LIQUOR LICENSING ACT 1988

LIQUOR LICENSING AMENDMENT REGULATIONS 2007
Liquor Licensing Act 1988

Liquor Licensing Amendment Regulations 2007

Made by the Governor in Executive Council.

1. Citation

These regulations are the Liquor Licensing Amendment Regulations 2007.

2. Commencement

These regulations come into operation as follows:

(a) regulations 1 and 2 — on the day on which these regulations are published in the Gazette;

(b) regulation 18 — on the day on which the Liquor and Gaming Legislation Amendment Act 2006 section 78 comes into operation;

(c) regulation 19 — on the day on which the Liquor and Gaming Legislation Amendment Act 2006 section 83 comes into operation;

(d) the rest of the regulations — on 7 May 2007.
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3. The regulations amended

The amendments in these regulations are to the Liquor Licensing Regulations 1989*. [* Reprint 5 as at 7 October 2005.
For amendments to 13 April 2007 see Western Australian Legislation Information Tables for 2006, Table 4.]

4. Regulation 1 amended

Regulation 1 is amended by deleting “Licensing” and inserting instead —

“Control”.

5. Regulation 3A amended

Regulation 3A(1) is amended by inserting in the appropriate alphabetical positions —

“

“anticipated number of persons attending”, in relation to an occasional licence for an occasion or event lasting more than one day, is the anticipated number of persons attending the area that is the subject of the application for the licence, as determined in accordance with regulation 26(4);

“vocational education and training institution” means a college or other vocational education and training institution established under the Vocational Education and Training Act 1996;”.

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6. Regulations 5A and 5B inserted

After regulation 5 the following regulations are inserted —

“5A. “Sample” — section 3(1)

For the purposes of the definition of “sample” in section 3(1) —

(a) the prescribed quantity of beer is 100 millilitres; and

(b) the prescribed quantity of wine is 50 millilitres; and

(c) the prescribed quantity of spirits is 15 millilitres.

5B. Persons who occupy positions of authority in a body corporate — section 3(4)(d)

(1) This regulation has effect for the purposes of section 3(4)(d).

(2) A person occupies a position of authority in a body corporate that is a proprietary company (the “relevant body corporate”) if the person is —

(a) an ultimate holding company (as defined in the Commonwealth Corporations Act 2001 section 9) in relation to the relevant body corporate; or

(b) a director of the ultimate holding company; or

(c) if the ultimate holding company is a proprietary company, a director of or shareholder in the ultimate holding company.
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(3) A person occupies a position of authority in a body corporate that is a proprietary company (the “relevant body corporate”) if —
   (a) the person is —
       (i) a director of a body corporate; or
       (ii) a director of or shareholder in a body corporate that is a proprietary company;
       and
   (b) the body corporate referred to in paragraph (a)(i) or (ii) is a shareholder in the relevant body corporate.

(4) If —
   (a) a person occupies a position of authority in a body corporate that is a proprietary company (the “relevant body corporate”) —
       (i) by the operation of this regulation (including by the operation of this subregulation); and
       (ii) because the person is a shareholder in another body corporate;
       and
   (b) the person is a body corporate,

a person who is —
   (c) a director of the body corporate referred to in paragraph (b); or
   (d) if that body corporate is a proprietary company, a director of or shareholder in that body corporate,

occupies a position of authority in the relevant body corporate.
7. Regulation 6 repealed
Regulation 6 is repealed.

8. Regulation 7 amended
Regulation 7(a) is amended by deleting “post-secondary or tertiary educational” and inserting instead —
“    vocational education and training    ”.

9. Regulation 8 amended
(1) Regulation 8(1) is amended as follows:
   (a) by deleting paragraphs (f) and (k);
   (b) by deleting the semicolon at the end of paragraph (j) and inserting a full stop instead.

(2) Regulation 8(3) is repealed and the following subregulations are inserted instead —
“    (3) Despite the deletion of subregulation (1)(f) and (k) by the Liquor Licensing Amendment Regulations 2007 regulation 9(1)(a), the exemption given by subregulation (1)(f) or (k) to, or in relation to, a college, school or other institution immediately before the commencement day continues to have effect until —
   (a) the college, school or other institution applies for the grant of a licence and the licence is granted or refused; or
   (b) the expiry of 2 years after the commencement day,

whichever occurs first.
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(4) In subregulation (3) —

“commencement day” means the day on which the Liquor Licensing Amendment Regulations 2007 regulation 9 comes into operation.

