

Queensland



Wine Industry Act 1994

WINE INDUSTRY REGULATION 1995

**Reprinted as in force on 13 July 2001
(includes amendments up to SL No. 95 of 2001)**

Reprint No. 1B

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the Office of the Queensland Parliamentary Counsel
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Information about this reprint

This regulation is reprinted as at 13 July 2001. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Queensland



WINE INDUSTRY REGULATION 1995

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	3
2	Commencement	3
PART 2—APPLICATION FOR LICENCE		
3	Particulars to be included in application for licence—Act, s 7(1)(b)	3
5	Labelling of sealed containers—Act, s 17	4
PART 3—ADVERTISING AND SUBMISSIONS ON LICENCE APPLICATIONS		
6	Advertisement of applications—Act, s 25	5
7	Who may make a submission—Act, s 26(2)(a)	6
8	Form of submission—Act, s 26(2)(b)	6
9	When submission to be made—Act, s 26(2)(c)	6
10	Grounds on which an objection may be made—Act, s 26(2)(d)	6
11	Requirements of submission by petition	6
PART 4—DECISION ON APPLICATION		
12	Conference of concerned persons and decision by chief executive	7
PART 5—QUEENSLAND WINE INDUSTRY POLICY COUNCIL		
13	Functions of Policy Council—Act, s 55(2)	8
14	Membership of Policy Council—Act, s 56(2)	8
PART 6—RECORDS		
15	Records to be kept by licensee holding wine producer licence—Act, s 50	9
16	Records to be kept by licensee holding wine merchant licence—Act, s 50	10
17	Records to be kept by licensee who blends wine—Act, s 50	11

18	Records of sales by licensees—Act, s 50	11
19	Annual return—Act, s 51(1)	12
PART 7—MISCELLANEOUS		
20	Fees	13
21	Forms	13
PART 8—TRANSITIONAL		
22	Wine labelled before 1 September 1995	13
SCHEDULE		14
FEES		
ENDNOTES		
1	Index to endnotes	15
2	Date to which amendments incorporated.	15
3	Key	15
4	Table of earlier reprints	16
5	List of legislation	16
6	List of annotations	16

WINE INDUSTRY REGULATION 1995

[as amended by all amendments that commenced on or before 13 July 2001]

PART 1—PRELIMINARY

1 Short title

This regulation may be cited as the *Wine Industry Regulation 1995*.

2 Commencement

Section 5¹ commences on 1 September 1995.

PART 2—APPLICATION FOR LICENCE

3 Particulars to be included in application for licence—Act, s 7(1)(b)

(1) The following particulars must be included in an application for a licence—

- (a) a copy of the registered plan of survey and the instrument of title for the premises to which the application relates;
- (b) a description of each area from which it is proposed to sell or supply wine on the premises;
- (c) a plan of the premises drawn to scale showing the layout of the premises;
- (d) a food licence issued by the relevant local government for the premises;

¹ Section 5 is about labelling requirements for licensee's wine.

- (e) evidence that conducting the proposed business on the premises is permitted under the planning scheme of the relevant local government for the premises;
- (f) if the application is for a wine producer licence and the applicant grows, on the premises, fruit for making wine—
 - (i) the types of fruit grown on the premises for making wine; and
 - (ii) the size of the area in which each type of fruit is grown;
- (g) if the application is for a wine producer licence and the applicant makes wine on the premises—a description of the winemaking facilities on the premises;
- (h) if the application is for a wine merchant licence—a description of the facilities on the premises that will enable the applicant to contribute to the Queensland wine industry in a substantial way.

(2) In this section—

“food licence” means a licence issued by the relevant local government for the premises under the *Food Hygiene Regulation 1989*, section 56(2).²

“planning scheme” has the meaning given by the *Integrated Planning Act 1997*, section 2.1.1.

“relevant local government”, for premises, means the local government for the area in which the premises are located.

5 Labelling of sealed containers—Act, s 17

A label on a sealed container in which a licensee’s wine is sold or supplied must state—

- (a) the area where the fruit used to make the wine was grown; and
- (b) the place the wine was made.

² *Food Hygiene Regulation 1989*, section 56 (Licensing provisions)

PART 3—ADVERTISING AND SUBMISSIONS ON LICENCE APPLICATIONS

6 Advertisement of applications—Act, s 25

(1) An application made under the Act, other than an application under section 13, 21 or 24 of the Act,³ must be advertised by—

- (a) publishing a notice—
 - (i) in the Gazette; and
 - (ii) in a newspaper circulating in the locality of the premises to which the application relates; and
- (b) conspicuously displaying a copy of the notice on the premises for 28 days immediately before the submission date.

