

Passed by both Houses



New South Wales

Music Festivals Amendment Bill 2024

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2024



New South Wales

Music Festivals Amendment Bill 2024

Act No _____, 2024

An Act to amend the *Music Festivals Act 2019* to address findings from the Final Report–Review of the *Music Festivals Act 2019*; to provide for the making of a principal regulation under the *Music Festivals Act 2019*; and to make a related amendment to the *Liquor Act 2007*.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Music Festivals Amendment Act 2024*.

2 Commencement

This Act commences as follows—

- (a) for Schedule 1[36], to the extent it inserts sections 19C and 19D—on a day or days to be appointed by proclamation,
- (b) otherwise—on the date of assent to this Act.

Schedule 1 Amendment of Music Festivals Act 2019 No 17

[1] Long title

Omit “organisers of subject festivals to comply with approved safety management plans”.

Insert instead “music festival organisers to comply with agreed health and medical plans”.

[2] Section 2A

Insert after section 2—

2A Objects of Act

- (1) The objects of this Act are—
 - (a) to regulate and support planning for music festivals in a way that is consistent with the expectations and needs of the community, and
 - (b) to support music festival organisers in ensuring adequate measures are in place to deal with possible risks associated with music festivals, including access to advice from clinical and public health and safety experts, and
 - (c) to facilitate collaboration between government agencies and music festival organisers to deliver safe music festivals.
- (2) Each person who exercises functions under this Act, including music festival organisers, must, in exercising the functions, have regard to—
 - (a) supporting the development of the music festivals sector, including the development of the following in relation to music festivals—
 - (i) employment,
 - (ii) the live music industry,
 - (iii) the arts, community, cultural and tours sectors, and
 - (b) promoting harm minimisation measures relating to the consumption of liquor and drugs at music festivals to ensure the safety of persons attending the music festivals.

[3] Section 3 Definitions

Omit the definitions of *approved safety management plan*, *concert*, *NSW Health music festival guidelines* and *subject festival*.

Insert in alphabetical order—

agreed health and medical plan, for a music festival, means a health and medical plan agreed to under section 6 for the music festival.

concert means a music-focused event that includes all of the following—

- (a) the event uses a single stage,
- (b) the event is proposed to be held over a period of less than 5 hours,
- (c) the event has not more than 2 headlining performers and not more than 4 performers in total, including supporting performers, with 1 group or collective being considered to be a single performer.

Guidelines for Music Festival Event Organisers means the document titled *Guidelines for Music Festival Event Organisers: Music Festival Harm Reduction* produced by the Ministry of Health—

- (a) as in force from time to time, and
- (b) published on a NSW Government website.

Secretary means the Secretary of the department in which this Act is administered.

[4] Section 3, definition of “health officer”, paragraph (d)

Omit “high-risk festival”. Insert instead “music festival”.

[5] Part 2, Division 1, heading

Omit “**Safety management plans**”. Insert instead “**Health and medical plans**”.

[6] Sections 5 and 5A

Omit section 5. Insert instead—

5 Requirement for health and medical plans

- (1) The Secretary must determine which music festivals require an agreed health and medical plan.
- (2) Without limiting the matters to which the Secretary may have regard in determining whether a music festival requires an agreed health and medical plan, the Secretary must have regard to the following matters—
 - (a) advice from the Health Secretary that is consistent with information about festival characteristics associated with drug-related health harms set out in the Guidelines for Music Festival Event Organisers,
 - (b) advice from the Commissioner of Police,
 - (c) advice from the music festival organiser,
 - (d) whether a prescribed medical event occurred, whether in New South Wales or another State or Territory—
 - (i) at a music festival, or an event related to a music festival, for which the music festival organiser was the organiser in the 3 years immediately before the date on which the proposed music festival will start, or
 - (ii) if any of the last 3 music festivals, or events related to music festivals, for which the music festival organiser was the organiser were held more than 3 years before the date on which the proposed music festival will start—at any of the 3 music festivals or events,
 - (e) advice from the music festival roundtable.
- (3) If the Secretary determines a music festival requires an agreed health and medical plan, the Secretary must direct the music festival organiser to—
 - (a) prepare a health and medical plan for the music festival, and
 - (b) provide—
 - (i) the health and medical plan to the Health Secretary for agreement, and
 - (ii) a copy of the health and medical plan to the Commissioner of Police.
- (4) A direction under subsection (3) must be given—
 - (a) no later than the day specified in the regulations, and
 - (b) in the form and way approved by the Secretary.
- (5) If the Secretary does not determine a music festival requires an agreed health and medical plan, the music festival organiser must prepare a health and

medical plan for the music festival but the plan does not require the Health Secretary's agreement.

