

G WESTERN
AUSTRALIAN
GOVERNMENT
Gazette

559



PERTH, FRIDAY, 30 JANUARY 1998 No. 20 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.15 PM

LIQUOR LICENSING ACT 1988

**LIQUOR LICENSING
AMENDMENT REGULATIONS
1998**

LIQUOR LICENSING ACT 1988
LIQUOR LICENSING AMENDMENT REGULATIONS 1998

Made by the Governor in Executive Council.

Citation

1. These regulations may be cited as the *Liquor Licensing Amendment Regulations 1998*.

Commencement

2. These regulations come into operation on the day on which Part 7 of the *Acts Amendment (Franchise Fees) Act 1997* 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 16 January 1998 see Gazette
14 November 1997.]

Regulation 3A inserted

4. After regulation 3 of the principal regulations the following regulation is inserted —

“

Interpretation

3A. In these regulations, unless the contrary intention appears —

“**licensee**” includes the holder of a certificate of exemption;

“**producer**” has the meaning given in section 129 of the Act;

“**wholesaler**” has the meaning given in section 129 of the Act;

“**WST**”, in relation to liquor, means the wholesale sales tax paid, or payable, in respect of that liquor under the *Commonwealth Sales Tax Assessment Act 1992*.

”.

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Regulation 5 amended

5. Regulation 5 (1) (a) of the principal regulations is amended by deleting “(not being a sale by the holder of a retail licence to a person who is not a liquor merchant)”.

Regulation 8 amended

6. Regulation 8 (1) (h) (ii) of the principal regulations is amended by deleting “*Mental Health Act 1962*, to a person who is a patient and” and substituting the following —

“ *Hospitals and Health Services Act 1927*, to a person who is a ”.

Regulations 19, 20 and 21 repealed and regulations 19, 20, 21, 21A, 21B and 21C substituted

7. Regulations 19, 20 and 21 of the principal regulations are repealed and the following regulations are substituted —

“

Application for a subsidy — Forms 19 and 19A

19. (1) Application for a subsidy is to be made to the Director —

- (a) by a producer, in the form set out in Form 19 in Schedule 1; or
- (b) by a wholesaler, in the form set out in Form 19A in Schedule 1.

(2) Application for a subsidy is to be made not later than one year after the sale or other disposal, in respect of which the subsidy is claimed, took place.

Extension of definition of “wholesaler”

20. The following persons are prescribed for the purposes of the definition of “wholesaler” in section 129 of the Act —

- (a) a liquor merchant authorized under the law of another State or a Territory to sell liquor;
- (b) the holder of a special facility licence the conditions of which authorize the sale of liquor in the manner set out in section 58 (1) of the Act.

*Liquor Licensing Amendment Regulations 1998***Subsidy for wholesalers**

21. (1) For the purposes of section 130 (3) of the Act, the subsidy for a wholesaler is to be calculated as follows —

$$\text{WS} = 43.06\% (\text{Extra WST (B)}) + 41.20\% (\text{Extra WST (W)})$$

Where:

WS = the wholesaler's subsidy payment;

Extra WST (B) = the amount by which the WST paid by the wholesaler on beer in respect of which the wholesaler is eligible for a subsidy was increased as a result of the 1997 Commonwealth Acts;

Extra WST (W) = the amount by which the WST paid by the wholesaler on wine in respect of which the wholesaler is eligible for a subsidy was increased as a result of the 1997 Commonwealth Acts.

(2) For the purposes of section 130 (1) of the Act, subsidies are payable to a liquor merchant prescribed as a wholesaler by regulation 20 only in respect of sales of low alcohol liquor —

- (a) to persons resident in this State; and
- (b) where the liquor is sold in the manner set out in section 58 (1) of the Act, on or from premises from which the liquor merchant is authorized under the law of that State or Territory to sell liquor.

(3) For the purposes of section 130 (1) of the Act, subsidies are payable to a wholesaler, other than a liquor merchant referred to in subregulation (2), in respect of sales of low alcohol liquor, on which WST has been paid by the wholesaler, to persons resident in this State and —

- (a) where that liquor is beer, it has been sold at a price reduced by at least 6.46 cents per dollar (by reference to the taxable value of the liquor) from the price that would otherwise have been charged;
- (b) where that liquor is wine, it has been sold at a price reduced by at least 6.18 cents per dollar (by reference to the taxable value of the liquor) from the price that would otherwise have been charged.

