

# Queensland



## Subordinate Legislation 2002 No. 212

### *Liquor Act 1992*

# LIQUOR REGULATION 2002

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## **PART 1—PRELIMINARY**

### **1 Short title**

This regulation may be cited as the *Liquor Regulation 2002*.

### **2 Commencement**

This regulation commences on 1 September 2002.

### **3 Definitions**

The dictionary in schedule 2 defines particular words used in this regulation.

## **PART 2—REQUIREMENTS RELATING TO VARIOUS APPLICATIONS**

### **4 Particulars to accompany applications relating to licences—Act, s 105(1)(c)**

(1) Each application for a licence must be accompanied by the following particulars—

- (a) a plan of the premises to which the application relates drawn to a scale of 1:100 showing the general layout of the premises;
- (b) a plan showing the location of the premises to which the application relates in relation to adjacent premises;
- (c) for an applicant who is an individual or for a nominee, evidence, satisfactory to the chief executive, of the applicant's or nominee's identity;
- (d) evidence, satisfactory to the chief executive, that using the premises for the licence to which the application refers is permitted under the planning scheme of the relevant local government for the premises;

- (e) evidence, satisfactory to the chief executive, that sanitary conveniences at the premises comply with the provisions of the Building Code of Australia relating to sanitary premises.

(2) Each of the following applications must be accompanied by the particulars stated for the application—

- (a) for an application for a general licence, a residential licence or a special facility licence—a typical menu of meals provided, or to be provided, on the premises to which the application relates;
- (b) for an application for an on-premises licence for premises where meals are to be provided—a typical menu of the meals;
- (c) for an application for a licence other than a club licence or a producer/wholesaler licence—a description of the general nature and character of the premises to which the application relates;
- (d) for an application for a licence relating to premises on land—
  - (i) a copy of the registered plan of survey for the land; and
  - (ii) a copy of the certificate of title for the land or other reasonable evidence, satisfactory to the chief executive, of the description of the land and identity of the registered owner or lessor of the land; and
  - (iii) a description of each proposed licensed area on the premises;
- (e) for an application for a licence relating to premises where entertainment is to be provided—
  - (i) details of the type and nature of the entertainment; and
  - (ii) a written assessment about the expected acoustic qualities of the proposed premises;
- (f) for an application for a transfer of a licence if the transferee or nominee is an individual—evidence, satisfactory to the chief executive, of the transferee's or nominee's identity;
- (g) for an application for a transfer of a producer/wholesaler licence—a copy of the licensee's transactions record for the period from the immediately preceding 1 July, or the day the licensee obtained the licence, whichever is later, to the day on which the application is made.

(3) Despite subsection (2)(e), the chief executive may require an applicant for a licence to give the chief executive a report about the

acoustic qualities of premises when the premises are completed if noise from any source is, or is likely to be made, at a level in excess of 75 dB(C) fast response when measured about 3 m from the source.

(4) An assessment or report about the expected acoustic qualities, or acoustic qualities, of premises must—

- (a) be made by a person who has qualifications, training or experience in providing assessments or reports about the acoustic qualities of premises; and
- (b) state the person's qualifications, training or experience.

(5) In this section—

“**Building Code of Australia**” see the *Building Act 1975*, section 3(1).<sup>1</sup>

## 5 Timing for making applications

(1) An application for any of the following must be made at least 21 days before the day stated in the application as the day on which the permit or variation is proposed to take effect—

- (a) a general purpose permit;
- (b) an extended hours permit, other than an extended hours permit that would extend trading hours on a regular basis;
- (c) a restricted club permit;
- (d) a temporary variation of trading hours for 1 occasion or event.

(2) An application for a catering away permit must be made at least 28 days before the day stated in the application as the day on which the permit is proposed to take effect.

(3) An application for an adult entertainment permit for 1 occasion must be made at least 8 weeks before the day stated in the application as the day on which the permit is proposed to take effect.

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1 *Building Act 1975*, section 3 (Definitions)—

“**Building Code of Australia**” means the edition, current at the relevant time, of the Building Code of Australia (including the Queensland Appendix) published by the body known as the Australian Building Codes Board and includes the edition as amended from time to time by amendments published by the board.

## **6 Proposed event management plan as part of application for catering away permit**

(1) The purpose of this section is to state, for section 102F(1)(f)<sup>2</sup> of the Act, matters about which a licensee's proposed event management plan for a public event must satisfactorily provide.

(2) The matters are—

- (a) the name of the promoter of the public event; and
- (b) a plan of the site for the public event, with details of the facilities to be provided, including, for example, car parking, fencing, food and drink stations, lighting, security stations, stages and toilets; and
- (c) the program for the public event, including, for example, details of all activities and performances; and
- (d) arrangements for advertising the public event; and
- (e) the number of persons expected to attend the public event, and the expected range of ages of the persons; and
- (f) arrangements for transporting persons to and from the public event; and
- (g) arrangements for liquor service at the public event; and
- (h) arrangements for security at the public event; and
- (i) contingency plans if the public event is adversely affected by weather or other conditions.

(3) In this section—

**“arrangements for liquor service”** includes—

- (a) areas for the consumption of liquor and how they are to be defined, including, for example, by roping off the area or using a hospitality tent; and
- (b) the number of staff to be employed in the service of liquor; and
- (c) the number of staff who will be trained in the responsible service of alcohol, and information about the training the staff will have undertaken; and

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2 Section 102F (Restriction on grant of catering away permit) of the Act

- (d) how the purchase of liquor is to be made by persons attending events, including, for example, whether ticketing is to be used; and
- (e) the type of containers to be used for dispensing liquor; and
- (f) the hours a manager will be on duty and the names of persons who are to be on duty as managers.

**“arrangements for security”** includes the number of persons to be used for security purposes, and their proposed location and role.

