



Queensland

Wine Industry Amendment Act 2008

Act No. 19 of 2008



Queensland

Wine Industry Amendment Act 2008

Contents

		Page
1	Short title	4
2	Commencement	4
3	Act amended	4
4	Replacement of s 4 (Definitions—the dictionary)	4
	4 Dictionary	4
5	Amendment of s 6 (Requirement to be licensed under this Act or Liquor Act)	4
6	Amendment of s 7 (Application for licence and other matters under this part)	5
7	Insertion of new section 8.	5
	8 Conversion of wine merchant licence to wine producer licence	5
8	Amendment of s 11 (Grant of licence)	6
9	Amendment of s 12 (Licensee may hold more than 1 licence) . . .	6
10	Amendment of s 13 (Application for nominee for new licence or existing licence)	7
11	Amendment of s 15 (Authority under wine producer licence). . . .	7
12	Amendment of s 18 (Ordinary trading hours)	8
13	Amendment of s 25 (Advertisement of applications)	9
14	Amendment of s 26 (Submissions about an application)	9
15	Amendment of s 27 (Grounds for variation, suspension or cancellation)	9
16	Amendment of s 28 (Procedure for variation, suspension or cancellation)	10
17	Omission of s 31A (Definition for div 10)	10
18	Amendment of s 32 (Permits to promote particular wineries or regions)	10
19	Insertion of new ss 32A and 32B	11
	32A Approval to notify chief executive of event	11

	32B	Notification of event	12
20		Amendment of s 34 (Breach of conditions of licence or permit) . .	13
21		Amendment of s 47 (Business names and related matters)	13
22		Amendment of s 59 (Register open to inspection)	13
23		Insertion of new pt 9, div 1 hdg	13
24		Insertion of new pt 9, div 2	14
	Division 2	Transitional provision for the Wine Industry Amendment Act 2008	
	65	Advertising applications	14
25		Amendment of sch 2 (Dictionary)	14



Queensland

Wine Industry Amendment Act 2008

Act No. 19 of 2008

An Act to amend the *Wine Industry Act 1994*

[Assented to 23 April 2008]

The Parliament of Queensland enacts—**1 Short title**

This Act may be cited as the *Wine Industry Amendment Act 2008*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Act amended

This Act amends the *Wine Industry Act 1994*.

4 Replacement of s 4 (Definitions—the dictionary)

Section 4—
omit, insert—

‘4 Dictionary

‘The dictionary in schedule 2 defines particular words used in this Act.’.

5 Amendment of s 6 (Requirement to be licensed under this Act or Liquor Act)

(1) Section 6(4)(a)(i), after ‘State’—

insert—

‘other than on the person’s licensed premises’.

(2) Section 6—

insert—

‘(4A) For subsection (3), the business (the *wine merchant business*) a person will conduct under a wine merchant licence is not a business mentioned in subsection (2) to the extent a minor part of the wine merchant business will involve selling wine

made only from fruit grown, by the person, on the premises to which the person's wine merchant licence will relate.'

6 **Amendment of s 7 (Application for licence and other matters under this part)**

Section 7(1), 'part'—

omit, insert—

'part, other than a conversion application,'.

7 **Insertion of new section 8**

Part 2, division 1A—

insert—

'8 **Conversion of wine merchant licence to wine producer licence**

- '(1) This section applies if the holder of a wine merchant licence proposes to conduct a business involving either—
- (a) selling wine made from fruit grown by the holder on the holder's licensed premises; or
 - (b) selling wine made by the holder on the holder's licensed premises.
- '(2) The holder may apply to the chief executive to convert the holder's licence to a wine producer licence (a ***conversion application***).
- '(3) The conversion application must—
- (a) be in writing; and
 - (b) include particulars of the business the applicant proposes to conduct.
- '(4) The chief executive may, by written notice, ask the applicant to give further information or documents relevant to the application.
- '(5) The following provisions of this part apply to a conversion application as if the application were an application for a wine producer licence.

- ‘(6) However, the chief executive is not obliged to consider whether the applicant is a suitable person to hold a wine producer licence.
- ‘(7) Subsection (5) is subject to any express statement about conversion applications contained in the provisions.’.

8 Amendment of s 11 (Grant of licence)

- (1) Section 11—

insert—

- ‘(1A) For subsection (1)(ab), the business (the *wine merchant business*) the person will conduct under a wine merchant licence is not a business mentioned in subsection (1)(a) to the extent a minor part of the wine merchant business will involve selling wine made only from fruit grown, by the person, on the premises to which the person’s wine merchant licence will relate.’.

- (2) Section 11—

insert—

- ‘(5) If the application is a conversion application and the chief executive decides to grant the application, the chief executive must—
- (a) cancel the applicant’s wine merchant licence; and
 - (b) issue the applicant with a wine producer licence.
- ‘(6) For issuing the wine producer licence mentioned in subsection (5)(b)—
- (a) the premises under the wine merchant licence are the main premises under the wine producer licence; and
 - (b) if the wine merchant licence stated that a person was the nominee for the licence, the person is the nominee for the main premises for the wine producer licence and is taken to have been approved under section 14.’.