(2) The notice must be published—

- (a) in the Gazette—as soon as possible after the application is made; and
- (b) in the newspaper—
 - (i) once at least 28 days before the submission date; and
 - (ii) once between 14 and 21 days before the submission date.

(3) The displayed copy of the notice must be printed on a sign the dimensions of which (including the dimensions of the print) are approved by the chief executive.

(4) In this section—

“submission date” means the date, not less than 28 days after the application is made, fixed by the chief executive as the last day for filing objections to the application.

3 Section 25(3) of the Act provides that section 25 does not apply to an application under the following sections of the Act—

- section 13 (Application for nominee for new licence or existing licence);
- section 21 (Application for transfer of licence);
- section 24 (Application for interim licence).

7 Who may make a submission—Act, s 26(2)(a)

A submission to the chief executive objecting to the granting of an application may be made by—

- (a) an adult or body of persons that—
 - (i) has a proper interest in the locality to which the application relates; and
 - (ii) is likely to be affected by the grant of the application; or
- (b) the local government for the locality; or
- (c) the Assistant Commissioner in charge of the police service for the locality.

8 Form of submission—Act, s 26(2)(b)

A submission objecting to the grant of an application may be made individually or by petition.

9 When submission to be made—Act, s 26(2)(c)

A submission objecting to the grant of an application must be given to the chief executive on or before the last day for making submissions stated in the notice.

10 Grounds on which an objection may be made—Act, s 26(2)(d)

The grounds on which a person may object to the grant of an application are—

- (a) undue offence, annoyance, disturbance or inconvenience to people living in the locality to which the application relates or travelling to or from an existing or proposed place of public worship, hospital or school in the locality; or
- (b) the amenity, quiet or good order of the locality would be adversely affected in some way.

11 Requirements of submission by petition

(1) A submission purporting to be by petition is ineffective, and may be disregarded, unless—

- (a) each sheet of the petition has an identical heading clearly stating the subject matter of the petition and positioned to be clearly legible to every person whose signature on the petition is sought; and
- (b) each signatory to the petition adds particulars of his or her connection with the locality to which the application relates; and
- (c) each sheet of the petition states the name of the petition's sponsor with whom contact between the chief executive and the signatories to the petition is to take place.

(2) A notice given by the chief executive, or the registrar of the Tribunal, to the sponsor of the petition is taken to be given to all signatories to the petition.⁴

PART 4—DECISION ON APPLICATION

12 Conference of concerned persons and decision by chief executive

- (1) This section applies if the chief executive—
 - (a) is given an application or submission objecting to the granting of an application and is required to decide an issue; and
 - (b) considers it desirable that a conference of all persons concerned be held.
- (2) The chief executive may take part in the conference.
- (3) If—
 - (a) a conference is held; and
 - (b) because of the conference, agreement is reached between the conferring persons; and
 - (c) the agreed terms are put in writing and signed by the conferring persons; and

⁴ Section 33 of the *Wine Industry Act 1994* applies part 2 of the Liquor Act which is about appeals to the Liquor Appeals Tribunal. Under part 2 of the Liquor Act, the registrar of the Tribunal is required to give certain notices to persons who made a submission about an application relevant to a proceeding before the Tribunal.

- (d) the chief executive is satisfied a decision in the agreed terms is lawful;

the chief executive must make a decision consistent with the terms.

(4) In deciding whether to grant an application if a conference was held but no agreement was reached under subsection (3), or a conference was not held, the chief executive must have regard to—

- (a) submissions made objecting to the grant of the application; and
(b) the impact on the amenity of the community concerned.

(5) Evidence of anything said or done during a conference is inadmissible in a proceeding before the Tribunal unless the parties to the conference agree otherwise.

PART 5—QUEENSLAND WINE INDUSTRY POLICY COUNCIL

13 Functions of Policy Council—Act, s 55(2)

The functions of the Wine Industry Policy Council are—

- (a) to consult with, and provide advice to, the Minister about issues of strategic significance to the wine industry; and
(b) to examine, and make recommendations to the Minister on, issues relevant to the wine industry, either on the Council's own initiative or if asked by the Minister; and
(c) to find out, and advise the Minister on, the wine industry's views about the administration of the industry; and
(d) to provide a forum for discussion of issues relevant to the wine industry; and
(e) to provide a mechanism for the recognition of excellence in the wine industry.