**“proposed event management plan”** means a proposed event management plan mentioned in section 102E(2)(b)<sup>3</sup> of the Act.

**“public event”**, in relation to a licensee, see section 102D<sup>4</sup> of the Act.

### **PART 3—DETACHED BOTTLE SHOPS**

#### **7 Circumstances in which chief executive may approve premises as detached bottle shop**

(1) The chief executive may approve premises, as mentioned in section 59(1)(d)<sup>5</sup> of the Act, only if—

- (a) the applicant is the licensee of licensed premises (the **“main licensed premises”**); and
- (b) the proposed detached bottle shop—
  - (i) is not more than 10 km by road from the main licensed premises; and
  - (ii) has a floor area of not more than 150 m<sup>2</sup>; and
  - (iii) does not have direct access from any other business premises; and
  - (iv) has direct access from a public place; and

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3 Section 102E (Licensee to obtain a permit for selling or supplying liquor at public events) of the Act

4 Section 102D (Definitions for div 12A) of the Act

5 Section 59 (Authority of general licence) of the Act



- (v) does not have a facility ordinarily known as a drive-in or drive through; and
- (c) the applicant has no more than 2 detached bottle shops for the main licensed premises; and
- (d) the applicant satisfies the chief executive that—
  - (i) conducting the proposed detached bottle shop on the premises is permitted under the planning scheme of the relevant local government for the premises; and
  - (ii) if the applicant is not the owner of the premises—the applicant has the owner’s written agreement to the application; and
  - (iii) only the applicant has a right to occupy—
    - (A) if the detached bottle shop will occupy the entire premises—the premises; or
    - (B) if the detached bottle shop will occupy only part of the premises—the part of the premises; and
  - (iv) the same person or entity will have the financial benefit of the proposed detached bottle shop and the business conducted at the main licensed premises; and
  - (v) the applicant will conduct the proposed detached bottle shop under the same business name as the business conducted at the main licensed premises; and
  - (vi) the licensee’s principal place of business will be the main licensed premises.

(2) For subsection (1)(b)(i), a proposed detached bottle shop is not more than 10 km by road from the main licensed premises if either of the following distances is 10 km or less—

- (a) the distance measured between—
  - (i) the place of egress by road from the land on which the main licensed premises is located that is closest to the proposed detached bottle shop; and
  - (ii) the place of ingress by road to the land on which the premises is located that is, or includes, the proposed detached bottle shop that is closest to the main licensed premises;

- (b) the distance measured between—
- (i) the place of egress by road from the land on which the premises is located that is, or includes, the proposed detached bottle shop that is closest to the main licensed premises; and
  - (ii) the place of ingress by road to the land on which the main licensed premises is located that is closest to the proposed detached bottle shop.

(3) A distance mentioned in subsection (2) must be measured using the shortest route that may be taken driving a motor vehicle in compliance with the relevant laws of the State and local laws.

(4) Subsection (1)(b)(i) does not apply if the applicant satisfies the chief executive that—

- (a) the proposed detached bottle shop will—
  - (i) be in a locality in which there is no licensed premises at which liquor is sold for consumption off the premises other than licensed premises for which an application for an on-premises (meals) licence<sup>6</sup> has been granted; and
  - (ii) primarily service the residents of the locality; and
- (b) because of the locality's population or projected population, the locality is not likely to attract the establishment of licensed premises other than a detached bottle shop.

*Example of a locality for subsection (4)—*

A small rural community more than 10 km from the nearest premises from which takeaway liquor is sold to the public.

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6 See section 73A of the Act—

**73A Restriction on sale of liquor under an on-premises (meals) licence**

The authority of an on-premises (meals) licence is restricted to the following—

- (a) the sale and supply of liquor for consumption on the licensed premises—
  - (i) in association with a consumer eating a meal on the premises; and
  - (ii) to persons on the premises other than in association with the persons eating meals;
- (b) the sale and supply of 1 opened and 1 unopened bottle of wine for consumption off the premises to each adult consumer eating a meal.

(5) Subsection (6) applies if the proposed detached bottle shop will occupy only a part of the premises and there is a condition in the applicant's tenancy agreement for the part of the premises that the owner of the premises will not grant anyone else the right to occupy another part of the premises as a detached bottle shop.

(6) The applicant must satisfy the chief executive that the applicant did not ask the owner to include the condition in the agreement.

## **8 Obligation to conduct business at detached bottle shop if no appeal**

(1) This section applies if—

- (a) a licensee applies to the chief executive for approval under section 59(1)(d) of the Act to sell liquor on premises; and
- (b) the chief executive grants the approval; and
- (c) no appeal is made against the chief executive's decision to grant the approval.

(2) The licensee must start to conduct business under the approval within 60 days after the last appeal day for the approval.

(3) If the licensee fails to comply with subsection (2), the approval lapses at the end of 60 days after the last appeal day for the approval.

(4) In this section—

**“last appeal day”**, for an approval, means the last day on which a notice of appeal may be filed with the registrar under section 31(3)<sup>7</sup> of the Act to start an appeal against the chief executive's decision to grant the approval.

## **9 Obligation to conduct business at detached bottle shop after an appeal**

(1) This section applies if—

- (a) a licensee applies to the chief executive for approval under section 59(1)(d) of the Act to sell liquor on premises; and

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<sup>7</sup> Section 31(3) of the Act—

(3) The notice of appeal must be filed with the registrar within 28 days after the day on which the person received written notice of the chief executive's decision.

- (b) an appeal is made against the chief executive's decision about the application by a person mentioned in section 30<sup>8</sup> of the Act; and
- (c) the Tribunal's decision allows the licensee to start conducting business on the premises.

(2) The licensee must start to conduct the business within 60 days after the licensee receives a copy of the Tribunal's decision.

(3) If the licensee fails to comply with subsection (2), the approval lapses at the end of 60 days after the licensee receives the copy of the Tribunal's decision.