10. Regulation 9A amended

(1) Regulation 9A is amended by deleting the heading before subregulation (10) and inserting the following heading instead —

“Vocational education and training institution”.

(2) Regulation 9A(10) is amended by deleting “post secondary educational” and inserting instead —

“vocational education and training”.

(3) After regulation 9A(10) the following heading and subregulations are inserted —

“Vocational education and training courses

(10a) A special facility licence may be granted for the purpose of allowing the sale or supply of liquor —

(a) by a vocational education and training institution for tasting by students for the purposes of a course of instruction or training conducted by the institution in which the students are enrolled; or

(b) by students enrolled in a course of instruction or training conducted by a vocational education and training institution, if the liquor is sold or supplied for the purposes of the course and ancillary to a meal.
(10b) A special facility licence may be granted for the purpose referred to in subregulation (10a) only if —
   (a) any tasting of liquor by the students is to be supervised at all times and is to be assessed for the purposes of the course of instruction or training in which the students are enrolled; and
   (b) the students are aged 16 years or older.

(10c) A special facility licence may be granted for the purpose of allowing the sale or supply by a vocational education and training institution of liquor produced as part of an approved viticulture course conducted by the institution.

(10d) A special facility licence may be granted for the purpose referred to in subregulation (10c) only if —
   (a) the liquor is to be sold or supplied —
      (i) during a special event; and
      (ii) in an area approved by the Director on the grounds of the vocational education and training institution; and
      (iii) by persons aged 16 years or older;
   and
   (b) the amount of liquor to be sold or supplied is limited —
      (i) for liquor supplied for consumption on the grounds of the vocational education and training institution — to the supply of free 30 millilitre samples for tasting purposes; or
      (ii) for packaged liquor — to the provision of not more than 9 litres to any person and in any transaction.
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(10c) In subregulations (10a), (10b), (10c) and (10d) and this subregulation —

“approved viticulture course” means a course that delivers units of competency from the Food Processing Industry Training Package (Wine Sector) leading to a qualification recognised under the Australian Qualifications Framework;

“course of instruction or training” means a course of instruction or training related to the hospitality industries;

“special event” means a graduation ceremony, speech night or annual open day that relates to a vocational education and training institution, or any other related event approved in writing by the Director;

“vocational education and training institution” includes a secondary school if the relevant course of instruction or training conducted by the school is “vocational education and training”, as defined in the Vocational Education and Training Act 1996 section 5(1).

(4) Regulation 9A(16) is repealed and the following subregulation is inserted instead —

“(16) A special facility licence may also be granted for the purpose of allowing the sale of liquor to customers at the room service restaurant, whether or not ancillary to meals eaten in the restaurant, if —

(a) the liquor is consumed at the restaurant —

(i) during hours that are permitted hours under a hotel licence; and
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(ii) by customers while sitting at a table, or at a fixed structure used as a table;

and

(b) the sale and consumption of the liquor are in accordance with any conditions imposed on the special facility licence by the licensing authority.

(5) Regulation 9A(19), (20) and (21) are repealed, and the heading before regulation 9A(19) is deleted.

11. Regulation 9AB inserted

After regulation 9A the following regulation is inserted —

"9AB. Reviewable decisions by Director relating to applications for permits — section 25(5a)

For the purposes of section 25(5a), an extended trading permit to be issued for the purposes referred to in section 60(4)(g) and for a specified period exceeding 3 weeks is prescribed.

".

12. Regulation 9C amended

Regulation 9C(h) is deleted.

13. Regulations 9D to 9G inserted

After regulation 9C the following regulations are inserted —

"9D. Modification of section 33(6b) in respect of occasional licences

(1) For the purposes of a determination under section 33(6) in respect of an application for an occasional licence
where the anticipated number of persons attending is greater than 250, section 33(6b) has effect, unless the Director otherwise determines, as if section 33(6b)(c) were deleted.

