
RACING, GAMING AND LIQUOR

RA301*

THE LIQUOR LICENSING ACT 1988

THE LIQUOR LICENSING AMENDMENT REGULATIONS (No. 3) 1998

Made by the Governor in Executive Council.

Citation

1. These regulations may be cited as the *Liquor Licensing Amendment Regulations (No. 3) 1998*.

Commencement

2. These regulations come into operation on the same day as the *Liquor Licensing Amendment Act 1998* comes into operation.

Principal regulations

3. In these regulations the *Liquor Licensing Regulations 1989** are referred to as the principal regulations.

[* Reprinted as at 8 September 1997.

For amendments to 5 May 1998 see 1997 Index to Legislation of Western Australia, Table 4, p. 168, and Gazettes 30 January, 6 February and 28 April 1998.]

Regulation 3A amended

4. (1) Regulation 3A of the principal regulations is amended by inserting before "In" the subregulation designation "(1)".

(2) Regulation 3A (1) of the principal regulations is amended by deleting the definition of "licensee".

(3) After subregulation 3A (1) of the principal regulations the following subregulation is inserted —

“

(2) In these regulations, unless the contrary intention appears, a reference to a section is to be taken to be a reference to a section of the Act.

”

Regulation 4 repealed and a regulation substituted

5. Regulation 4 of the principal regulations is repealed and the following regulation is substituted —

“

“Low alcohol liquor” — prescribed level

4. For the purposes of the definition of “low alcohol liquor” in section 3 (1) of the Act, the prescribed concentration of ethanol in liquor is 3.5%.

”

Regulation 4AA inserted

6. After regulation 4 of the principal regulations the following regulation is inserted —

“

“Liquor” — proportion of ethanol

4AA. For the purposes of paragraph (a) of the definition of “liquor” in section 3 (1) of the Act, 0.05% ethanol by volume is prescribed as the proportion of a beverage which at 20° Celsius is liquor.

”

Regulation 6 repealed and a regulation substituted

7. Regulation 6 of the principal regulations is repealed and the following regulation is substituted —

“

Exception to section 4 (8)

6. For the purposes of section 4 (8) of the Act, the sale of liquor from outside the State to a liquor merchant who is licensed under the Act and resident in the State is not deemed to be concluded in the State.

”

Regulation 8 amended

8. Regulation 8 (1) (f) of the principal regulations is deleted and the following paragraph is substituted —

“

(f) the sale or supply of liquor for use during a course of vocational instruction and training at a college or other vocational education and training institution under the *Vocational Education and Training Act 1996*;

”

Regulation 9 amended

9. Regulation 9 (b) of the principal regulations is deleted.

Regulation 9A inserted

10. After regulation 9 of the principal regulations the following regulation is inserted —

“

Special facility licences

9A. (1) For the purpose of section 46 (3) (a) of the Act the following purposes are prescribed as purposes in respect of which a special facility licence may be granted —

- (a) a works canteen, authorizing the sale of liquor at a canteen for consumption at the canteen, or at other specified locations, where the liquor is sold or supplied by a person undertaking a project or carrying on a business at or near the canteen, to provide for the needs of the employees and other persons engaged in work being carried out on that project or for that business;
- (b) a seafarers canteen, authorizing the sale of liquor at a canteen which is, or is to be, conducted in a seaport by a body of persons approved by the Director, to provide services or amenities (additional to the sale of liquor) to the members of the crews of ocean-going vessels and their guests;
- (c) a theatre, authorizing the sale of liquor to patrons of a cinema or other theatre at which entertainment is, is to be, or has been held;
- (d) a ballroom, authorizing the sale of liquor to persons attending dancing where music is provided by a band consisting of 4 or more persons;
- (e) a reception or function centre, authorizing the sale of liquor to persons attending a function or reception at premises primarily used as a venue for functions and receptions;
- (f) private or public transport, authorizing the sale of liquor to passengers and their guests —
 - (i) while, after or during travel by means of a specified means of transport;
 - (ii) at specified refreshment rooms or other premises at an airport, railway, bus station or seaport;
- (g) historical or cultural preservation, authorizing the sale of liquor at premises of architectural or historic significance, or otherwise of cultural interest, which have at some time in the past been licensed or used as a hotel;
- (h) tourism, authorizing the sale of liquor to persons likely to be attracted to, or present at places or premises that, in the opinion of the licensing authority are or will become —
 - (i) a tourist attraction; or
 - (ii) a facility that enhances the State's tourist industry;
- (i) post secondary educational institutions, authorizing the sale of liquor to students and staff of the institution and their guests;
- (j) a sports promotion, authorizing the sale of liquor to persons attending a sporting event at premises primarily used for playing and viewing sporting events;
- (k) foodhalls, authorizing the sale of liquor from the specified licensed premises, for consumption in the foodhall ancillary to a meal;
- (l) a food and beverage caterer, authorizing the sale of liquor for consumption at premises where the caterer has agreed to provide food or beverages;

