



McKinlay Shire Council

Local Law No. 14 (Temporary Entertainment Venues) 2004

Correct as of 8 November 2004
(Local Law not amended up to this date)



McKinlay Shire Council

Local Law No. 14 (Temporary Entertainment Venues) 2004

Contents

Part 1	Preliminary	
	1	Short title..... 4
	2	Objects..... 4
	3	Definitions 4
Part 2	Control of temporary entertainment venues	
	4	Requirement to hold licence..... 4
	5	Application for licence..... 5
	6	Grant of licence..... 5
	7	Term of licence 6
	8	Conditions of licence..... 7
	9	Compliance with conditions of licence..... 8
	10	Power to change conditions of licence 8
	11	Transfer of licence..... 8
Part 3	Enforcement	
	12	Inspection 9
	13	Compliance notices 9
	14	Local government's power to have work carried out..... 9
	15	Powers of entry and cost recovery 10
	16	Suspension or cancellation of licence..... 10
Part 4	Authorised persons	

	17	Appointment.....	11
	18	Limitation on authorised person's powers	11
	19	Authorised person's appointment conditions	11
	20	Authorised person's identity card.....	12
	21	Production of identity card	12
	22	Offence.....	13
	23	Protection from liability	13
Part 5		Review	
	24	Reviewable decisions	13
	25	Application for review.....	14
	26	Carrying out review	14
	27	Decision on review.....	14
Part 6		Miscellaneous	
	28	Defence of reasonable excuse.....	15
	29	Subordinate local laws	15
Schedule		Dictionary	16

McKinlay Shire Council
Local Law No. 14 (Temporary Entertainment Venues) 2004

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 14 (Temporary Entertainment Venues) 2004*.

2 Objects

The objects of this local law are to—

- (a) ensure that temporary entertainment venues comply with appropriate standards of health and safety; and
- (b) protect the amenity of areas in which temporary entertainment venues are situated.

3 Definitions

The dictionary in the schedule defines particular words used in this local law.

Part 2 Control of temporary entertainment venues

4 Requirement to hold licence

A person must not operate a temporary entertainment venue unless authorised by a licence under this part.

Maximum penalty—200 penalty units.

McKinlay Shire Council
Local Law No. 14 (Temporary Entertainment Venues) 2004

5 Application for licence

An application for a licence authorising the operation of a temporary entertainment venue must include or be accompanied by—

- (a) a plan of the temporary entertainment venue; and
- (b) details and drawings of buildings and other structural elements of the temporary entertainment venue; and
- (c) a detailed statement of the nature of the entertainment to be provided at the temporary entertainment venue and when the temporary entertainment venue is to be open to the public; and
- (d) if the applicant is not the owner of the temporary entertainment venue—the written consent of the owner; and
- (e) if approval of anything to be done under the licence is required under another law—a certified copy or other appropriate evidence of the approval; and
- (f) other information and materials required by subordinate local law.

6 Grant of licence

- (1) The local government may grant a licence authorising the operation of a temporary entertainment venue if satisfied that—
 - (a) the design and construction of the temporary entertainment venue is safe and appropriate to the nature of entertainment proposed and the number of people expected to attend the venue; and
 - (b) entertainments of the proposed kind would not unreasonably detract from the amenity of the area in which the entertainment is situated; and
 - (c) entertainments provided at the temporary entertainment venue will not generate significant noise, dust or light

McKinlay Shire Council
Local Law No. 14 (Temporary Entertainment Venues) 2004

- pollution or other significantly adverse effects on the surrounding neighbourhood; and
- (d) there will be enough toilets and sanitary conveniences, complying with standards and requirements imposed by the local government, for the use of the public; and
 - (e) adequate provision will exist for the disposal of refuse generated by the use of the temporary entertainment venue; and
 - (f) adequate provision will exist for people and (if relevant) vehicles to enter and leave the temporary entertainment venue; and
 - (g) the entertainments to be provided at the temporary entertainment venue will comply with criteria specified by subordinate local law.
- (2) A subordinate local law may specify criteria with which the operation of a temporary entertainment venue must comply, or will ordinarily be expected to comply.

7 Term of licence

- (1) A licence is granted for a term specified in the licence.
- (2) The local government may, from time to time, on application by the operator renew the licence.
- (3) The term for which a licence is granted or renewed is to be—
 - (a) fixed as required by a relevant subordinate local law; or
 - (b) in the absence of a relevant subordinate local law—decided by the local government when it grants the licence or renewal.
- (4) However, the local government must, on application for renewal of a licence made before the end of the term for which the licence was granted or last renewed, renew the licence for a further term unless—

McKinlay Shire Council
Local Law No. 14 (Temporary Entertainment Venues) 2004

- (a) the local government has given the operator reasonable written notice of its intention not to renew the licence; or
- (b) there are proper grounds for cancellation of the licence.¹

8 Conditions of licence

- (1) A licence may be granted on conditions the local government considers appropriate.
- (2) The conditions of a licence may, for example—
 - (a) require specified action to maintain or improve the temporary entertainment venue; and
 - (b) require the operator to provide specified equipment, and to take specified measures, for the safety of the public; and
 - (c) require the operator to provide specified facilities and amenities; and
 - (d) regulate the hours of operation of the temporary entertainment venue; and
 - (e) regulate illumination of the temporary entertainment venue and light spillage from the temporary entertainment venue; and
 - (f) regulate noise emission from the temporary entertainment venue; and
 - (g) require the operator to provide specified equipment, or take specified measures, to reduce adverse effects of activities in the temporary entertainment venue on the surrounding neighbourhood to acceptable levels.
- (3) The local government may, by subordinate local law, prescribe conditions that must be imposed in a licence or that will ordinarily be imposed in a licence.