14 Membership of Policy Council—Act, s 56(2)

(1) The Policy Council consists of the number of members (not less than 3 nor more than 5) decided by the Minister.

(2) The Minister must appoint the members on the basis of their capacity to adequately represent the strategic interests of the wine industry.

PART 6—RECORDS

15 Records to be kept by licensee holding wine producer licence—Act, s 50

A licensee who holds a wine producer licence must keep records about the following—

- (a) if the licensee grows, on the licensed premises, fruit to be used for making wine—
 - (i) the types of fruit grown; and
 - (ii) the size of the area in which each type of fruit is grown; and
 - (iii) the day each area is planted with the plants, trees or vines on which the fruit is grown; and
 - (iv) the day the fruit is harvested;
- (b) if the licensee uses fruit, other than fruit grown by the licensee on the licensed premises, to make wine—
 - (i) the name and address of each person who grew the fruit used by the licensee to make the wine; and
 - (ii) the amount of fruit delivered by each person; and
 - (iii) the day the fruit is delivered by each person;
- (c) if the licensee makes wine on the licensed premises—
 - (i) the type of fruit used to make each wine; and
 - (ii) the quantity of fruit used to make each wine; and
 - (iii) the day the wine is bottled;
- (d) if the licensee has wine made but the wine is not made on the licensed premises—
 - (i) the name and address of the person who made the wine for the licensee; and
 - (ii) the amount of each type of fruit sent to the person; and

- (iii) the day the fruit is delivered to the person; and
- (iv) the total volume of wine made from the fruit by the person for the licensee.

16 Records to be kept by licensee holding wine merchant licence—Act, s 50

A licensee who holds a wine merchant licence must keep records about the following—

- (a) if the licensee grows, on the licensed premises, plants, trees or vines, the fruit of which will later be used to make wine—
 - (i) the types of plants, trees or vines grown; and
 - (ii) the size of the area in which each type of plant, tree or vine is grown; and
 - (iii) the day each area is planted with the type of plant, tree or vine; and
 - (iv) the year when it is expected that wine made from the fruit of the type of plant, tree or vine will first become available;
- (b) if the licensee uses fruit, other than fruit grown by the licensee on the licensed premises, to make wine—
 - (i) the name and address of each person who grew the fruit used by the licensee to make the wine; and
 - (ii) the amount of fruit delivered by each person; and
 - (iii) the day the fruit is delivered by each person;
- (c) if the licensee has wine made but the wine is not made on the licensed premises—
 - (i) the name and address of the person who made the wine for the licensee; and
 - (ii) the amount of each type of fruit sent to the person; and
 - (iii) the day the fruit is delivered to the person; and
 - (iv) the total volume of wine made from the fruit by the person for the licensee.

17 Records to be kept by licensee who blends wine—Act, s 50

A licensee must keep a record of each purchase of wine used for blending.

18 Records of sales by licensees—Act, s 50

(1) The purpose of this section is to prescribe records about wine sales that each licensee must keep.

(2) If the licensee sells wine to the holder of a licence or permit under the Liquor Act, the licensee must keep records about the following—

- (a) the name and address of the person to whom the sale is made;
- (b) the number of the buyer's licence;
- (c) the date of the sale;
- (d) the type of wine and the type of container in which the wine is sold;
- (e) the total quantity of each type of wine;
- (f) the sale price for each type of wine included in the sale.

(3) For the sale of wine other than a sale of wine for which a record must be kept under subsection (2), the licensee must keep a record about the following for each category of prescribed buyer—

- (a) the total quantity of each type of wine;
- (b) the total quantity of each type of wine sold in each type of container;
- (c) the total value for each type of wine.

(4) In this section—

“brandy” means a wine of the type described in schedule 2, definition “wine”, paragraph (d) of the Act.

“category of prescribed buyer” means—

- (a) for each State, other than Queensland, persons who buy wine for resale under an interstate licence; or
- (b) persons in Australia who buy wine for export, as part of a commercial transaction, from Australia;

- (c) persons in other countries to whom the licensee sells and exports wine;
- (d) other persons who buy wine, other than holders of a licence or permit under the Liquor Act or persons described in paragraphs (a), (b) or (c).

“cider” means a wine of the type described in schedule 2, definition “wine”, paragraph (b) of the Act.

“fortified wine” means a wine of the type described in schedule 2, definition “wine”, paragraph (e) of the Act.