9 Amendment of s 12 (Licensee may hold more than 1 licence)

- (1) Section 12, footnote—

omit.

- (2) Section 12—

insert—

‘Note—

Under section 13, if an applicant for a licence is already a licensee, the applicant must apply for another adult to be the nominee for the new licence.’.

10 **Amendment of s 13 (Application for nominee for new licence or existing licence)**

- (1) Section 13(2)(b)—

omit, insert—

‘(b) the application seeks an approval under section 15(3) to sell wine at a satellite cellar door.’.

- (2) Section 13(7)(a), ‘on other premises’—

omit, insert—

‘at a satellite cellar door’.

- (3) Section 13(9), ‘to other premises’—

omit, insert—

‘to a satellite cellar door’.

- (4) Section 13(9), ‘the other premises’—

omit, insert—

‘the satellite cellar door’.

11 **Amendment of s 15 (Authority under wine producer licence)**

- (1) Section 15(3), after ‘on other premises’—

insert—

‘(a *satellite cellar door*)’.

- (2) Section 15(3)(a) and (b), ‘on the premises’—

omit, insert—

‘at the satellite cellar door’.

- (3) Section 15(3)(c), ‘off the premises’—

omit, insert—

‘away from the satellite cellar door’.

- (4) Section 15(4)—

omit, insert—

- ‘(4) In deciding whether to allow the licensee to sell the licensee’s wine under subsection (2), the chief executive must have regard to the suitability of the premises for the purpose.

- ‘(5) In deciding whether to approve premises as a satellite cellar door, the chief executive must have regard to—

- (a) the suitability of the premises for the purpose; and
 - (b) the location of the premises in relation to the main premises; and
 - (c) the ability of the licensee to control the premises; and
 - (d) the types of business activities being conducted at the premises; and
 - (e) the number of satellite cellar doors already approved for the licensee’s licence; and
 - (f) other matters prescribed by regulation.
- ‘(6) If, on a conversion application, the chief executive issues a wine producer licence to the applicant under section 11(5)(b), the chief executive must include the condition mentioned in subsection (3A) on the licence.’.

12 Amendment of s 18 (Ordinary trading hours)

- (1) Section 18(1) and (2)—

omit, insert—

- ‘(1) A licence authorises the licensee to sell wine on the licensed premises for the licence—

- (a) between 8a.m. and midnight on any day other than Christmas Day, Good Friday and Anzac Day; and
- (b) between 1p.m. and midnight on Anzac Day.’.

- (2) Section 18(3)—
renumber as section 18(2).

13 Amendment of s 25 (Advertisement of applications)

Section 25(1) and (2)—
omit, insert—

- ‘(1) The chief executive must decide whether an applicant should be required to advertise an application made under this Act having regard to—
- (a) whether members of the public, in the area of the State to which the application relates, are likely to be affected by, or concerned about, the grant of the application; and
 - (b) whether the application is required to be advertised as part of another process, for example, an application for planning approval; and
 - (c) any other matters prescribed under a regulation.
- ‘(2) If the chief executive decides the application should be advertised, the application must be advertised in the way prescribed under a regulation.’

14 Amendment of s 26 (Submissions about an application)

Section 26(1)—
omit, insert—

- ‘(1) Written submissions may be made to the chief executive objecting to the granting of an application required to be advertised under section 25.’

15 Amendment of s 27 (Grounds for variation, suspension or cancellation)

- (1) Section 27(1)(e), footnote—
omit.
- (2) Section 27(1)—
insert—

Note—

Apart from this division, a licence is suspended, and may be cancelled, under section 54 because fees are not paid when payable.’.

(3) Section 27—

insert—

- ‘(3) If the holder of a wine producer licence ceases to conduct the business of selling wine because of a natural disaster, subsection (1)(e) does not apply for 12 months after the cessation.

Example of a natural disaster—

crop destruction because of fire, hail, flood, drought, insect infestation or disease

- ‘(4) The chief executive may extend the period under subsection (3) by not more than 12 months if the chief executive is satisfied there are special circumstances for the wine producer not having wine available to sell including, for example, adverse weather conditions for growing the fruit from which the wine is to be made.’.

16 Amendment of s 28 (Procedure for variation, suspension or cancellation)

Section 28(2), ‘ground exists to cancel the licence’—

omit, insert—

‘ground exists to vary, suspend or cancel the licence’.

17 Omission of s 31A (Definition for div 10)

Section 31A—

omit.

18 Amendment of s 32 (Permits to promote particular wineries or regions)

- (1) Section 32(2)(b)—

omit, insert—

‘(b) reasonably considers it is more important for wine to be sold under a permit instead of a licence because the purpose of the permit is to sell the licensee’s wine—

(i) at a single event; or

(ii) at more than 1 event if the events are of the same type and held at the same place.’.