(2) For the purposes of a determination under section 33(6) in respect of an application for an occasional licence where the anticipated number of persons attending is not greater than 250, section 33(6b) does not have effect unless the Director otherwise determines.

9E. **Modification of section 35B in respect of occasional licences**

(1) In this regulation —

“relevant purposes” means the purposes of the approval of a person as a manager of premises that are the subject of an application for an occasional licence.

(2) Section 35B(1) has effect for the relevant purposes as if the references in that subsection to licensed premises were references to premises that are the subject of an application for an occasional licence.

(3) Section 35B(3) has effect for the relevant purposes, unless the Director otherwise determines —

(a) where the anticipated number of persons attending is greater than 250 — as if section 35B(3)(c)(i) were deleted; or

(b) where the anticipated number of persons attending is not greater than 250 — as if section 35B(3)(c) were deleted.
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9F. Licensing authority to be satisfied that applications for certain permits are in the public interest — section 38(1)(b)

For the purposes of section 38(1)(b) —
(a) an extended trading permit to be issued for the purposes referred to in section 60(4)(ca) is prescribed; and
(b) an extended trading permit to be issued for the purposes referred to in section 60(4)(g) and for a specified period exceeding 3 weeks is prescribed.

9G. Requirements for reciprocal arrangements for club membership — section 49(3)(c)(iv)

For the purposes of section 49(3)(c)(iv), the constitution or rules of a club (the “host club”) may provide for membership of the host club by reason of reciprocal arrangements relating to the members of —
(a) another club in the State, but only if the principal objects of that other club are the same as, or include, the principal objects of the host club; or
(b) another club in another State or a Territory or New Zealand.

14. Regulation 10 amended

Regulation 10(a)(ii) is amended as follows:
(a) before “occupier” by inserting —
“ sole ”;
(b) by deleting “at the premises” and inserting instead —
“ to which the application relates and ”.
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15. Regulation 11 amended

(1) Regulation 11(1) is repealed and the following subregulations are inserted instead —

(i) In this regulation —

“bar” means an area that contains a fixed structure at which liquor is, or is to be, served and consumed;

“relevant lot” means the area of land on which the relevant premises are, or are to be, situated;

“relevant premises” means the licensed premises, or proposed licensed premises, to which an application referred to in section 66 relates.

(1a) Subregulations (1b) to (1f) set out the requirements for plans for the purposes of section 66(4).

(1b) Floor plans are to be submitted in duplicate, drawn on paper of at least A3 size and to a scale of 1:100, of each level of each building forming part of the relevant premises, showing —

(a) the uses of each room; and

(b) the location of all doors, windows, servery hatches and toilets; and

(c) fit out details for all toilets; and

(d) the floor layout; and

(e) the location of all bars (but not details of any fittings and fixtures related to the bars); and

(f) any areas of the relevant premises that are not part of a building, identifying how the boundary of such areas is to be defined (for example, by means of fences, large planter boxes, special inlays in paving or copper log rails); and
(g) no details other than those that relate to the relevant premises.

(1c) A site plan is to be submitted, drawn to a suitable scale according to the size of the relevant lot, showing —

   (a) an outline of every building on the relevant lot; and

   (b) the boundary of the relevant lot; and

   (c) features on the relevant lot such as car parks, vehicle access to adjacent streets and swimming pools; and

   (d) the name and location of any street forming part of the boundary of the relevant lot.

(1d) A map of the relevant district is to be submitted, showing the locality of the relevant premises.

(1e) A plan is to be submitted, drawn to a scale of 1:100, showing the external elevations of the relevant premises or, if the relevant premises comprise one or more existing buildings, photographs of the exterior of the relevant premises may be submitted instead of a plan of that kind.

(1f) A plan that is submitted for the purposes of an application under section 77(4) for the alteration or redefinition of licensed premises is to show those premises as they would be if the proposed alteration or redefinition had taken place, distinguishing the areas of the current licensed premises from the areas of the proposed alteration or redefinition.

