EXPLANATION OF CLAUSES**

### **Part 1—Preliminary**

#### **1—Short title**

#### **2—Commencement**

#### **3—Amendment provisions**

These clauses are formal.

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

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

This clause makes a consequential amendment.

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

This clause inserts new subsection (1a) into section 57 of the principal Act to require the licensing authority to disregard entertainment that may be provided without the consent of the licensing authority under section 105 when considering an application for a licence.

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

This clause inserts new subsection (6) into section 77 of the principal Act, removing entertainment that may be provided on licensed premises or proposed premises without the consent of the licensing authority under section 105 from the scope of objections under that section.

#### **7—Substitution of section 105**

This clause substitutes new section 105 into the principal Act. The new section requires consent of the licensing authority to provide entertainment on licensed

premises between midnight and 11 am, or prescribed entertainment at any time. The current section requires consent at all times.

The new section also makes procedural provision in relation to consents.

## **Schedule 1—Transitional provisions**

This Schedule makes transitional provisions relating to the amendments to the principal Act enacted by this Act.