## **10 Particulars to be displayed on detached bottle shop**

Section 143<sup>9</sup> of the Act applies to the licensee of a detached bottle shop as if the detached bottle shop were the main licensed premises.

## **11 Prescription of amount and circumstances for sale of liquor at a detached bottle shop**

The holder of a general licence with an approval for a detached bottle shop may supply liquor for consumption at the detached bottle shop only if—

- (a) the supply is for persons to sample the liquor; and
- (b) no charge is made for the liquor.

## **12 Application for relocation of detached bottle shop—Act, s 154A**

The following must accompany an application for approval for the relocation of a detached bottle shop—

- (a) if the licensee is not the owner of the premises to which it is proposed to relocate the detached bottle shop—the owner's written agreement to the application; and
- (b) evidence, satisfactory to the chief executive, that using the proposed premises as a detached bottle shop is permitted under

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8 Section 30 (Persons entitled to appeal) of the Act

9 Section 143 (Particulars to be displayed on premises) of the Act

the planning scheme of the relevant local government for the premises; and

- (c) the fee prescribed in schedule 1 for the application.

### **13 Decision by chief executive for application under s 12**

(1) If the chief executive approves the application under section 12, the approval is subject to conditions specified by the chief executive in the approval.

(2) If the chief executive refuses the application, the chief executive must give the applicant a notice stating the following—

- (a) the application is refused;
- (b) the reasons for the refusal;
- (c) the applicant may appeal to the Tribunal against the refusal within 28 days after the applicant receives notice of the refusal;
- (d) the way in which the applicant may appeal against the refusal.

### **14 Joint application for transfer of detached bottle shop—Act, s 154B**

(1) A joint application for approval of a transfer of a detached bottle shop must be made in the approved form.<sup>10</sup>

(2) The joint application must be accompanied by—

- (a) a copy of the assignment of the lease of, or new agreement for the use of, the premises; and
- (b) the fee prescribed in schedule 1 for the application.

### **15 Decision by chief executive for application under s 14**

(1) If the chief executive approves the joint application, the approval is subject to conditions specified by the chief executive in the approval.

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<sup>10</sup> Section 154B(2) of the Act—

(2) The first and second licensees must make a joint application to the chief executive for approval of the transfer.

(2) If the chief executive refuses the joint application, the chief executive must give each of the applicants a notice stating the following—

- (a) the application is refused;
- (b) the reasons for the refusal;
- (c) the licensees may appeal to the Tribunal against the refusal within 28 days after the licensees receive notice of the refusal;
- (d) the way in which the applicants may appeal against the refusal.

## **PART 4—CLUB LICENCES AND OTHER PREMISES**

### **16 Definition for pt 4**

In this part—

“**other premises**” see section 85(1A) of the Act.

### **17 Application for inclusion of, or change to, statement about other premises—Act, s 154C**

(1) This section applies to a licensee’s application mentioned in section 154C of the Act for the inclusion of, or change to, a statement in a club licence that the licensed premises includes other premises.

(2) The application must be made in the approved form and be accompanied by—

- (a) a statement about the events for which the premises will be used infrequently, including, for example, home games or training sessions; and
- (b) evidence, satisfactory to the chief executive, of the licensee’s ownership of, or legal right to occupy, the other premises; and
- (c) a description of the area proposed for the sale and consumption of liquor on the other premises for the events; and
- (d) a statement about the hours for sale and consumption of liquor on the other premises for the events; and
- (e) a statement about the nature of noise that will be made at the area described under paragraph (c), including, for example, noise

from a public address system or playing recorded music for the events; and

- (f) a plan of the site for the events, with details of the facilities that are to be provided, including, for example, car parking, fencing, food and drink stations, lighting, security stations and toilets; and
- (g) a statement about how many persons are expected to attend the events, and the expected range of ages of the persons; and
- (h) arrangements for liquor service at the events; and
- (i) arrangements for security at the events; and
- (j) the fee prescribed in schedule 1 for the application.

(3) In this section—

**“arrangements for liquor service”** includes—

- (a) how the licensee will decide the number of staff to be employed in the service of liquor and how the staff are to be trained in the responsible service of alcohol; and
- (b) how the purchase of liquor is to be made by persons attending events, including, for example, whether ticketing is to be used; and
- (c) the type of containers to be used for dispensing liquor; and
- (d) hours a manager will be on duty and the names of persons who are to be on duty as managers.

**“arrangements for security”** includes the number of persons to be used for security purposes and their proposed location and role.

## **18 Decision by chief executive for application under s 17**

(1) If the chief executive approves the application, the approval is subject to conditions specified by the chief executive in the approval.

(2) If the chief executive refuses the application, the chief executive must give the applicant a notice stating the following—

- (a) the application is refused;
- (b) the reasons for the refusal;

- (c) the applicant may appeal to the Tribunal against the refusal within 28 days after the applicant receives notice of the refusal;
- (d) the way in which the applicant may appeal against the refusal.

## **19 Obligation for licensee to display copy of licence at other premises**

A licensee must, during every period the licensee is authorised to sell liquor on other premises, have a legible copy of the licensee's licence—

- (a) on display in a conspicuous place on the other premises; or
- (b) available for inspection by an investigator.

Maximum penalty—25 penalty units.

## **PART 5—ALTERATION OF LICENSED PREMISES**

### *Division 1—General*

## **20 Definitions for pt 5**

In this part—

**“occasion approval”** means an approval under section 24 for a specified change for an event or occasion to be held at the premises whether the event or occasion is to be held—

- (a) on 1 day; or
- (b) on more than 1 day but on consecutive days; or
- (c) on more than 1 day other than consecutive days.

**“specified change”** see section 21(1).

## **21 Application of part to applications for alteration of licensed premises**

(1) This part applies to an application for an approval, as mentioned in section 154 of the Act, to alter, rebuild, change or increase the area of the licensee's licensed premises (a **“specified change”**).