(2) Section 32(3)—

omit, insert—

‘(3) A permit authorises the licensee stated in the permit—

(a) to sell the licensee’s wine in sealed containers, at the permit place stated in the permit, for consumption away from the permit place; and

(b) to sell or give the licensee’s wine as a sample for consumption at the permit place.’.

(3) Section 32(5), after ‘permit’—

insert—

‘other than a permit mentioned in subsection (2)(b)(ii)’.

(4) Section 32(8)—

omit, insert—

‘(8) A permit granted to a group of licensees authorises the licensees stated in the permit—

(a) to sell the licensees’ wine in sealed containers, at the permit place stated in the permit, for consumption away from the permit place; and

(b) to sell or give the licensees’ wine as a sample for consumption at the permit place.’.

19 Insertion of new ss 32A and 32B

Part 2, division 10—

insert—

‘32A Approval to notify chief executive of event

‘(1) This section applies to a licensee who, on more than 1 occasion—

- (a) has been granted a permit under section 32; and
 - (b) has complied with the conditions of the permit.
- ‘(2) The licensee may apply to the chief executive for approval to merely notify the chief executive if—
- (a) the licensee again proposes to sell the licensee’s wine, or give the wine as a sample, at an event for which a permit could be granted under section 32; and
 - (b) the event is a private event.
- ‘(3) The chief executive may grant the approval only if the chief executive is satisfied of the matters mentioned in subsection (1).
- ‘(4) An approval—
- (a) applies only to a private event; and
 - (b) authorises the licensee stated in the approval—
 - (i) to sell the licensee’s wine in sealed containers, at the place stated in the notification for the event, for consumption away from the place; and
 - (ii) to sell or give the licensee’s wine as a sample for consumption at the place; and
 - (c) is subject to the conditions stated in the approval.

‘32B Notification of event

- ‘(1) A notification given under an approval must—
- (a) state the time, date and place of the private event; and
 - (b) be given to the chief executive at least 7 days before the event.
- ‘(2) A licensee granted an approval under section 32A is not required to hold a permit under section 32 for an event for which the licensee has given the chief executive a notification under subsection (1).
- ‘(3) For part 3 and section 49(3)(b) and (c) of this Act—
- (a) a notification under subsection (1), for a private event, is taken to be a permit for the event; and

- (b) the place stated in the notification for the event is taken to be the permit place stated in the permit.’.

20 Amendment of s 34 (Breach of conditions of licence or permit)

Section 34(3), penalty—

omit, insert—

‘Maximum penalty—40 penalty units.’.

21 Amendment of s 47 (Business names and related matters)

Section 47—

insert—

- ‘(4) However, subsection (2)(c) does not apply to the holder of a wine merchant licence who operates a sales outlet on the holder’s licensed premises.’.

22 Amendment of s 59 (Register open to inspection)

- (1) Section 59, footnote—

omit.

- (2) Section 59—

insert—

‘Editor’s note—

The department’s office in Brisbane is located at Mineral House, 41 George Street, Brisbane.’.

23 Insertion of new pt 9, div 1 hdg

Part 9, before section 63—

insert—

‘Division 1 Transitional provisions for the Wine Industry Amendment Act 2001’.

24 Insertion of new pt 9, div 2

Part 9, after section 64—

insert—

‘Division 2 Transitional provision for the Wine Industry Amendment Act 2008

‘65 Advertising applications

‘Section 25, as in force immediately before the commencement of this section, continues to apply to an application under this Act, made but not decided before the commencement.’.

25 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition *licensee’s wine*—

omit.

(2) Schedule 2—

insert—

‘conversion application see section 8(2).

licensee’s wine—

(a) for the holder of a wine producer licence, means wine at least 85% of which is—

(i) made from fruit grown by the licensee on the licensee’s licensed premises; or

(ii) made by the licensee on the licensee’s licensed premises; and

(b) for the holder of a wine merchant licence, means wine made only from fruit grown by the licensee on the licensee’s licensed premises.

private event means an event, held at premises other than licensed premises, if—

(a) the event is not publicly advertised or is not open to the public or to casual attendance; or

- (b) attendance at the event is restricted by personal invitation by the event's host; or
- (c) admission to the event does not involve paying a fee for admission or for entertainment or services provided at the event.

Examples of a private event—

a 21st birthday party, a boardroom lunch, a company cocktail party, a wedding, a wine tasting or promotion for a winery

satellite cellar door, for a wine producer licence, see section 15(3).'

- (3) Schedule 2, definition *fruit*—
insert—
'(aa) concentrated fruit juice used to make wine; and'
- (4) Schedule 2, definition *fruit*, paragraphs (aa) and (b)—
renumber as paragraphs (b) and (c).
- (5) Schedule 2, definition *licensed premises*, paragraph (a)—
omit, insert—
'(a) for a wine producer licence—the main premises and any satellite cellar door for the licence; or'
- (6) Schedule 2, definition *wine*, examples, footnote—
omit.