- (m) a bed and breakfast facility, authorizing the sale of liquor to persons staying in accommodation facilities that offer bed and breakfast facilities to guests;
 - (n) a room service facility, authorizing the sale of —
 - (i) liquor in a restaurant to a person, whether or not ancillary to a meal eaten by the person, if the liquor is consumed at a dining table and not more than 20% of the seating capacity for customers on the premises is available, or being used at any one time, for persons to consume liquor other than ancillary to a meal; or
 - (ii) packaged liquor from a restaurant as a service to persons resident in serviced apartments ordering room service from the restaurant;
 - (o) amusement venues, authorizing the sale of liquor at premises the primary purpose of which is the playing and viewing of snooker, bowling, electronic games or other similar amusement;
 - (p) a wine club, authorizing the sale of packaged liquor sent to a person who is a member of a wine club in the State, from a place outside the State by a liquor merchant who is authorized under the law of another State or Territory to sell liquor;
 - (q) a liquor auction, authorizing the sale of packaged liquor by way of auction at specified premises for consumption off those premises.
- (2) In subregulation (1) —
“specified” means specified in the special facility licence.
- (3) For the purposes of section 46 (6) of the Act a special facility licence granted for one of the following purposes is a licence of a type prescribed:
- (a) works canteen;
 - (b) foodhall;
 - (c) private or public transport;
 - (d) food and beverage caterers;
 - (e) bed and breakfast facility;
 - (f) room service facility;
 - (g) wine club; or
 - (h) liquor auction.

Regulation 10 repealed and regulations 10 and 10A substituted

11. Regulation 10 of the principal regulations is repealed and the following regulations are substituted —

Producer’s licence — requirements to be met by applicant

10. For the purposes of section 57 (d) of the Act the following requirements are prescribed —

- (a) where the applicant does not have appropriate liquor producing facilities at the premises specified in the application, the applicant —
 - (i) has access to such facilities; and
 - (ii) is the occupier of a vineyard, orchard or apiary at the premises which yields, or has the potential to yield, sufficient produce to enable the applicant to be regarded as a genuine producer of liquor;
- or
- (b) where the applicant has appropriate liquor producing facilities at premises specified in the application, and is, or will be, a genuine producer of liquor, then —
 - (i) those premises; or
 - (ii) if those premises are not in a convenient location for the sale of the liquor produced, other premises in reasonable proximity to the premises where the liquor is, or is to be, produced,
 are suitable premises from which the applicant, as a producer of liquor, may sell the liquor produced.

Producer’s licence condition — blended wines

10A. If the holder of a producer’s licence produces wine by blending, it is a condition of that licence under section 55 (2) of the Act that at least 50% of the wine produced is fermented by or under the direction of that person, so that the wine is uniquely that person’s own produce.

Regulation 18A repealed and a regulation substituted

12. Regulation 18A of the principal regulations is repealed and the following regulation is substituted —

“

Evidence of age

18A. (1) A proof of age card issued under regulation 18B is a prescribed document for the purposes of section 126 (1) (b) (i) (III) of the Act.

(2) A person who is required to produce evidence of his or her age to an authorized officer, because the age of the person is or may be material to a suspected offence within the meaning of section 160 (1) of the Act, may comply with the requirement by producing a proof of age card issued to the person under regulation 18B.

