

Liquor Licensing Update

December 2014



NSW Liquor Licensing changes introduce annual fees and risk-based loading

Recent changes to the *Liquor Act 2007* (Part 4, Div 2A) and *Liquor Regulations 2008* (Part 2A), which introduced a risk-based licence fee scheme that will apply to most liquor licences across NSW. The scheme is intended to create a financial incentive for venues to increase and maintain safe and low-risk practices. Notably, actions that lead to non-compliance with licence or statutory conditions of licensees from 1 January 2015 will significantly increase annual fees payable in 2016.

KEY ACTIONS FOR LIQUOR LICENSE HOLDERS

- The changes make annual license fees payable by all licensees
- Licensees with late trading authorisations should review their operating hours to determine if they can reduce the loading payable in 2015

- From 1 January 2015, any liquor licence offence committed will go to increase the annual fee payable in the following year
- Licensees should review their licence and statutory conditions and ensure practices are in place to avoid non-compliance offences.

WHAT IS THE NEW ANNUAL FEE?

Fee payable = [Base fee] + [risk based loading element]

WHAT IS THE BASE FEE?

The periodic fee based solely on the type of licence, pursuant to cl 5D of the Regulations (e.g, for an on-premises licence, the base fee is \$400).

WHAT IS THE RISK LOADING FEE?

Clauses 5D-5H set out the loading elements that will increase the fee payable. The risk-based loading portion of the licence fee is calculated according to:

- (a) authorised trading hours;
- (b) compliance history;
- (c) patron capacity; and
- (d) venue location.

Trading hours (cl 5F)

The trading hours loading will commence and be payable for the 2014/15 financial year. Licences that are authorised to trade between midnight and 1.30am must pay an additional \$2,500. Licences that operate after 1.30am must pay an additional \$5,000. The late trading hours loading does not apply to some particular types of licences including small bar licences.

The Office of Liquor, Gaming and Racing (**OLGR**) will offer a 'short cut' form on 1 December 2014 for licensees wishing to surrender their late trading authorisation and cut back their operational hours to end at 12 midnight. Licensees should review their approved operation hours and if they have a late trading authorisation and consider whether it is necessary to be retained. If they do not regularly use the late trading authorisation their liability for the annual fee could be greatly reduced by surrendering it.

Compliance history

Compliance history loading will commence for the 2015/16 financial year. Assessment will take place on 15 March each year. Offences in the 2015 calendar year and disciplinary strikes in force at 15 March 2016 will be taken into account at the 2016 assessment date.

Licensees should be aware that any infringement notices received from 1 January 2015 will significantly increase the annual fee payable for that licence in 2016. Therefore, if purchasing a licence, compliance history for this period will be highly relevant. Current licensees should ensure they operate in accordance with licence and statutory conditions to avoid paying significantly increased annual fees.

An additional amount of up to \$9,000 loading is payable on the basis of poor compliance history. Assessment of compliance will consider if an offence has occurred in the previous calendar year or if a strike is still in force. Strikes will remain in force for 3 years from the date of the strike under s144D of the *Liquor Act 2007*. Whether or not a venue is listed on the Violent Venues list as a level 1 or 2 declared premises will also be looked at

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Patron capacity

If a compliance history loading is payable, the patron capacity is taken into account in the risk-based loading. The patron capacity loading is based on the number of patrons the venue is licence to hold, including if stated in a licence condition, the number notified to the OLGR in a biennial return, or the number determined by the OLGR if the number reported in the biennial return is inaccurate or not supplied. The loading payable can be up to \$8,000.

Some licence types are exempt from the patron capacity loading.

Location risk

Again, if a compliance history loading is payable, the location of the venue may result in further risk-based loading. If the venue is located within a 'prescribed precinct' a risk based loading of \$2,000 will be added to the licencing fee. 'Prescribed precincts' are currently only Kings Cross Precinct and the Sydney CBD Entertainment Precinct.

Assessment examples

A venue with an on-premises licence that closes before midnight and has had nil offences, no strikes and is not a level 1 or 2 declared premises will only have to pay a base fee of \$400.

In contrast, a venue with a hotel licence that trades after 1:30am with nil offences, no strikes and not a level 1 or 2 declared premises will have to pay a base fee of \$500 and a risk-based loading fee of \$5,000 for late trading hours. This risk-based loading fee would increase by \$3,000 if the premises had 1 offence, and/or 1 strike. This will then be increased by a further \$1,000 to \$8,000 depending on the patron capacity, and a further \$2,000 if the venue is located within the Kings Cross Precinct or the Sydney CBD Entertainment Precinct.

In theory up to \$24,000 in risk based loading could be payable by an individual licensee, in addition to the base fee.

The Office of Liquor, Gaming and Racing provides an [online calculator](#) for venues wishing to estimate their total fees.

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