(4) In this regulation —

“low alcohol liquor” means liquor that at 20° Celsius contains between 0.05% and 3.5% ethanol by volume;

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“taxable value”, in relation to liquor, means the taxable value, within the meaning of the Commonwealth *Sales Tax Assessment Act 1992*, used as the basis of the calculation of the WST paid on the liquor;

“the 1997 Commonwealth Acts” means all or any of the following Commonwealth Acts —

- (a) the *Sales Tax (Customs) (Alcoholic Beverages) Act 1997*;
- (b) the *Sales Tax (Excise) (Alcoholic Beverages) Act 1997*;
- (c) the *Sales Tax (General) (Alcoholic Beverages) Act 1997*.

Subsidy for producers

21A. (1) For the purposes of section 130 (3) of the Act, the subsidy for a producer is to be calculated as follows —

$$PS = \frac{15}{41} (A + B)$$

Where:

- PS = the producer's subsidy payment;
- A = the amount of WST paid by the producer in respect of sales of wine from the licensed premises in respect of which the producer is eligible for a subsidy;
- B = the amount of WST paid by the producer in respect of wine disposed of for promotional purposes (including tasting or show wine) or donation from the licensed premises in respect of which the producer is eligible for a subsidy.

(2) For the purposes of section 130 (1) of the Act, subsidies are payable to a producer in respect of wine produced by the producer in this State and sold or disposed of (including by mail order) from the licensed premises in respect of which the producer is eligible for the subsidies to unlicensed persons for their personal consumption, and —

- (a) in respect of any one sale or other disposal, the aggregate quantity does not exceed 45 litres;
- (b) if disposed of by way of promotional purposes (including tasting or show wine) or donation, no charge has been made;
- (c) if sold, WST has been paid by the producer, and the price has been reduced by at least the amount of the subsidy payable to the producer from the price that would otherwise have been charged.

*Liquor Licensing Amendment Regulations 1998***Conditions imposed by Director in respect of a subsidy**

21B. For the purposes of section 130 (2) of the Act, the Director may impose conditions by notice in writing given to the person on whom the condition is to be imposed.

Licensees required to keep records — section 145 (1)

21C. The following licensees are prescribed for the purposes of section 145 (1) of the Act —

- (a) the holder of a wholesaler's licence;
- (b) the holder of a special facility licence the conditions of which authorize the sale of liquor in the manner set out in section 55 (1) or 58 (1) of the Act;
- (c) the holder of a producer's licence; and
- (d) the holder of a certificate of exemption.

”.

Regulation 22 amended

8. (1) Regulation 22 (1) of the principal regulations is amended by deleting the passage from “A record” to “information — ” and inserting the following —

“

The records to be made and maintained under section 145 (1) and (1a) of the Act are to contain the following information —

”.

(2) After regulation 22 (1) (b) of the principal regulations the following paragraph is inserted —

“

(ba) in the case of each transaction involving the sale or other disposal of liquor by the holder of a producer's licence or certificate of exemption, a separate statement of the amount for —

- (i) sales to persons other than liquor merchants (including sales made in any restaurant on the licensed premises);
- (ii) mail order sales; and
- (iii) tastings, promotions and donations for which no charge has been made;

”.

(3) Regulation 22 (1) (c) of the principal regulations is amended by inserting after “wholesaler's licence” the following —

“ , special facility licence, certificate of exemption ”.

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- (4) Regulation 22 (2) of the principal regulations is repealed.

Regulation 23 amended

9. (1) After regulation 23 (2) of the principal regulations the following regulation is inserted —

“
(2a) Returns to be lodged under the Act are to be lodged within one month after 30 June in each year and are to relate to the financial year ending on that date.
”.

- (2) Regulation 23 (3) of the principal regulations is repealed and the following subregulation is substituted —

“
(3) Where a return required to be lodged under the Act —
(a) is not lodged as required under subregulation (2a);
(b) does not include the required information; or
(c) is otherwise incomplete or is not verified as required,
if a person who is required to lodge the return, or who is the director of a company required to lodge the return, fails to take all reasonable steps to comply with, or secure compliance with, or has knowingly been the cause of any default under, the provisions of the Act or these regulations, the person commits an offence.
Penalty: \$1 000.
”.