- (2) The application must be in the approved form and made by—
- (a) for a specified change to the licensed premises if the licensee is the owner of the premises—the licensee; or
  - (b) for a specified change to the licensed premises if the licensee is not the owner of the premises—the owner and the licensee; or
  - (c) for a specified change to a detached bottle shop—the licensee; or
  - (d) for a specified change to other premises included in a club licence—the owner of the other premises and the licensee.
- (3) The application must be accompanied by—
- (a) a written description of the specified change; and
  - (b) evidence of the real property description of the land on which the licensed premises are, or are to be, located; and
  - (c) if the specified change is that an area (the “**new area**”), not part of the licensed premises, is to be included in the licensed premises, evidence, satisfactory to the chief executive, of the licensee’s ownership of, or legal right to occupy, the new area; and
  - (d) 2 copies of a plan of the premises drawn to a scale of 1:100 showing the specified change; and
  - (e) details of the nature of any entertainment that is, or is to be, provided on the licensed premises; and
  - (f) the fee prescribed in schedule 1 for the application.
- (4) If, after considering the application the chief executive considers there is, or is likely to be, a material change relating to the provision of entertainment on the licensed premises, the chief executive may, by written notice, require the applicant to provide a written assessment of the expected acoustic qualities of the premises.
- (5) A written assessment of the expected acoustic qualities of premises must—
- (a) be made by a person who has qualifications, training or experience in providing assessments of the acoustic qualities of premises; and
  - (b) state the person’s qualifications, training or experience.

(6) In this section—

“other premises” see section 85(1A) of the Act.

*Division 2—Applications other than applications for an occasion approval*

**22 Decision by chief executive for application under s 21 other than application for an occasion approval**

(1) This section applies to an application for an approval under section 154 for a specified change, other than an application for an occasion approval.

(2) If the chief executive approves the application, the approval is subject to the completion of any specified change within 2 years after the date of the approval.

(3) The approval is also subject to conditions specified by the chief executive in the approval.

*Examples of conditions for subsection (3)—*

1. The specified change must be completed in accordance with the plans approved by the chief executive.
2. The applicant must obtain all stated approvals or certifications, for use of the premises as licensed premises, as required under an Act other than the Act, including, for example, development approval under the *Integrated Planning Act 1997*.
3. The completed premises must have the acoustic qualities stated in the approval.

(4) If the chief executive refuses the application, the chief executive must give the applicant a notice stating the following—

- (a) the application is refused;
- (b) the reasons for the refusal;
- (c) the applicant may appeal to the Tribunal against the refusal within 28 days after the applicant receives notice of the refusal;
- (d) the way in which the applicant may appeal against the decision.

**23 Production of licence after completion of specified change other than under an occasion approval**

(1) This section applies if a licensee's application as mentioned in section 22(1) is approved.

(2) After completing the specified change under the approval, the licensee must give the chief executive the licensee's licence for the licensed premises.

(3) The chief executive must issue a new licence to the applicant with the altered, rebuilt, changed or increased area of the licensed premises only if the chief executive is reasonably satisfied the applicant complied with all the conditions to which the approval was subject.

(4) To remove any doubt, it is declared that if an area is not part of licensed premises but is the subject of an approval under section 22, the licensee must not use the area as licensed premises until a licence is issued under subsection (2) that includes the area as part of the licensed premises.

***Division 3—Applications for an occasion approval*****24 Decision by chief executive for application under s 21 for an occasion approval**

(1) This section applies to an application for an occasion approval.

(2) If the chief executive approves the application, the chief executive must give the applicant a written approval stating the day or days, and the hours, to which the approval applies, and any conditions applying to the approval.

(3) If the chief executive refuses the application, the chief executive must give the applicant a notice stating the following—

- (a) the application is refused;
- (b) the reasons for the refusal;
- (c) the applicant may appeal to the Tribunal against the refusal within 28 days after the applicant receives notice of the refusal;
- (d) the way in which the applicant may appeal against the decision.

## **PART 6—OBLIGATIONS OF LICENSEES AND PERMITTEES**

### **25 Particulars required in transactions record for producer/wholesaler licence—Act, s 217(2)(b)(i)**

(1) For section 217 of the Act,<sup>11</sup> the particulars that a transactions record for a licensee who holds a producer/wholesaler licence must contain are as follows—

- (a) the quantity of liquor, expressed in litres, sold or supplied under authority of the licence in each of the following categories—
  - (i) low strength beer;
  - (ii) medium strength beer;
  - (iii) heavy strength beer;
  - (iv) brewed products other than beer, including, for example, brewed alcoholic lemonade and cider;
  - (v) fortified wine sold or supplied in bottles;
  - (vi) fortified wine sold or supplied in casks;
  - (vii) fortified wine sold or supplied in bulk;
  - (viii) wine, other than fortified wine, sold or supplied in bottles;
  - (ix) wine, other than fortified wine, sold or supplied in casks;
  - (x) wine, other than fortified wine, sold or supplied in bulk;
  - (xi) fermented products other than wine or fortified wine, including for example, sake or wine based soda;
  - (xii) spirits mixed with other beverages;
  - (xiii) spirits that are not mixed with other beverages;
- (b) for each sale or supply of liquor—the name of the person to whom the liquor was sold or supplied and the number of the person's licence or permit;
- (c) the gross amount paid or payable for the liquor.

(2) In this section—

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11 Section 217 (Records to be kept by licensee) of the Act

“**bottle**” means a bottle with a capacity of not more than 1.5 L.

“**bulk**”, for the sale or supply of wine or fortified wine, means a sale or supply of wine—

- (a) in a container with a capacity of more than 20 L; or
- (b) for bottling elsewhere or for blending with another wine.

“**cask**” means a container with a capacity of 2 L or more but not more than 20 L.