(6) In this section—

medical event means the following—

- (a) the death of a person,
- (b) the admission of a person to an intensive care unit of a hospital,
- (c) endotracheal intubation of a person.

prescribed medical event means a medical event that is reasonably suspected to be—

- (a) because of alcohol or drug use, or
- (b) caused by crowd behaviour or improper safety management.

5A Appeal against determination music festival requires agreed health and medical plan

- (1) If the Secretary determines that a music festival requires an agreed health and medical plan, the music festival organiser may appeal against the determination to ILGA.
- (2) An appeal may be lodged only on the ground that the music festival does not require an agreed health and medical plan because, in the music festival organiser's view, sufficient controls have been put in place to mitigate and manage health risks at the music festival.
- (3) An appeal must be started by lodging a notice (an **appeal notice**) with ILGA no later than the day specified in the regulations.
- (4) The appeal notice must be lodged in the form and way approved by ILGA.
- (5) In deciding an appeal, ILGA must, after having regard to the objects of this Act, decide that the music festival—
 - (a) requires an agreed health and medical plan and that the music festival organiser must provide a health and medical plan to the Health Secretary for agreement, or
 - (b) does not require an agreed health and medical plan and that the music festival organiser must prepare a health and medical plan for the music festival but does not require the Health Secretary's agreement to the plan.

[7] Section 6, heading

Omit "safety management plans". Insert instead "health and medical plans".

[8] Section 6(1) and (2)

Omit the subsections. Insert instead—

- (1) The health and medical plan for a music festival the Secretary has determined requires an agreed health and medical plan must be prepared in accordance with the Guidelines for Music Festival Event Organisers.
- (2) The music festival organiser must give the health and medical plan to the Health Secretary for agreement no later than—
 - (a) the prescribed day, or
 - (b) a later day specified by the Health Secretary.

[9] Sections 6(3) and 11(2)(g)

Omit “safety management plan” wherever occurring.

Insert instead “health and medical plan”.

[10] Section 6(3)

Omit “ILGA”. Insert instead “the Health Secretary”.

[11] Section 6(4)–(6)

Omit section 6(4) and (5). Insert instead—

- (4) The Health Secretary must decide to—
 - (a) agree to the health and medical plan, with or without changes, but only if the Health Secretary is satisfied the risks associated with the music festival and the premises are suitably addressed by the plan, or
 - (b) refuse to agree to the health and medical plan.
- (5) The Health Secretary must make a decision under subsection (4) no later than—
 - (a) the prescribed day, or
 - (b) the later day decided by the Health Secretary.
- (6) The Health Secretary must give a copy of an agreed health and medical plan to the Commissioner of Police.

[12] Section 6A

Insert after section 6—

6A Commissioner of Police may propose conditions to be applied to music festivals for which agreed health and medical plan required

- (1) This section applies in relation to a music festival the Secretary has determined requires an agreed health and medical plan.
- (2) The Commissioner of Police may, by written notice given to the Secretary no later than the prescribed day, propose the music festival organiser submit to the Secretary a schedule about matters relating to law enforcement and safety for the music festival.
- (3) After receiving a notice from the Commissioner of Police under subsection (2), the Secretary—
 - (a) may require the music festival organiser to—
 - (i) prepare a schedule (a *law enforcement and safety schedule*) about matters relating to law enforcement and safety for the music festival, and
 - (ii) submit the law enforcement and safety schedule to the Secretary no later than—
 - (A) the prescribed day, or
 - (B) a later day specified by the Secretary, and
 - (b) if the Secretary requires the music festival organiser to submit a law enforcement and safety schedule—must give a copy of the schedule submitted to the Secretary to the Commissioner of Police as soon as practicable.

- (4) After considering the law enforcement and safety schedule, the Commissioner of Police may, by written notice given to the Secretary as soon as practicable after receiving the schedule, propose conditions about the holding of the music festival to be included in the schedule.
- (5) The Secretary must—
 - (a) give the music festival organiser an opportunity to comment on the proposed conditions, and
 - (b) consider any comments made by the music festival organiser, and
 - (c) approve the law enforcement and safety schedule, including the conditions proposed by the Commissioner of Police, with or without changes, no later than—
 - (i) the prescribed day, or
 - (ii) the later day decided by the Secretary.
- (6) An approved law enforcement and safety schedule for a music festival may be included as a schedule to—
 - (a) the agreed health and medical plan and, if included, is taken to be part of the agreed health and medical plan with which the music festival organiser must comply, or
 - (b) if the music festival is to be held on premises to which a liquor licence applies—the liquor licence and, if included, is taken to be part of the licence with which the licensee must comply.