Regulation 24 amended

10. (1) Regulation 24 (1) of the principal regulations is amended by deleting the passage from “Each licensee” to “period — ” and substituting the following —

“
Each person required to make a record under section 145 of the Act shall lodge a return with the Director containing the following information —
”.

- (2) Regulation 24 (1) (b) of the principal regulations is amended by inserting after “producer’s licence” the following —

“ , a certificate of exemption ”.

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(3) Regulation 24 (1) (c) of the principal regulations is amended by inserting after “producer’s licence” the following —

“ , a special facility licence, a certificate of exemption ”.

(4) Regulation 24 (1) (d) of the principal regulations is deleted.

(5) Regulation 24 (1) (g), (h) and (j) of the principal regulations are deleted.

(6) Regulation 24 (1) (f) (i), (k) and (m) of the principal regulations are amended by deleting “relevant assessment period” in each place where it occurs and substituting in each place the following —

“ financial year to which the return relates ”.

Regulation 26 amended

11. (1) Regulation 26 of the principal regulations is amended by repealing subregulation (1) and substituting the following subregulations —

“

(1) A fee specified in Schedule 3 is the fee payable for the purpose set out opposite the fee in that Schedule.

(1a) The licence fees specified in items 3a and 3b of Schedule 3 are payable not later than 1 January in each year in respect of each licence in force.

(1b) A licensee who has not paid a licence fee payable under subregulation (1a) by 8 January in any year shall, in addition to the licence fee, pay to the Director a penalty of an amount equal to the fee.

(1c) Where a licensee has not paid a licence fee payable under subregulation (1a) by 15 January in any year, the Director may serve on the licensee a notice requiring payment of the fee, and any penalty under subregulation (1b), within 7 days after service of the notice and, if the requirement in the notice is not complied with, the Director may, whether or not a complaint is, or is to be, lodged under section 95 of the Act in respect of that non-payment, suspend the operation of the licence to which the fee relates until the amount outstanding is paid.

(1d) Where a licensee has not paid a licence fee payable under subregulation (1a) by 29 January in any year, the Director may serve on the licensee a notice requiring payment of the fee, and any penalty under subregulation (1b), within 7 days after service of the notice and, if the requirement in the notice is not complied with, the Director may, whether or not a complaint is, or is to be, lodged under section 95 of the Act in respect of that non-payment, cancel the licence to which the fee relates.

”.

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(2) Regulation 26 (2) of the principal regulations is amended by deleting “a fee referred to in subregulation (1)” and substituting the following —

“ any moneys due under this regulation ”.

(3) Regulation 26 (3) of the principal regulations is amended —

(a) by inserting after “Where” the following —

“ , under the Act, ”;

(b) by deleting “within a prescribed time” and substituting the following —

“ within a particular time ”; and

(c) by deleting “the prescribed” in each place where it occurs and substituting in each place the following —

“ that ”.

Regulation 27 amended

12. Regulation 27 (2) of the principal regulations is amended by deleting “(a) shall” and substituting the following —

“ shall ”.

Regulation 28 repealed

13. Regulation 28 of the principal regulations is repealed.

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Schedule 1 amended

14. (1) Schedule 1 to the principal regulations is amended by deleting Form 19 and substituting the following form —

“

Form 19

Liquor Licensing Act 1988

[Regulation 19 (1)]

**Application Form for Liquor Subsidy
(WA Producers Only)**

1. CLAIM FOR THE MONTH/PERIOD OF:		
	Month/Quarter	Year
2. SALES TAX NUMBER:		
3. LICENCE NUMBER:		
4. NAME OF LICENSEE: ADDRESS OF LICENSED PREMISES:		
		Postcode
5. AMOUNT OF SUBSIDY CLAIMED:	(a) Cellar door sales to persons other than liquor merchants (including sales made in a restaurant on the licensed premises).	\$
	(b) Mail Order Sales.	\$
	(c) Tastings, promotions and donations for which no charge has been made.	\$
	TOTAL FOR THIS PERIOD:	\$
6. ADJUSTMENTS (IF ANY):	(d) Amount overpaid/underpaid for the month of	\$
	TOTAL AMOUNT CLAIMED:	\$

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Have your bank details changed? No Yes
If **yes** please provide new bank details below:

BANK NAME:	<input type="text"/>	BRANCH NAME:	<input type="text"/>
BSB No:	<input type="text"/>	ACCOUNT No:	<input type="text"/>

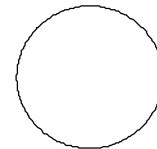
7. DECLARATION: I, _____ **certify that:**
name of licensee

- (a) I am the licensee of the above named premises;
- (b) the claim I am making for liquor subsidy is complete, true and correct;
- (c) the claim I am making is honestly based on my wholesale sales tax (WST) obligations;
- (d) I have all the necessary records to provide information to substantiate my claim;
- (e) I will provide information to substantiate my claim, if requested, at any time by the relevant authorities;
- (f) I have prepared and issued invoices reflecting the liquor subsidy in accordance with requirements of the Australian Taxation Office; and
- (g) my prices to my customers incorporate the amount of the subsidy.