“interstate licence” means a licence or permit under a law of another State that corresponds to the Liquor Act.

“mead” means a wine of the type described in schedule 2, definition “wine”, paragraph (c) of the Act.

“table wine” means a wine of the type described in schedule 2, definition “wine”, paragraph (a) of the Act.

“type of container” means each of the following—

- (a) bottles;
- (b) casks;
- (c) containers other than bottles or casks.

“type of wine” means each of the following—

- (a) table wine;
- (b) cider;
- (c) mead;
- (d) brandy;
- (e) fortified wine.

19 Annual return—Act, s 51(1)

The prescribed day for a licensee to give the chief executive a return about the matters included in the licensee’s records is 21 July in each year.

PART 7—MISCELLANEOUS

20 Fees

The fees payable for the purposes of the Act are set out in the schedule.

21 Forms

The chief executive may approve forms for use under the Act or this regulation.

PART 8—TRANSITIONAL

22 Wine labelled before 1 September 1995

(1) This section applies only to a sealed container of wine to which a label was applied before 1 September 1995.

(2) A licence authorises the licensee to sell the licensee's wine in a sealed container even if the label does not state the matters mentioned in section 5.⁵

5 Section 5 (Labelling of sealed containers—Act, s 17)

SCHEDULE**FEES**

	section 20
	\$
1. Application for wine producer licence	350.00
2. Application for wine merchant licence	1 500.00
3. Annual fee for wine producer licence or wine merchant licence	350.00
4. Application for transfer of licence	180.00
5. Application for nominee for existing licence or additional or replacement nominee	180.00
6. Application for a condition under section 15(3A) of the Act	180.00
7. Application for a condition under section 16(2) of the Act	106.50
8. Application for extended trading hours	25.00
9. Application for interim licence	70.00
10. Inspection of register	20.00

ENDNOTES**1 Index to endnotes**

	Page
2 Date to which amendments incorporated	15
3 Key	15
4 Table of earlier reprints	16
5 List of legislation	16
6 List of annotations	16

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 13 July 2001. Future amendments of the Wine Industry Regulation 1995 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key**Key to abbreviations in list of legislation and annotations**

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prove	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	proc	= proclamation
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	pubd	= published
exp	= expires/expired	R[X]	= Reprint No.[X]
gaz	= gazette	RA	= Reprints Act 1992
hdg	= heading	reloc	= relocated
ins	= inserted	renum	= renumbered
lap	= lapsed	rep	= repealed
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	26 April 1995
1A	to SL No. 252 of 1995	8 October 1996

5 List of legislation

Wine Industry Regulation 1995 SL No. 71

made by the Governor in Council on 30 March 1995
notfd gaz 31 March 1995 pp 1462–5
s 5 commenced 1 September 1995 (see s 2)
remaining provisions commenced on date of notification
exp 1 September 2005 (see SIA s 54)

as amended by—

Wine Industry Amendment Regulation (No. 1) 1995 SL No. 252

notfd gaz 8 September 1995 pp 170–2
commenced on date of notification

Wine Industry Amendment Regulation (No. 1) 2001 SL No. 95

notfd gaz 29 June 2001 pp 822–5
commenced on date of notification

6 List of annotations

Particulars to be included in application for licence—Act, s 7(1)(b)

s 3 amd 2001 SL No. 95 s 3

Percentage of licence's wine to be included in blended wine—Act, s 16(3)

s 4 om 2001 SL No. 95 s 4

Labelling of sealed containers—Act, s 17

s 5 amd 1995 SL No. 252 s 3; 2001 SL No. 95 s 5

Advertisement of applications—Act, s 25

prov hdg sub 2001 SL No. 95 s 6(1)
s 6 amd 2001 SL No. 95 s 6(2)

Conference of concerned persons and decision by chief executive

s 12 amd 2001 SL No. 95 s 7

Records to be kept by licensee holding wine producer licence—Act, s 50

s 15 sub 2001 SL No. 95 s 8

Records to be kept by licensee holding wine merchant licence—Act, s 50
s 16 sub 2001 SL No. 95 s 8

Records to be kept by licensee who blends wine—Act, s 50
s 17 hdg amd 2001 SL No. 95 s 9

Records of sales by licensees—Act, s 50
s 18 sub 2001 SL No. 95 s 10

PART 8—TRANSITIONAL
pt 8 (s 22) ins 1995 SL No. 252 s 4

SCHEDULE—FEES
sub 2001 SL No. 95 s 11