(2) Regulation 11(2) is amended as follows:

   (a) by deleting “subregulation (1)” and inserting instead — “this regulation”;
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(b) in paragraph (a), by deleting “by a duly qualified architect, surveyor, town planner, engineer, builder or draftsman in ink on opaque drafting bond paper of at least A1 size,” and inserting instead — “on good quality paper of at least A3 size,”;

(c) in paragraph (b), by deleting “the Standards Association of Australia,” and inserting instead — “Standards Australia,”.

(3) Regulation 11(3) and (4) are repealed and the following subregulations are inserted instead — “

(3) For the purposes of section 66(5), specifications submitted with the plans to which they relate are to provide details of —

(a) the wall and ceiling finishes; and

(b) the fit out equipment in any bar, toilet or kitchen.

(4) Plans and specifications referred to in this regulation may be submitted by email, on a computer disk or by another means acceptable to the Director.

16. Regulations 14AB to 14AG inserted

After regulation 14A the following regulations are inserted — “

14AB. Lodgement periods for applications for certain occasional licences — section 75(1)(b)

For the purposes of section 75(1)(b), an application for the grant of an occasional licence is to be lodged with the Director —

(a) if the anticipated number of persons attending is greater than 500 but not greater than 5 000 —
not later than 30 days before the licence is to take effect; or

(b) if the anticipated number of persons attending is greater than 5 000 — not later than 60 days before the licence is to take effect.

14AC. Lodgement periods for applications for certain permits — section 76(1)(b)

(1) This regulation applies to an extended trading permit to be issued for a specified period not exceeding 3 weeks and for the purposes referred to in section 60(4)(a), (cb), (f), (g) or (h).

(2) For the purposes of section 76(1)(b), an application for the issue of an extended trading permit of a kind to which this regulation applies is to be lodged with the Director —

(a) if the anticipated number of persons attending is greater than 500 but not greater than 5 000 — not later than 30 days before the permit is to take effect; or

(b) if the anticipated number of persons attending is greater than 5 000 — not later than 60 days before the permit is to take effect.

(3) In subregulation (2) —

“anticipated number of persons attending”, in relation to an application for an extended trading permit, means the anticipated number of persons attending the place or premises to which the permit is to apply during the period for which the permit is to be issued, as calculated using the information provided in the application form.
14AD. Responsible practices in selling, supply and serving liquor — section 103A(1)(a)

(1) This regulation does not apply to a person who is a licensee or an approved manager.

(2) A person employed or engaged in the performance of supervisory functions at licensed premises (other than licensed premises under an occasional licence) is required to complete successfully, within 4 weeks after being employed or engaged in that capacity, a course of training or an assessment, approved by the Director for the purposes of this subregulation, in responsible practices in the sale, supply and service of liquor.

(3) A person employed or engaged in the service of liquor on or from licensed premises (other than licensed premises under an occasional licence) is required to complete successfully, within 4 weeks after being employed or engaged in that capacity, a course of training or an assessment, approved by the Director for the purposes of this subregulation, in responsible practices in the sale, supply and service of liquor.

(4) A person employed or engaged in the service of liquor on or from licensed premises under an occasional licence, where the anticipated number of persons attending is greater than 300, is required to have completed successfully a course of training or an assessment, approved by the Director for the purposes of this subregulation, in responsible practices in the sale, supply and service of liquor.

(5) If the Director determines that a person to whom subregulation (2), (3) or (4) would otherwise apply is exempt from that subregulation, that exemption has effect accordingly.
14AE. Offences for regulation 14AD

(1) A person who —
   (a) has failed to complete successfully a course of training or assessment as required by regulation 14AD(2) or (3); and
   (b) continues to be employed or engaged in the capacity described in that subregulation after the end of the period referred to in that subregulation,

commits an offence.
Penalty: $2 000.

(2) A person who —
   (a) has failed to complete successfully a course of training or an assessment as required by regulation 14AD(4); and
   (b) is employed or engaged in the service of liquor on or from licensed premises under an occasional licence, where the number of persons attending is greater than 300,

commits an offence.
Penalty: $2 000.

(3) If a person is convicted of an offence under subregulation (1) or (2) in relation to licensed premises, the licensee is to be taken to have also committed an offence and is liable to a penalty of $5 000.