”

Regulation 18E inserted

13. After regulation 18D of the principal regulations the following regulation is inserted —

“

Section 104 (2) — prescribed agreement or arrangement

18E. For the purposes of section 104 (2) of the Act, an agreement or arrangement entered into by a licensee which is a body corporate under which the proceeds from the business carried on under the licence are distributed by way of dividends to shareholders in the body corporate, is a prescribed agreement or arrangement.

”

Regulation 21C amended

14. Regulation 21C of the principal regulations is amended —

(a) by inserting after paragraph (b) the following —

“ and ”; and

(b) by deleting the “; and” in paragraph (d) and substituting a full stop.

Regulation 22 amended

15. (1) Regulation 22 (1) (ba) of the principal regulations is amended by deleting “or certificate of exemption”.

(2) Regulation 22 (1) (c) of the principal regulations is amended by deleting “, certificate of exemption”.

Regulation 23 amended

16. (1) Regulation 23 (1) of the principal regulations is amended by inserting after “verified” the following —

“ in accordance with subregulation (2a) ”.

(2) Regulation 23 (1) (a) and (b) are deleted and the following paragraphs are substituted —

“

(a) by at least one licensee, where the licence is held by one or more licensees; or

(b) by the trustee, where the licence is held by a trustee on behalf of an unincorporated body of persons who are not joint holders of the licence.

”

(3) After regulation 23 (1) of the principal regulations the following subregulation is inserted —

“

(2a) A return is verified —

(a) by a natural person, where the return is signed by that person, and witnessed; and

(b) by a body corporate, by the affixing of the common seal of that body corporate.

”

Regulation 24 amended

17. Regulation 24 (1) (b) and (c) of the principal regulations is amended by deleting “, a certificate of exemption” in both places where it occurs.

Regulation 27 amended

18. Regulation 27 (2) of the principal regulations is repealed and the following subregulation is inserted —

“

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

TABLE

Provisions of Act

Sections 37A, 51 (2), 100 (4), 102 (1) (b), 103 (3), 105 (8), 106 (1) where the alleged offender is the lodger, 108 (2) or (5), 110 (3), (4) or (5), 111 (1) or (2), 115 (2), (5), (6) or (7), 116, 118 (3), 119, 121 (1), (3), (4) where the alleged offender is a licensee or a juvenile, (7), (9) or (10), 122 (2) or (3), 123, 124, 126 (2) or (4), 145 (4), 146 (1), 150 (2) or 154 (3).

Provisions of these regulations

Regulation 23 (3).

Form 2 amended

19. (1) Form 2 of Schedule 1 to the principal regulations is amended in item 4 by deleting “(a) In the case of” and substituting the following —

“ (b) In the case of ”.

(2) Form 2 of Schedule 1 to the principal regulations is amended by deleting item 4 (c).

(3) Form 2 of Schedule 1 to the principal regulations is amended in item 4 (d) (i) by deleting “under section 46 (5)”.

Form 9 amended

20. (1) Form 9 of Schedule 1 to the principal regulations is amended by deleting item 3 (b).

(2) Form 9 of Schedule 1 to the principal regulations is amended in item 3 (c) (i) by deleting “under section 46 (5)”.

Form 10 amended

21. Form 10 of Schedule 1 to the principal regulations is amended in item 6 (c) by deleting “or orders” and “orders or”.

Schedule 2 amended

22. Schedule 2 to the principal regulations is amended by deleting item 1 (o), (p), (q) and (r) and substituting the following —

(o) the number and nature of any convictions of that person for offences in any jurisdiction;

(p) any proceedings relating to insolvency under administration, within the meaning of the Corporations Law, in respect of the person or any such proceedings, or applications in respect of any such proceedings, pending in respect of the person; and

(q) any external administration, within the meaning of the Corporations Law, of any corporation of which the person is —

(a) a director; or

(b) where the corporation is a proprietary company, a shareholder, or any such administration pending.

Schedule 3 amended

23. Schedule 3 to the principal regulations is amended by deleting item 3.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.