WARNING
Penalties apply if you provide false or misleading information

WHERE THE LICENSEE IS A COMPANY:

The common seal of _____ was hereunto affixed by order of its Directors in accordance with its Articles of Association, in the presence of:



Name and Signature of Director(s)

Common Seal

_____ Date: ___ / ___ / ___

Ph No: _____

_____ Date: ___ / ___ / ___

WHERE THE LICENSEE IS ONE OR MORE INDIVIDUAL PERSONS:

Signature(s)

_____ Date: ___ / ___ / ___

Ph No: _____

_____ Date: ___ / ___ / ___

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FOR OFFICE USE ONLY	DATE RECEIVED: <u> </u> / <u> </u> / <u> </u>	AMOUNT PAYABLE: \$
	DATE PAID: <u> </u> / <u> </u> / <u> </u>	PAYMENT DETAILS:

(2) Schedule 1 to the principal regulations is further amended by inserting before Form 20 the following form —

“

Form 19A

Liquor Licensing Act 1988

[Regulation 19 (1)]

**Application for Liquor Subsidy
(Wholesalers)**

**1. CLAIM FOR THE STATE/
TERRITORY OF:**

**2. CLAIM FOR THE
MONTH/PERIOD OF:**
Month/Quarter Year

3. SALES TAX NUMBER:

4. LICENCE NUMBER:

5. NAME OF LICENSEE:
TRADING NAME:
**ADDRESS OF LICENSED
PREMISES:**
 Postcode:

6. AMOUNT OF SUBSIDY CLAIMED: \$

7. METHOD OF PAYMENT: Electronic transfer Cheque
(In WA, NSW and Tas. all payments will be made by electronic transfer)

”

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If payment is to be by electronic transfer

Have your bank details changed? No Yes
 If **yes** please provide new bank details below.

BANK NAME: BRANCH NAME:

BRANCH ADDRESS:

BSB No: ACCOUNT No:

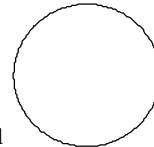
8. DECLARATION: I, _____ certify that:
 name of licensee

- (a) I am the licensee of the above named premises;
- (b) the claim I am making for liquor subsidy is complete, true and correct;
- (c) the claim I am making is honestly based on my wholesale sales tax (WST) obligations;
- (d) I have all the necessary records to provide information to substantiate my claim;
- (e) I will provide information to substantiate my claim, if requested, at any time by the relevant authorities;
- (f) I have prepared and issued invoices reflecting the liquor subsidy in accordance with requirements of the Australian Taxation Office; and
- (g) the amount I have claimed for my subsidy has not been passed on to my customers.

WARNING
Penalties apply if you provide false or misleading information

WHERE THE LICENSEE IS A COMPANY:

The common seal of _____ was hereunto affixed by order of its Directors in accordance with its Articles of Association, in the presence of:



Name and Signature of Director(s) _____ Common Seal

_____ Date: ___ / ___ / ___

Ph No: _____

_____ Date: ___ / ___ / ___

WHERE THE LICENSEE IS ONE OR MORE INDIVIDUAL PERSONS:

Signature(s) _____ Date: ___ / ___ / ___

Ph No: _____

_____ Date: ___ / ___ / ___

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FOR OFFICE	DATE RECEIVED: ___ / ___ / ___	AMOUNT PAYABLE: \$
USE ONLY	DATE PAID: ___ / ___ / ___	PAYMENT DETAILS:

”.

Schedule 3 amended

15. Schedule 3 to the principal regulations is amended by inserting after item 3 the following items —

“

- 3a. Licence fee for all licences other than a wholesaler's licence 105
- 3b. Licence fee for a wholesaler's licence 265

”.

By Command of the Governor,

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



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