¹ Proper grounds for cancellation of a licence exist if an operator fails to remedy contravention of this local law or a condition of a licence within the time allowed in a compliance notice (See section 13(1)).

*McKinlay Shire Council
Local Law No. 14 (Temporary Entertainment Venues) 2004*

9 Compliance with conditions of licence

An operator must ensure that the conditions of the licence are complied with.

Maximum penalty—200 penalty units.

10 Power to change conditions of licence

- (1) The local government may, by written notice given to an operator, change² the conditions of the operator's licence.
- (2) However, the local government may only change conditions of a licence if—
 - (a) the operator agrees to the proposed change; or
 - (b) the local government—
 - (i) has given the operator reasonable written notice of the proposed change inviting the operator to make written representations about the proposed change within a reasonable period fixed in the notice; and
 - (ii) if the operator makes written representations within the time allowed in the notice—has taken the representations into account.

11 Transfer of licence

- (1) An operator may, with the approval of the local government, transfer the operator's licence to another person.
- (2) The local government may impose conditions on the transfer of a licence.
- (3) However, the local government cannot—
 - (a) unreasonably refuse its approval of the transfer of a licence; or

² A *change* to the conditions of a licence includes a change by omission, substitution or addition (See *Acts Interpretation Act 1954*, section 36).

- (b) impose unreasonable conditions on the transfer of a licence.

Part 3 Enforcement

12 Inspection

An authorised person may enter³ and inspect a temporary entertainment venue and activities in the temporary entertainment venue to find out whether the requirements of this local law and the conditions of the licence are being complied with.

13 Compliance notices

- (1) If an operator contravenes a provision of this local law or a condition of the licence, an authorised person may give the operator a written notice (a *compliance notice*) under this section.
- (2) A compliance notice may—
 - (a) if the contravention is of a continuing or recurrent nature—require the operator to stop the contravention; and
 - (b) whether or not the contravention is of a continuing or recurrent nature—require the operator to take specified action, within a time specified in the notice, to remedy the contravention.
- (3) An operator must comply with a notice under this section.

Maximum penalty for subsection (3)—50 penalty units.

14 Local government's power to have work carried out

If an operator fails to have work required by a compliance notice carried out, the local government may itself have the work carried out.

³ For power to enter premises, see Chapter 15, parts 4 and 5 of the Act.

McKinlay Shire Council
Local Law No. 14 (Temporary Entertainment Venues) 2004

15 Powers of entry and cost recovery

- (1) The local government may enter land under section 1066 of the Act to carry out work under this part.
- (2) If the operator is the owner of the relevant land, the amount properly and reasonably incurred by the local government in performing the work is recoverable (together with interest) under sections 1066, 1067 and 1068 of the Act.
- (3) If the operator is not the owner of the relevant land, the amount properly and reasonably incurred by the local government is recoverable as a debt from the operator (together with interest) on the same basis as applies to an owner of the land under section 1067 of the Act.⁴

16 Suspension or cancellation of licence

- (1) If an operator fails to remedy contravention of this local law or a condition of a licence within the time allowed in a compliance notice, the local government may, by written notice given to the operator, suspend or cancel the licence.
- (2) However, before suspending or cancelling a licence, the local government must—
 - (a) give written notice to the operator of the proposed suspension or cancellation; and
 - (b) allow the operator a period stated in the notice (which must be at least 2 months from when the notice is given) to make written representations to the local government about the proposed suspension or cancellation; and
 - (c) consider representations made in response to the notice.

⁴ Section 1067(2) of the Act provides for the payment of interest on the same basis as for an overdue rate.

McKinlay Shire Council
Local Law No. 14 (Temporary Entertainment Venues) 2004

Part 4 Authorised persons

17 Appointment

- (1) A local government may appoint any of the following persons as authorised persons for this local law—
 - (a) employees of the local government;
 - (b) other persons who are eligible for appointment as authorised persons under Chapter 15, part 5 of the Act.⁵
- (2) An appointment of a person as an authorised person under this part must state the provisions for which the person is appointed as an authorised person.
- (3) A local government may appoint a person as an authorised person under this part only if—
 - (a) the local government considers the person has the necessary expertise or experience for the appointment; or
 - (b) the person has satisfactorily finished training approved by the local government for the appointment.