14AF. Transitional arrangements for regulation 14AD

(1) A person who, immediately before the commencement of the Liquor and Gaming Legislation Amendment Act 2006 section 71, was employed or engaged in the capacity described in regulation 14AD(2) or (3) is not
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required to comply with that subregulation until the expiry of 12 months after that commencement.

(2) If, during the 12 months referred to in subregulation (1), a person to whom that subregulation applies ceases to be employed or engaged by the person by whom he or she was employed or engaged immediately before the commencement of the Liquor and Gaming Legislation Amendment Act 2006 section 71, subregulation (1) ceases to apply to that person.

14AG. Licensees to maintain register — section 103A(1)(b)

(1) The licensee of licensed premises is required to maintain a register that records in respect of a person employed or engaged at those premises in the capacity described in regulation 14AD(2) or (3) who has successfully completed the required course of training or assessment —

(a) the name of the person; and

(b) the date the person began his or her employment or engagement at the licensed premises; and

(c) the name of the provider of the course of training or assessment; and

(d) the State or Territory in which the person completed the course of training or assessment; and

(e) the date of any certificate or other qualification obtained by the person on the completion of the course of training or assessment.

(2) The licensee is required to keep a copy of the certificate or other qualification referred to in subregulation (1)(e).
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17. Regulation 17 amended
Regulation 17 is amended by deleting paragraph (a) and “and” after that paragraph.

18. Regulation 18EA inserted
After regulation 18E the following regulation is inserted —

18EA. Information to be included on internet websites of certain licensees — section 113A

(1) This regulation applies to —
   (a) a hotel licence; and
   (b) a liquor store licence; and
   (c) a producer’s licence; and
   (d) a wholesaler’s licence; and
   (e) a special facility licence that authorises the sale or supply of packaged liquor.

(2) For the purposes of section 113A, the information to be included on an internet website maintained by or on behalf of a licensee of a licence of a class to which this regulation applies is —
   (a) the licence number; and
   (b) the class of licence; and
   (c) the name of the licensee; and
   (d) the address of and telephone number for the licensed premises; and
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(e) the following notice —

WARNING

Under the Liquor Control Act 1988, it is an offence:

- to sell or supply liquor to a person under the age of 18 years on licensed or regulated premises; or
- for a person under the age of 18 years to purchase, or attempt to purchase, liquor on licensed or regulated premises.

(3) The information to be included on an internet website under subregulation (2) is to be displayed on the home page or front page of the internet website.

19. Regulation 18EB inserted

Before regulation 18F the following regulation is inserted —

18EB. Incidents to be included in register — section 116A

(1) For the purposes of section 116A(1), the following incidents that take place at licensed premises are prescribed —

(a) a person is refused entry to, required to leave or removed from the premises;
(b) a juvenile or suspected juvenile fails to produce evidence of age when required to do so;
(c) a document produced by a juvenile or suspected juvenile as evidence of age is suspected to be forged, false or counterfeit;
(d) a person engages in indecent behaviour;
(e) a person is drunk;
(f) a person (including a person employed or engaged in the business conducted under the licence) is injured;

(g) a local resident or other person complains to the licensee, an approved manager or an employee about noise or any other matter related to the business conducted under the licence.

(2) For the purposes of section 116A(2), the following information is prescribed in relation to an incident that takes place at licensed premises —

(a) the name of the premises;
(b) details of the incident;
(c) the date and time when the incident took place;
(d) the location at the premises where the incident took place;
(e) the full name of any person employed or engaged in the business conducted under the licence, or any crowd controller, who was present when the incident took place;
(f) details of any action taken by the licensee, an approved manager or an employee in response to the incident, including any action taken to notify the licensing authority or a member of the Police Force or any other person engaged in providing emergency services.

(3) In subregulation (2)(e) —

“crowd controller”, in relation to licensed premises, means a person who —

(a) holds a crowd controller’s licence; and
(b) is employed by a crowd control agent engaged under a contract for services by the licensee or occupier or a manager of the
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licensed premises to supply the services of crowd controllers at those premises.

20. Regulations 18F to 18H inserted

After regulation 18E the following regulations are inserted —

“...