[13] Sections 7–9

Omit “approved safety management plan” wherever occurring.

Insert instead “agreed health and medical plan”.

[14] Section 7

Omit “subject festival”.

Insert instead “music festival the Secretary has determined requires an agreed health and medical plan”.

[15] Section 8

Omit “subject festival”.

Insert instead “music festival the Secretary has determined requires an agreed health and medical plan”.

[16] Section 8(1)(a)

Omit “the subject festival”. Insert instead “the music festival”.

[17] Section 9

Omit “subject festival” from section 9(1).

Insert instead “music festival the Secretary has determined requires an agreed health and medical plan”.

[18] Section 9(1)

Omit “ILGA”. Insert instead “the Health Secretary”.

[19] Section 9(2)

Omit “ILGA must”. Insert instead “The Health Secretary must”.

[20] Section 9(2)

Omit “ILGA approves”. Insert instead “the Health Secretary agrees to”.

[21] Section 9(3)

Omit “approved by ILGA”. Insert instead “agreed to by the Health Secretary”.

[22] Section 10AA

Insert before section 10—

10AA Requirement to notify Secretary about proposed music festivals

- (1) A music festival organiser for a proposed music festival must give the Secretary notice, in the form and way approved by the Secretary, about the intention to hold the festival no later than the prescribed day.
- (2) The Secretary must, as soon as practicable after receiving a notice under subsection (1), give a copy of the notice to the following persons—
 - (a) the Health Secretary,
 - (b) the Commissioner of Police.

[23] Section 10 Requirement to hold briefings for health service providers

Omit “subject festival” from section 10(1).

Insert instead “music festival the Secretary has determined requires an agreed health and medical plan”.

[24] Section 10(2)(a) and (5), definition of “prescribed entity”, paragraph (f)

Omit “subject festival”. Insert instead “music festival”.

[25] Section 10(5), definition of “prescribed entity”, paragraph (a)

Omit the paragraph. Insert instead—

- (a) the Secretary,

[26] Section 11 Incident register to be kept

Omit “subject festival” from section 11(1).

Insert instead “music festival the Secretary has determined requires an agreed health and medical plan”.

[27] Section 11(1)(a)

Omit “ILGA”. Insert instead “the Secretary”.

[28] Section 11(2)

Omit “subject festival”. Insert instead “music festival”.

[29] Section 12 Enforcement of Act—gaming and liquor inspectors

Insert after section 12(2)—

- (3) A police officer has the function of enforcing the following under this Act—

- (a) any conditions proposed by the Commissioner of Police about matters that relate to law enforcement and safety and adopted by the Secretary,
- (b) compliance with section 11.

[30] Part 4, Division 1, heading

Omit the heading.

[31] Section 14 Functions of music festival roundtable

Insert after section 14(b)—

- (b1) to provide advice to the Secretary about whether a proposed music festival requires an agreed health and medical plan, and

[32] Section 15

Omit the section. Insert instead—

15 Co-chairs of music festival roundtable

The music festival roundtable is to be co-chaired by the following members of the roundtable—

- (a) a member chosen by the Minister to represent the Government,
- (b) a member chosen by industry representatives who are members of the roundtable.

[33] Part 4, Division 2 Operation of music festival roundtable

Omit the division.

[34] Section 19 Review of operation of Act

Omit the section.

[35] Section 19A Protection from personal liability

Omit “of the Department of Enterprise, Investment and Trade” from section 19A(3), definition of *protected person*, paragraph (b).

[36] Sections 19B–19D

Insert after section 19A—

19B Minister may publish guidelines

- (1) The Minister may publish guidelines on a NSW Government website about best practice standards for music festivals.
- (2) Without limiting subsection (1), the guidelines may provide for the following—
 - (a) matters relating to giving notice about upcoming music festivals,
 - (b) matters relating to information sharing at music festivals,
 - (c) matters relating to briefings about music festivals.