“**fortified wine**” includes frontignac, madeira, marsala, muscat, port, sherry and tokay.

“**heavy strength beer**” means beer in which the alcohol content by volume is 4% or more.

“**low strength beer**” means beer in which the alcohol content by volume is less than 3%.

“**medium strength beer**” means beer in which the alcohol content by volume is 3% or more but less than 4%.

## **26 Annual return to chief executive for producer/wholesaler licences**

A licensee who holds a producer/wholesaler licence must, within 21 days after the end of a financial year, give the chief executive a return stating the particulars shown for the financial year in the licensee’s transactions record.

Maximum penalty—25 penalty units.

## **27 Details about meals and beverages to be recorded by certain licensees**

(1) Subject to subsections (2) and (3), a licensee who holds an on-premises (cabaret) licence, an on-premises (meals) licence or a residential licence must keep records of the following—

- (a) for every day on which liquor is sold on the licensed premises—the amount and type of liquor sold and the sale price for each type;
- (b) for every meal consumed on the premises—the details of the meal, the date and time the meal is ordered, and the sale price;

- (c) wages or other payments to workers involved in sales of liquor, or in the preparation, serving or sales of meals, for which records must be kept under this section.

Maximum penalty—20 penalty units.

*Examples of records to be kept—*

Cash register tapes or table accounts.

(2) Also, a licensee must, for each financial year, keep records of the totals of beverages and food sales, and the costs of the sales, including, for example, purchases and wages.

Maximum penalty—20 penalty units.

(3) A licensee who holds an on-premises (cabaret) licence must only keep records about sales of liquor and meals ordered between 10 a.m. and 5 p.m.

(4) A licensee who holds a residential licence must only keep records about sales of liquor and meals ordered during relevant trading hours.

(5) In this section—

**“relevant trading hours”** means ordinary trading hours or those hours extended by an extended hours permit, as if the residential licence were an on-premises (meals) licence relating to a part of the premises stated in the residential licence as ordinarily set aside for dining.

## PART 7—ADULT ENTERTAINMENT PERMITS

### 28 Definitions for pt 7

In this part—

**“permit”** means an adult entertainment permit.

**“permittee”** means the holder of an adult entertainment permit.

## **29 Authority of permit**

For section 103G(2)<sup>12</sup> of the Act, the following are conditions to which each permit is subject—

- (a) the permittee must comply with the management plan submitted by the permittee with the application for the permit;
- (b) the permittee must keep a daily record of the name of the controller for the permittee's premises and the controller's hours of duty;
- (c) the permittee must enter the controller's name and hours of duty into the daily record on every day on which adult entertainment may be performed under the permit;
- (d) the permittee must ensure that spruiking or touting for business involving adult entertainment occurs only on the permittee's premises and only on parts of the premises from which the spruiking or touting is not audible or visible to a person who is not on the premises;
- (e) the permit does not authorise adult entertainment on Christmas Day or Good Friday.

## **30 Approved area to conform with requirements**

(1) For section 103H(c)<sup>13</sup> of the Act, the area must consist of an open room or other area that allows a person attending the entertainment to view the entertainment from any part of the room or area.

(2) Without limiting subsection (1), the area must not—

- (a) have any walls or partitions, whether transparent or not, that separate or divide, or could be used to separate or divide, the area; or
- (b) contain furniture that screens, or could be used to screen, a part of the area from the remainder of the area.

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12 Section 103G (Authority of adult entertainment permit) of the Act

13 Section 103H (Approved area to conform with requirements) of the Act

### **31 Application for permit**

For section 105(1)(c)<sup>14</sup> of the Act, an application for a permit must specify the full name, and date and place of birth, of each of the following persons for the permit—

- (a) the applicant;
- (b) the nominee;
- (c) associates of the persons mentioned in paragraphs (a) and (b).

### **32 Proposed management plan**

For section 107A(1)(d)<sup>15</sup> of the Act, a proposed management plan must provide for the following matters—

- (a) a layout plan of the proposed area drawn to a scale of 1:100 showing—
  - (i) the liquor service points; and
  - (ii) how the area will be fully enclosed to prevent a person outside the area from seeing inside the area; and
  - (iii) the audience seating area; and
  - (iv) any stage area and how it will be separated from the audience; and
  - (v) the performers' change rooms;
- (b) the minimum number of staff and security persons who will be on duty in the area during performances;
- (c) the name and contact details of the promoter of the adult entertainment.

### **33 Suitability of applicant for permit**

(1) For section 107B(1)(h),<sup>16</sup> any previous conduct of the business of providing adult entertainment by the applicant is a relevant matter.

(2) In this section—

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14 Section 105 (Requirements for applications) of the Act

15 Section 107A (Restriction on grant of adult entertainment permit) of the Act

16 Section 107B (Suitability of applicant for adult entertainment permit) of the Act



“**adult entertainment**” includes entertainment provided before the commencement of the *Liquor (Approval of Adult Entertainment Code) Regulation 2000* that would have constituted adult entertainment if the entertainment were provided after the *Liquor (Approval of Adult Entertainment Code) Regulation 2000* commenced.<sup>17</sup>

### **34 Advertising in relation to adult entertainment**

(1) A person must not publish, or cause to be published, an advertisement in relation to adult entertainment if the advertisement—

- (a) contain graphics or a photograph; or
- (b) for an advertisement in the print media—is more than 8 cm x 5 cm in size.

Maximum penalty—10 penalty units.

(2) In this section—

“**advertisement**” includes a coaster, circular, flier, matchbox, napkin or sign.

### **35 Restriction on number of permits that may be issued**

(1) The chief executive may grant only 6 one-off permits in a year for particular premises.

(2) If a person provides, or intends to provide, adult entertainment at particular premises on more than 6 occasions in a year, the person must apply for an annual permit for the premises.

