

State Penalties Enforcement Amendment Regulation (No. 1) 2016

Explanatory notes for SL 2016 No. 38

Made under the

State Penalties Enforcement Act 1999

General Outline

Short Title

State Penalties Enforcement Amendment Regulation (No. 1) 2016

Authorising law

Section 165(2) and 165(3) of the *State Penalties Enforcement Act 1999*

Policy objectives and the reasons for them

The objective of the *State Penalties Enforcement Amendment Regulation (No. 1) 2016* (Amendment Regulation) is to amend the *State Penalties Enforcement Regulation 2014* (SPE Regulation) to prescribe sections 162A(1) and 162A(2) of the *Liquor Act 1992* (Liquor Act) as infringement notice offences carrying infringement notice fines of 3 penalty units each.

Section 165(2) of the *State Penalties Enforcement Act 1999* (SPE Act) provides that a regulation may prescribe an offence to be an infringement notice offence. Section 165(3) of the SPE Act provides that a regulation may prescribe an infringement notice fine for an infringement notice offence. Accordingly, this Amendment Regulation amends Schedule 1 of the SPE Regulation to reference section 162A(1) and 162A(2) of the Liquor Act (taking alcohol onto or away from a premises subject to a nightclub licence) in the same way Schedule 1 references section 162 of the Liquor Act (taking alcohol onto or away from a premises subject to a subsidiary on-premises licence). This will capture nightclubs that transitioned from the subsidiary on-premises licence to the nightclub licence on 1 July 2015, upon the assent of the *Safe Night Out Legislation Amendment Act 2014* (Safe Night Out Act).

Prior to 1 July 2015, nightclubs operated under the authority of a subsidiary on-premises licence, with the principal activity being the provision of entertainment. The offence

provisions under sections 162(1) and 162(2) of the Liquor Act, which prohibit persons taking alcohol onto or away from a subsidiary on-premises licensed premises (except in particular cases), attract a maximum penalty of 25 penalty units each. Schedule 1 of the SPE Regulation prescribes sections 162(1) and 162(2) to be infringement notice offences carrying infringement notice fines of 3 penalty units.

Following the commencement of a new nightclub licence on 1 July 2015, the Liquor Act was amended to include new sections 162A(1) and 162A(2), which prohibit persons taking alcohol onto or away from a nightclub licensed premises and attract a maximum penalty of 25 penalty units each. However, currently there is no reference to section 162A(1) or 162A(2) in the SPE Regulation. Consequently, until such time as Schedule 1 is amended, there is no basis in the SPE Regulation for police or Office of Liquor and Gaming Regulation officers, appointed as investigators under the Liquor Act, to issue penalty infringement notices for taking liquor onto or away from a licensed nightclub premises.

Amendments to Schedule 1 of the SPE Regulation are therefore necessary to ensure that taking liquor onto or away from nightclub licensed premises remain infringement notice offences subject to the same penalties that applied to nightclubs prior to 1 July 2015.

Achievement of policy objectives

To achieve the policy objectives, the Amendment Regulation prescribes that sections 162A(1) and 162A(2) of the Liquor Act are infringement notice offences carrying infringement notice fines of 3 penalty units each.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the SPE Act.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

There are no costs associated with the implementation of this Amendment Regulation.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

The new nightclub licence and related offences for taking liquor onto or away from a nightclub, were created by the Safe Night Out Act. No community consultation was undertaken in relation to the Amendment Regulation as prescribing infringement notice offences is a consequential amendment that is considered to be machinery in nature.

The Office of Best Practice Regulation was consulted regarding the Regulatory Impact Statement (RIS) system requirements and has advised prescription of Liquor Act offences in the SPE Regulation does not require a RIS.

The Department of the Premier and Cabinet and Queensland Treasury have been consulted and have not raised any issues.