19C Appeal against imposition of government charges in relation to music festivals

- (1) This section applies if, under an Act, an amount is payable by a music festival organiser to the State or a government sector agency in relation to the music festival.

- (2) The music festival organiser may apply to the Secretary for the amount to be waived or reduced in accordance with an order made by the Minister under section 19D.
- (3) An application may be made under subsection (2) only on the following grounds—
 - (a) exceptional circumstances apply,
 - (b) payment of the amount would impact on the financial viability of the music festival.
- (4) The Secretary must refer an application received under subsection (2) to a panel (the *music festivals panel*) consisting of the following members—
 - (a) a member representing the Premier’s Department nominated by the Secretary of the Premier’s Department,
 - (b) a person representing Sound NSW nominated by the Head of Sound NSW,
 - (c) a person representing Destination NSW nominated by the Chief Executive Officer of Destination NSW.
- (5) The music festivals panel must consider the application and—
 - (a) decide to waive or reduce the amount payable, or
 - (b) refuse to waive or reduce the amount payable.
- (6) As soon as practicable after the music festivals panel makes a decision under subsection (5), the Secretary must give the following persons written notice of the decision—
 - (a) the music festival organiser,
 - (b) the head of the government sector agency to whom the fee is or would have been payable.
- (7) In this section—

government sector agency has the same meaning as in the *Government Sector Employment Act 2013*.

head, of a government sector agency, has the same meaning as in the *Government Sector Employment Act 2013*.

19D Minister may make order for purposes of section 19C

- (1) The Minister may make an order establishing a process for the waiver and reduction of amounts payable to the State or a government sector agency in relation to a music festival for the purposes of section 19C.
- (2) Without limiting subsection (1), an order may provide for the following—
 - (a) the process for making applications, including the timeframes for making applications,
 - (b) the criteria to be used in assessing applications and deciding whether to waive or reduce amounts payable.

[37] Section 20

Omit sections 20 and 20A. Insert instead—

20 Delegation

- (1) An office holder may delegate the exercise of a function of the office holder under this Act, other than this power of delegation, to—

- (a) a person employed in the department in which this Act is administered, or
 - (b) a person, or a class of persons, authorised for the purposes of this section by the regulations.
- (2) In this section—
- office holder* means the following—
- (a) the Minister,
 - (b) the Secretary,
 - (c) the Health Secretary.

[38] Section 21 Regulations

Insert at the end of the section—

- (2) Without limiting subsection (1), the regulations may provide for—
- (a) matters in relation to the music festival roundtable, including—
 - (i) the membership of the roundtable, and
 - (ii) the way in which the roundtable will operate, and
 - (b) timeframes for dealing with matters under this Act.

[39] Section 22 Transitional provision for certain music festival organiser

Transfer the section to Schedule 1, Part 1, as inserted by Schedule 1[41], and renumber as section 1.

[40] Part 6 Transitional provision

Omit the part.

[41] Schedule 1

Insert at the end of the Act—

Schedule 1 Savings and transitional provisions

Part 1 Provision consequent on enactment of Act

Part 2 Provisions consequent on enactment of Music Festivals Amendment Act 2024

2 Definition

In this part—

amendment Act means the *Music Festivals Amendment Act 2024*.

3 Requirement for safety management plan for certain music festivals

- (1) This section applies in relation to a music festival for which a safety management plan was required to be prepared before 1 October 2024.
- (2) This Act continues to apply in relation to the requirement for a safety management plan for the music festival as if the amendment Act had not been enacted.

4 Requirement for health and medical plan for certain music festivals

- (1) This section applies in relation to a music festival for which a safety management plan would have been required to be prepared on and from 1 October 2024 but for the enactment of the amendment Act.
- (2) This Act, as amended by the amendment Act, applies in relation to the requirement for a health and medical plan or agreed health and medical plan for the music festival.

5 Requirement for health and medical plans

- (1) This section applies if a music festival organiser is required to prepare a health and medical plan under section 5(5) of this Act for a music festival.
- (2) Despite section 5(5), if the music festival is held, or starts, on or before 28 February 2025, the music festival organiser is not required to prepare a health and medical plan for the music festival.