(3) In this section—

“**one-off permit**”, for licensed premises, means a permit to provide adult entertainment for 1 occasion at the premises.

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<sup>17</sup> *Liquor (Approval of Adult Entertainment Code) Regulation 2000* commenced 1 July 2000.

## PART 8—FEES

### 36 Fees

(1) The fees payable under the Act are stated in schedule 1.

(2) If an application is not stated in schedule 1, a fee of \$80 is payable for the application.

(3) The chairperson or deputy chairperson may waive the fee payable by an appellant under schedule 1, item 9(b) if the chairperson or deputy chairperson is satisfied payment of the fee would cause financial hardship to the appellant.

### 37 Exemption for certain Anzac Day related applications

(1) This section applies to an applicant who makes an application for a general purpose permit, a catering away permit, an extended hours permit or an approval to alter, change or increase the area of licensed premises for an activity on Anzac Day that relates to the commemoration of Anzac Day.

(2) The applicant is exempt from payment of a fee for the application if—

- (a) the applicant is an RSL or Services Club; or
- (b) the applicant has been asked by an RSL or Services Club to provide catering services for the activity for the RSL or Services Club.

## PART 9—MISCELLANEOUS

### 38 Proof of age card

For section 6(a)(i)(A)<sup>18</sup> of the Act, the department is the department that administers the *Transport Operations (Road Use Management) Act 1995*.

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18 Section 6 (Acceptable evidence of age) of the Act

### **39 Proposed amendment to club rules**

Sections 88(1)(b)(i) and 103D(1)(b)(i)<sup>19</sup> of the Act do not apply to amendments of the rules of a club other than amendments about the following—

- (a) eligibility for membership of the club;
- (b) categories of membership of the club;
- (c) eligibility for election to the club's management committee;
- (d) voting rights of the club's members;
- (e) functions of the club's management committee;
- (f) payment to an officer or employee of the club;
- (g) the club's non-proprietary status.

### **40 Prescription of limits for noise that if exceeded constitute unreasonable noise**

For the definition "unreasonable noise" in section 187(5)<sup>20</sup> of the Act, the limits for noise are as follows—

- (a) between 6 a.m. and 10 p.m.—the adjusted maximum sound pressure level LA10, plus adjustments for tonal and impulse components, exceeding the background level LA90 by more than 10 dB(A);
- (b) between 10 p.m. and 6 a.m.—the sound pressure level LOCT10, in a full octave band with centre frequencies from 63 HZ to 2000 HZ, exceeding the background level LOCT90 by more than 8 dB in any octave band.

### **41 Responsible practices in the service, supply and promotion of liquor**

(1) Each licensee and permittee must behave responsibly in the service, supply and promotion of liquor.

(2) A licensee or permittee must not engage in a practice or promotion that may encourage rapid or excessive consumption of liquor.

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19 Sections 88 and 103D (Requirements of club and secretary) of the Act

20 Section 187 (Abatement of nuisance or dangerous activity) of the Act

*Examples—*

- promoting the consumption of drinks known as ‘laybacks’, ‘shooters’ or ‘test-tubes’
- promoting ‘free drinks for 2 hours’, ‘3 drinks for the price of 1’ or ‘all you can drink for \$10.00’.

**(3)** Each licensee and permittee must engage in practices and promotions that encourage the responsible consumption of liquor.

*Examples—*

- promoting the consumption of light or low alcohol drinks
- serving food with drinks to slow the rate of consumption of drinks and the absorption of alcohol
- supplying liquor in standard or recognisable quantities
- serving half measures of spirits on request.

**(4)** Each licensee and permittee must provide and maintain a safe environment in and around the licensed premises.

*Examples—*

- arranging the supply and convenient positioning of public telephones displaying taxi and emergency numbers
- providing lighting outside the external doors of the premises
- not promoting activities that might encourage harassment by patrons of the staff or other patrons.

## **PART 10—APPLICATIONS CONCERNING AREA OF COUNCIL**

### **42 Application of part**

This part applies to an application in relation to premises in a community area of a Council for a licence or extended hours permit that would extend trading hours on a regular basis.

### **43 Application of pts 2 and 8**

Parts 2 and 8 apply to an application to which this part applies.

#### **44 Additional requirements for applications to which this part applies**

(1) An application must be—

- (a) made in writing to the chief executive; and
- (b) signed by the applicant.

(2) If the application is made by a Council, the application must be accompanied by—

- (a) particulars of any consultation with residents of the community area; and
- (b) particulars of any residents' opinions given to the Council about the application.

#### **45 Notice of application**

(1) The applicant must display a notice about the application on a sign on the premises to which the application relates and in at least 1 other prominent place in the community area.

(2) The applicant must ensure the notice is displayed conspicuously on the premises for 28 days immediately before the last day for making objections to the application.

(3) The notice must specify—

- (a) the type of the application; and
- (b) the location of the premises to which the application relates; and
- (c) the last day for making objections to the application.

(4) The sign must be in a form and of a size approved by the chief executive, including the size of the print.

(5) The applicant must give the chief executive evidence satisfactory to the chief executive about the display of the notice.

#### **46 Objection to grant of application**

(1) An adult resident of the community area may make a written objection to the grant of the application to which section 45 applies.

(2) The objection must be given to the Council on or before the last day for making objections to the application as stated in the notice under section 45 (the “**last day for making objections**”).

(3) The objection may be made by an individual adult resident or by petition under section 47.

(4) The grounds on which the objection may be made are that, if the application were granted—

- (a) undue offence, annoyance, disturbance or inconvenience to persons who live or work or do business in the locality concerned, or to persons in or travelling to or from an existing or proposed place of public worship, hospital or school is likely to happen; or
- (b) the amenity, quiet or good order of the locality concerned would be lessened in some way.

(5) If the Council is the applicant, the Council must, within 14 days after the last day for making objections, give the chief executive a copy of each objection given to it.