18F. Prescribed training courses — section 121(11)(c)(ii)

(1) In subregulation (2), “accredited”, “course” and “skills training programme” each has the same meaning as it has in the Vocational Education and Training Act 1996 section 5(1).

(2) For the purposes of section 121(11)(c)(ii), an accredited course or an accredited skills training programme is a prescribed training course.

18G. Dealing with confiscated documents — section 126(2b)

For the purposes of section 126(2b), within 72 hours after a document is confiscated by an authorised person under section 126(2a), the authorised person is to —

(a) deliver the document to a police station; or
(b) return the document to the person from whom it was confiscated.

18H. Provisions of the Act that may be modified under a special event notice — section 126E(4)

For the purposes of section 126E(4), sections 61A and 155(6)(a) are prescribed.

”
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21. Regulation 25 amended

Regulation 25(2)(b) is deleted and the following paragraph is inserted instead —

“(b) at a place determined by the Director.”

22. Regulation 26 amended

(1) After regulation 26(1) the following subregulations are inserted —

“(1aa) If one or more extended trading permits have been issued in respect of the licensed premises, each of which is current and for a specified period exceeding 3 weeks, the licence fee payable under item 3a or 3b of Schedule 3 is the fee specified in that item and —

(a) if no more than 2 such permits have been issued — an additional amount of $100.00; or

(b) if 3 or more such permits have been issued — an additional amount of $200.00.

(1ab) In subregulation (1aa) —

“current” means current on the day not later than which the relevant licence fee is payable under subregulation (1a).”

(2) Regulation 26(1a) is amended after “Schedule 3” by inserting —

“, with any additional amount required under subregulation (1aa),”
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23. Regulation 27 amended

Regulation 27(2) is repealed and the following subregulations are inserted instead —

"(2) For the purposes of section 167(2)(a), an offence against a provision of the Act listed in the Table to this subregulation is a prescribed offence.

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s. 118(3)

(3) For the purposes of section 167(2)(a), an offence against a provision of these regulations listed in the Table to this subregulation is a prescribed offence.

Table

| r. 14AE(1) | r. 14AE(3) |
| r. 14AE(2) | r. 23(3) |

".

24. Schedule 1 amended

Schedule 1 is amended as follows:

(a) by deleting Forms 1 to 18;

(b) in Form 21 item 5(a), by deleting “Liquor Licensing Division,”;
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(c) in Form 21 item 5(b), by deleting “Liquor Licensing Division,” and inserting instead —

“Department of Racing, Gaming and Liquor,”.

25. Schedule 3 amended

Schedule 3 is amended as follows:

(a) by deleting items 1 and 2 and inserting instead —

1. Application for the grant or removal of a hotel licence, nightclub licence, casino liquor licence, special facility licence or liquor store licence ............................................ 2 025.00

2. Application for the grant or removal of a club licence, restaurant licence, producer’s licence or wholesaler’s licence ................................................................................ 460.00

(b) after item 31 by inserting —

32. Application under section 126A for approval of entertainment for juveniles on licensed premises ............... 55.00

26. Amendments relating to references to the Act

The provisions listed in the Table to this regulation are amended by deleting “of the Act” in each place where it occurs, except as otherwise stated in the Table.

Table

| r. 3A(1) (in the defined terms “notional wholesale selling price”, “producer” and “wholesaler”) | r. 20 |
| r. 3AB | r. 21(1) |
| r. 3AC | r. 21(2) |
| r. 4 | r. 21A(1) |
| r. 4AA | r. 21A(2) |
Liquor Licensing Amendment Regulations 2007

r. 26

r. 4AB         r. 21A(3)
r. 4AC         r. 21B
r. 7           r. 21C
r. 9AA         r. 22(1)
r. 9C          r. 24(1) (only in the first place
               where it occurs)
r. 10          r. 26(1c)
r. 10A         r. 26(1d)
r. 11(5)       r. 27(1)(b)
r. 14A(1)      Sch. 3 item 5(a)
r. 14A(2)      Sch. 3 item 5(b)
r. 18A(1)      Sch. 3 item 11
r. 18A(2)      Sch. 3 item 31
r. 18E

By Command of the Governor,

G. M. PIKE, Clerk of the Executive Council.