6 Regulation and Subordinate Legislation Act 1989

- (1) The amendment Act, Schedule 2 is taken to be and has effect as a regulation made by the Governor under this Act.
- (2) The *Subordinate Legislation Act 1989*, Part 2 does not apply to the regulation but applies to an amendment or repeal of the regulation.
- (3) For the *Subordinate Legislation Act 1989*, section 10, the regulation is taken to have been published on the day on which the *Music Festivals Amendment Act 2024*, Schedule 2 commenced.
- (4) The *Interpretation Act 1987*, sections 39–41 do not apply to the regulation but apply to an amendment or repeal of the regulation.
- (5) The *Music Festivals Amendment Act 2024*, Schedule 2 is repealed on the day after the schedule commences.

Note— The continued effect of the regulation is unaffected by the repeal of the schedule. See the *Interpretation Act 1987*, section 30.

Schedule 2 Music Festivals Regulation 2024

Part 1 Preliminary

1 Name of regulation

This regulation is the *Music Festivals Regulation 2024*.

2 Commencement

This regulation commences on the day on which the *Music Festivals Amendment Act 2024* commences.

Part 2 Music festival roundtable

3 Membership of music festival roundtable

The members of the music festival roundtable are—

- (a) 13 members chosen by the Minister to represent the Government including, for example, members chosen to represent the following—
 - (i) Ambulance Service of NSW,
 - (ii) Create NSW,
 - (iii) Destination NSW,
 - (iv) Fire and Rescue NSW,
 - (v) NSW State Emergency Service,
 - (vi) NSW Rural Fire Service,
 - (vii) Office of the 24-Hour Economy Commissioner,
 - (viii) the Secretary,
 - (ix) the Cabinet Office,
 - (x) the Department of Planning, Housing and Infrastructure,
 - (xi) the Ministry of Health,
 - (xii) the NSW Police Force,
 - (xiii) Transport for NSW, and
- (b) 13 industry representatives, being—
 - (i) 4 members nominated by the Australian Festival Association, and
 - (ii) 2 members nominated by DanceWize NSW, and
 - (iii) 1 member nominated by the Australian Recording Industry Association (ARIA), and
 - (iv) 1 member nominated by APRA AMCOS, and
 - (v) 1 member nominated by MusicNSW, and
 - (vi) 1 member nominated by Live Performance Australia, and
 - (vii) 1 member nominated by Local Government NSW, and
 - (viii) 1 member nominated by Unions NSW, and
 - (ix) 1 member of a private medical provider nominated by NSW Health, and
 - (x) 1 member who represents regional areas in NSW, nominated by one of the following, as agreed by the co-chairs—
 - (A) a person or body that represents regional NSW,
 - (B) a person or body that represents the music festival industry.

- (c) up to 2 additional members nominated by a person or body that represents peer-based harm reduction services if agreed by the co-chairs of the music festival roundtable.

4 Meetings

- (1) The music festival roundtable is to meet at least 4 times in each calendar year.
- (2) At least 1 meeting of the music festival roundtable in a year is to be held at a music festival site.
- (3) A member of the music festival roundtable may delegate the member's attendance at a meeting in accordance with a process agreed by the co-chairs of the music festival roundtable.

5 Reporting

- (1) The music festival roundtable must, within 4 months after 30 June in each year—
 - (a) prepare a report on the activities of the roundtable during the year that ended on that 30 June, and
 - (b) give the report to the Minister.
- (2) The Minister must ensure a copy of the report is—
 - (a) published on an appropriate government website, and
 - (b) tabled in each House of Parliament within 1 month after receiving the report.

Schedule 3 Amendment of Liquor Act 2007 No 90

Section 127A

Insert after section 127—

127A Minors at music festivals

- (1) A condition that a minor who is 16 years of age or older must be accompanied by a responsible adult must not be imposed by the Authority or the Secretary on a licence in relation to a music festival being held on licensed premises unless the Authority or the Secretary is satisfied the licensee has not put in place sufficient measures to mitigate and manage the risk of minors obtaining liquor on the licensed premises during the music festival.
- (2) A person does not contravene this Act or a condition of a licence in relation to a requirement that a minor who is 16 years of age or older must be accompanied by a responsible adult on licensed premises during a music festival if the minor is unaccompanied only for the purposes of attending restroom facilities on the licensed premises.
- (3) It is a defence to an offence of contravening a licence condition requiring minors to be accompanied by a responsible adult on licensed premises during a music festival if the licensee made reasonable efforts to ensure minors were accompanied by responsible adults.

Example— Despite the licensee's reasonable efforts, a minor is unintentionally separated from the minor's responsible adult at a music festival because of a moving crowd at the festival.

- (4) In this section—
music festival has the same meaning as in the *Music Festivals Act 2019*.