#### **47 Requirements for objection by petition**

If a group of adult residents of a community area make a written objection by petition—

- (a) every page of the petition must bear an identical heading that clearly specifies the subject matter of the petition, and that it is clearly legible to every person whose signature on the petition is sought; and
- (b) each signatory to the petition must state the particulars of his or her address.

#### **48 Council to consider all objections properly made**

(1) The Council must consider all objections properly made to it.

(2) If a petition does not comply with section 47, the objection may be disregarded.

**49 Council to make submission concerning application made by another person**

(1) For an application referred to the Council for its consideration under section 189<sup>21</sup> of the Act, the Council must give the chief executive, in writing—

- (a) its recommendation as to whether or not the application should be granted; and
- (b) the reasons for its recommendation.

(2) Subsection (3) applies if the application is for—

- (a) a licence other than a club licence; or
- (b) an extended hours permit that would extend trading hours on a regular basis.

(3) The applicant must satisfy the Council that the licence or permit applied for is necessary to provide for the reasonable requirements of the public in the locality to which the application relates for liquor and related services that would be provided if the application were granted.

(4) For satisfying the Council about the reasonable requirements of the public, the applicant must give information to the Council about the following—

- (a) the number and condition of licensed premises already existing in the locality;
- (b) the distribution of licensed premises already existing throughout the locality;
- (c) the extent and quality of services provided, or to be provided, by licensed premises already existing in the locality;
- (d) whether the services to be provided, if the application is granted, could be adequately provided through licensed premises already in the locality.

(5) In deciding about the reasonable requirements of the public, the Council must take into account information about the matters mentioned in subsection (4) and must also have regard to—

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21 Section 189 (Reference to Councils of certain applications for licence or permit) of the Act

- (a) the existing and projected population and demographic trends in the locality; and
- (b) the number of persons residing in, resorting to or passing through the locality, or likely in the foreseeable future to do so, and their respective expectations; and
- (c) the extent to which any requirement or expectation—
  - (i) varies during different periods or at different times; and
  - (ii) is lawfully met by other premises, licensed or unlicensed; and
- (d) the likely health and social impacts that granting the application would have on the population of the locality; and
- (e) other information the Council considers relevant to the reasonable requirements of the public for liquor and related services in the locality.

(6) If the Council is not satisfied that the licence or permit applied for is necessary to provide for the reasonable requirements of the public in the locality, the Council must recommend that the application should not be granted.

(7) The Council must give its recommendation and reasons to the chief executive within 28 days after the application is referred to the Council.

(8) In deciding the application, the chief executive must have regard to the recommendation and reasons.

## **50 Conference by chief executive**

(1) If the chief executive considers that a conference of interested persons should be held, the chief executive may participate in a conference with interested persons or their representatives.

(2) For subsection (1), an interested person includes—

- (a) the Council; and
- (b) a person who has properly made an objection to the application; and
- (c) an adult resident of the community area who has, or a group of adult residents of the community area that has, in the chief executive's opinion, an appropriate interest in the locality



concerned or is likely to be affected if the chief executive grants the application.

### **51 Decision by chief executive**

(1) The chief executive may—

- (a) grant the application; or
- (b) refuse the application.

(2) If the chief executive grants the application, the licence is subject to the conditions, if any, specified in the licence or permit.

(3) If the chief executive refuses the application, the chief executive must give the applicant a notice stating the following—

- (a) the application is refused;
- (b) the reasons for the refusal;
- (c) the applicant may appeal to the Tribunal against the refusal within 28 days after the applicant receives notice of the refusal;
- (d) the way in which the applicant may appeal against the refusal.

### **52 Chief executive to give notice of decision**

The chief executive must give the following a written notice of the chief executive's decision under section 51—

- (a) if the Council is not the applicant—the Council;
- (b) a person who has properly made an objection to the application.

### **53 Expiry of part**

This part expires on 30 September 2003.

## PART 11—TRANSITIONAL AND REPEAL PROVISIONS

### 54 Definitions for pt 11

In this part—

“**commencement day**” means the day this regulation commences.

“**repealed regulation**” means the *Liquor Regulation 1992*.

### 55 References to repealed provision

A reference in a instrument to the repealed regulation or a provision of the repealed regulation may, if the context permits, be taken as a reference to this regulation or a provision of this regulation.

### 56 Pending applications

(1) A pending application under a section of the repealed regulation mentioned in column 1 of the following table is taken to be an application under the section of this regulation mentioned in column 2 of the table shown opposite the column 1 section—

**Table**

	<b>Column 1</b>	<b>Column 2</b>
1.	section 6H (application for approval to relocate a detached bottle shop)	section 12
2.	section 6J (application for approval to transfer a detached bottle shop)	section 14
3.	section 6M (application for the inclusion of, or change to, a statement in a club licence that the licensed premises includes other premises)	section 17
4.	section 18 (application for approval to alter, rebuild, change or increase the area of licensed premises)	section 21.

(2) Also, a pending application under section 9 of the repealed regulation for the grant of a licence, or an extended hours permit that would extend

trading hours on a regular basis, in relation to premises in a community area of a Council is taken to be an application under section 44.

(3) In this section—

**“pending application”** means an application made under the repealed regulation and not decided immediately before the commencement day.

### **57 Production of licence after alteration, rebuilding, change or increase after approval under section 18A of repealed regulation**

(1) This section applies if—

- (a) a licensee received an approval under section 18A of the repealed regulation; and
- (b) the approval was an approval to alter, rebuild, change or increase the area of the licensee’s licensed premises other than for an event or occasion to be held at the licensee’s licensed premises; and
- (c) the licensee has not given the licensee’s licence to the chief executive under section 18B of the repealed regulation before the commencement day.

(2) For the licensee and the chief executive, section 23 applies to the approval as if it were an approval under section 22.