18 Limitation on authorised person's powers

An authorised person's powers may be limited in the person's instrument of appointment.

19 Authorised person's appointment conditions

- (1) An authorised person holds office on the conditions stated in the instrument of appointment.
- (2) An authorised person—
 - (a) if the instrument provides for a term of appointment—ceases holding office at the end of the term; and

⁵ Chapter 15, part 5 (Enforcement of Local Government Acts).

McKinlay Shire Council
Local Law No. 14 (Temporary Entertainment Venues) 2004

- (b) may resign by signed notice of resignation given to the local government; and
 - (c) if the conditions of appointment provide—ceases holding office as an authorised person on ceasing to hold another office stated in the appointment conditions (the *main office*).
- (3) However, an authorised person may not resign from the office of authorised person (the *secondary office*) under subsection (2)(b) if a term of the authorised person’s employment to the main office requires the authorised person to hold the secondary office.

20 Authorised person's identity card

- (1) A local government must give each authorised person an identity card.
- (2) The identity card must—
 - (a) contain a recent photograph of the authorised person; and
 - (b) be signed by the authorised person; and
 - (c) identify the person as an authorised person for the local government; and
 - (d) include an expiry date.
- (3) A person who ceases to be an authorised person must return the person’s identity card to the local government within 21 days after the person ceases to be an authorised person.

Maximum penalty—10 penalty units.

- (4) This section does not prevent the giving of a single identity card to a person for this part and for other purposes.

21 Production of identity card

- (1) An authorised person may exercise a power in relation to someone else (the *other person*) only if the authorised person—

McKinlay Shire Council
Local Law No. 14 (Temporary Entertainment Venues) 2004

- (a) first produces his or her identity card for the other person's inspection; or
 - (b) has the identity card displayed so it is clearly visible to the other person.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the other person's inspection at the first reasonable opportunity.

22 Offence

A person must not pretend to be an authorised person.

Maximum penalty—50 penalty units.

23 Protection from liability

- (1) This section applies to—
- (a) an authorised person; and
 - (b) a person acting under the direction of an authorised person.
- (2) The person does not incur civil liability for an act done or omission made honestly and without negligence under this local law.
- (3) A liability that would, apart from this section, attach to the person attaches instead to the local government.

Part 5 Review

24 Reviewable decisions

A decision of the local government or an authorised person under this local law is reviewable (a *reviewable decision*) unless it is—

- (a) a decision made by resolution of the local government; or
- (b) a decision made by resolution of the local government; or

McKinlay Shire Council
Local Law No. 14 (Temporary Entertainment Venues) 2004

25 Application for review

- (1) A person who is aggrieved by a reviewable decision may apply to the local government for a review of the decision.
- (2) An application for review of a reviewable decision must—
 - (a) be in writing; and
 - (b) state the reasons why the applicant considers the decision should be reviewed; and
 - (c) be lodged at the office of the local government within 14 days after the day on which notice of the decision was given to the applicant or within a further period allowed by the local government (before or after the end of that period).

26 Carrying out review

- (1) The local government must either—
 - (a) carry out a review at a meeting of the local government; or
 - (b) have the review carried out by an authorised person.
- (2) An authorised person who carries out a review under subsection (1)(b) must not be the original decision maker and must be a person who is no less senior than the original decision maker.

27 Decision on review

- (1) On completing a review, the local government may confirm, vary or reverse the decision under review.
- (2) The local government must give the applicant written notice of the result of the review.
- (3) If the local government does not decide an application for review within 28 days after receiving the application, the local government is taken to have confirmed the decision under review.

Schedule Dictionary

section 3

authorised person means a person appointed as an authorised person for this local law.

compliance notice see section 13(1).

entertainment includes recreation and amusement.

entertainment venue means a place (other than a shop or licensed premises) that is open to the public for entertainment—

- (a) whether or not a charge for admission is made; and
- (b) whether or not the person who controls admission to the place reserves a right to refuse admission.

licensed premises means premises for which a licence is in force under the *Liquor Act 1992*.

operate a temporary entertainment venue means to open the temporary entertainment venue to the public for entertainment.

operator of a temporary entertainment venue means the person who operates the temporary entertainment venue and includes the owner or someone else who has the management and control of the temporary entertainment venue.

reviewable decision see section 24.

shop means premises for the wholesale or retail sale of goods and includes a warehouse.

temporary entertainment venue means a place—

- (a) used or to be used as an entertainment venue; and
- (b) for which a development permit under the *Integrated Planning Act 1997* authorising its use as an entertainment venue has not been granted and is not required.

McKinlay Shire Council
Local Law No. 14 (Temporary Entertainment Venues) 2004

the Act means the *Local Government Act 1993*.

CERTIFICATION

This and the preceding 17 pages bearing my initials is a certified copy of *Local Law No. 14 (Temporary Entertainment Venues) 2004*, made in accordance with the provisions of the *Local Government Act 1993*, by McKinlay Shire Council by resolution dated 8 November 2004.

**Desmond Niesler
Chief Executive Officer
McKinlay Shire Council**