### **58 Repeal**

The *Liquor Regulation 1992* is repealed.

## SCHEDULE 1

### FEES

section 36

\$

#### Licences

##### 1.(1) Application for—

(a) a general licence . . . . .	1 182.00
(b) a residential licence. . . . .	1 182.00
(c) an on-premises licence . . . . .	1 182.00
(d) a club licence. . . . .	1 182.00
(e) a special facility licence . . . . .	1 182.00
(f) a limited licence . . . . .	125.00
(g) a producer/wholesaler licence. . . . .	1 182.00

(2) However, no fee is payable under subitem (1)(c) if the primary purpose of the premises to which the licence relates is the purpose stated in section 69(1)(g) of the Act.

##### 2. Application—

(a) for a temporary variation for 1 occasion. . . . .	29.00
(b) to vary a licence in another way . . . . .	114.00
(c) to transfer a licence. . . . .	207.00
(d) for the chief executive's approval to change the area of licensed premises . . . . .	54.00
(e) for a duplicate licence. . . . .	80.00
(f) for a temporary authority under section 125 of the Act. . . . .	54.00
(g) for renewal of a temporary authority under section 125 of the Act . . . . .	54.00
(h) for approval to alter, rebuild, change or increase the area of licensed premises . . . . .	54.00
(i) for approval of a temporary change to licensed premises for 1 occasion. . . . .	29.00

## SCHEDULE 1 (continued)

	\$
(j) to renew a provisional licence . . . . .	54.00
(k) to renew a staged development approval . . . . .	54.00

**Permits****3. Application for—**

(a) an extended hours permit—	
(i) that would extend trading hours on a regular basis . . . . .	114.00
(ii) in any other case . . . . .	29.00
(b) a general purpose permit . . . . .	29.00
(c) a restricted club permit (for each period of 3 months, or part of 3 months, for which the permit is sought)—	
(i) if the times for the sale of liquor under the permit total not more than 10 hours a week . . . . .	57.00
(ii) if the times for the sale of liquor under the permit total more than 10 hours but not more than 21 hours a week . . . . .	115.00
(d) an adult entertainment permit—	
(i) to provide adult entertainment for 1 occasion . . . . .	214.00
(ii) to provide adult entertainment for a year . . . . .	284.00
(iii) to extend, on a regular basis, the hours during which adult entertainment may be provided . . . . .	114.00
(iv) to change the controller for the permit . . . . .	107.00
(v) to make another change to an existing permit—	
(A) with a site inspection . . . . .	161.00
(B) without a site inspection . . . . .	54.00
(vi) variation of hours during which adult entertainment may be provided for 1 occasion . . . . .	29.00
(e) a catering away permit for more than 1 occasion . . . . .	54.00

## SCHEDULE 1 (continued)

	\$
(f) a variation of a catering away permit for more than 1 occasion . . . . .	54.00
(g) a catering away permit for 1 occasion . . . . .	29.00
(h) a variation of a catering away permit for 1 occasion . . . . .	29.00
<b>4.</b> Application to renew an extended hours permit . . . . .	29.00
<b>5.</b> Application for a duplicate permit . . . . .	80.00
<b>Miscellaneous applications</b>	
<b>6.</b> Application for—	
(a) acceptance of the nomination of a new or additional nominee . . . . .	207.00
(b) approval to let, sublet or enter into a franchise or management agreement for all or part of licensed premises . . . . .	207.00
(c) authority under section 131A of the Act to conduct business on licensed premises . . . . .	207.00
(d) approval under section 148(d) of the Act for the gratuitous supply of liquor for a particular event or occasion in any part of the licensed premises.	29.00
(e) approval under section 152 of the Act to conduct a business or supply a service on licensed premises . . . . .	54.00
(f) approval to change the name of licensed premises . . . . .	54.00
(g) an extension of the times stated in a restricted club permit for the sale and consumption of liquor . . . . .	29.00
(h) approval of premises under section 59(1)(d) of the Act for the sale of liquor under authority of a general licence . . . . .	625.00
(i) transfer of a detached bottle shop . . . . .	107.00
(j) relocation of a detached bottle shop . . . . .	107.00

## SCHEDULE 1 (continued)

	\$
(k) inclusion in a licence of a statement that the licensed premises includes other premises . . . . .	54.00
(l) change of statement in a licence that the licensed premises includes other premises . . . . .	54.00
(m) inclusion in a licence of a statement that the licensee may sell and supply liquor to or for persons genuinely attending a function on the licensed premises . . . . .	54.00
(n) inclusion in a general licence, on-premises licence or residential licence of a statement that the licensee may sell liquor on premises other than the licensed premises described in the licence for consumption on the premises on which the liquor is sold . . . . .	54.00
 <b>Particulars of interest in licence</b>	
<b>7.</b> Giving particulars of an interest in a licence to the chief executive under section 44A(2) of the Act . . . . .	54.00
 <b>Summons to witness</b>	
<b>8.</b> Application for a notice under section 27(1) of the Act.	23.00
 <b>Filing notice of appeal</b>	
<b>9.</b> Filing notice of an appeal under section 31(2) of the Act—	
(a) for an appellant who has a direct or indirect financial interest in licensed premises that may be affected by the outcome of the appeal . . . . .	200.00
(b) for any other appellant . . . . .	50.00
 <b>Inspection of register</b>	
<b>10.</b> Inspection of the register . . . . .	23.00

## SCHEDULE 2

### DICTIONARY

section 3

**“main licensed premises”** see section 7(1)(a).

**“occasion”**, for a permit to provide adult entertainment, means a period of not more than 3 consecutive days.

**“planning scheme”** see 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.

**“transactions record”** see section 217 of the Act.

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#### ENDNOTES

1. Made by the Governor in Council on 22 August 2002.
2. Notified in the gazette on 23 August 2002.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Tourism, Racing and Fair Trading.