



Queensland

Wine Industry Act 1994

Wine Industry Regulation 2009

Reprinted as in force on 1 July 2011

Reprint No. 1D

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the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

Information about this reprint

This regulation is reprinted as at 1 July 2011. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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

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

Also see endnotes for information about—

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

Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

Replacement reprint date If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



Queensland

Wine Industry Regulation 2009

Contents

		Page
Part 1	Preliminary	
1	Short title	3
Part 2	Application for licence	
2	Particulars to be included in application for licence—Act, s 7(1)(b)	3
3	Labelling of sealed container—Act, s 17	4
Part 3	Advertising and submissions on licence applications	
4	Advertisement of applications—Act, s 25(2)	5
5	Who may make a submission—Act, s 26(2)(a)	6
6	How a submission may be made—Act, s 26(2)(b)	7
7	When submission to be made—Act, s 26(2)(c)	7
8	Grounds on which an objection may be made—Act, s 26(2)(d) . .	7
9	Requirements of submission by petition	8
Part 4	Consideration of conferences and objections	
10	Conference of interested persons and consideration by chief executive	8
Part 5	Queensland Wine Industry Policy Council	
11	Functions of Policy Council—Act, s 55(2)	9
12	Membership of Policy Council—Act, s 56(2)	10
Part 6	Records	
13	Records to be kept by licensee for a wine producer licence—Act, s 50(1)	10
14	Records to be kept by licensee for a wine merchant licence—Act, s 50(1)	11
15	Records to be kept by licensee who blends wine—Act, s 50(1) . .	12
16	Records of sales by licensees—Act, s 50(1)	12
17	Annual return—Act, s 51(1)	14

Contents

Part 7	Miscellaneous	
18	Fees	15
19	Forms	15
Part 8	Repeal	
20	Repeal	15
Part 9	Transitional provisions	
21	Applications advertised under the Wine Industry Regulation 1995	15
Schedule	Fees	16
 Endnotes		
1	Index to endnotes	17
2	Date to which amendments incorporated	17
3	Key	17
4	Table of reprints	18
5	List of legislation	18
6	List of annotations	19

Wine Industry Regulation 2009

[as amended by all amendments that commenced on or before 1 July 2011]

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Wine Industry Regulation 2009*.

Part 2 Application for licence

2 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) if a food business is conducted on the premises—details of the food licence issued by the relevant local government for the food business;

[s 3]

- (e) evidence that conducting a 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 business see the *Food Act 2006*, section 13.

food licence means a licence issued by a local government under the *Food Act 2006*, section 60 or 64.

planning scheme means a planning scheme under the *Sustainable Planning Act 2009*.

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

3 Labelling of sealed container—Act, s 17

- (1) This section does not apply to a sealed container of wine to which a label was applied before 1 September 1995.
- (2) A label on a sealed container in which a licensee's wine is sold or supplied must state—

[s 5]

- (3) The notice under subsection (1)(a) must be published in the newspaper—
 - (a) once within the first 7 days of the submission period; and
 - (b) once between 14 and 21 days from the start of the submission period.
- (4) The notice under subsection (1)(b) must be printed on a sign that—
 - (a) is at least 600mm wide and 900mm high; and
 - (b) has a heading in a bold style; and
 - (c) has lettering for the heading at least 50mm high; and
 - (d) has lettering for the body of the text at least 15mm high; and
 - (e) if situated outdoors—is constructed of weatherproof material.
- (5) In this section—
 - notice date*, for an application, means—
 - (a) if the chief executive and the applicant agreed to a day for the start of advertising the application—the day agreed to; or
 - (b) otherwise—the day that is 28 days after the chief executive decides that the application should be advertised.

submission period means a period of 28 days starting on the notice date.

5 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 area of the State 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 area of the State to which the application relates; or
- (c) the Assistant Commissioner in charge of the police service for the area of the State to which the application relates.

6 How a submission may be made—Act, s 26(2)(b)

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

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

- (1) A submission objecting to the grant of an application must be made to the chief executive within the submission period.
- (2) In this section—
submission period see section 4(5).

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

- (1) 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 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.
- (2) In this section—
locality means the locality of the premises to which the application relates.

[s 9]

9 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 area of the State 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 tribunal, to the sponsor of the petition is taken to be given to all signatories to the petition.

Part 4 Consideration of conferences and objections

10 Conference of interested persons and consideration by chief executive

- (1) This section applies to the chief executive when considering an application for a licence.
- (2) The chief executive may hold a conference with the interested persons for the application.
- (3) If a conference is held and a formal agreement is reached between the interested persons for the application, the chief executive must, in considering the application, have regard to the formal agreement.

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- (4) If a conference is not held or a conference was held but no agreement was reached, the chief executive must, in considering the application, have regard to—
- (a) all submissions 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.
- (6) In this section—
- formal agreement* means a written agreement—
- (a) signed by interested persons; and
 - (b) that the chief executive is satisfied is lawful.
- interested person*, for an application, means—
- (a) the applicant; or
 - (b) a person who has properly made a submission objecting to the application.

Part 5 Queensland Wine Industry Policy Council

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

The functions of the Queensland 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

[s 12]

- (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.

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

- (1) The Queensland Wine Industry 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

13 Records to be kept by licensee for a wine producer licence—Act, s 50(1)

A licensee for 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;

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- (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.

14 Records to be kept by licensee for a wine merchant licence—Act, s 50(1)

A licensee for 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

[s 15]

- (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.

15 Records to be kept by licensee who blends wine—Act, s 50(1)

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

16 Records of sales by licensees—Act, s 50(1)

- (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—

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- (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 the Act, schedule 2, definition *wine*, paragraph (d).

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

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

[s 17]

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

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 the Act, schedule 2, definition *wine*, paragraph (c).

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

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.

17 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**

18 **Fees**

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

19 **Forms**

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

Part 8 **Repeal**

20 **Repeal**

The Wine Industry Regulation 1995, SL No. 71 is repealed.

Part 9 **Transitional provisions**

21 **Applications advertised under the Wine Industry Regulation 1995**

The *Wine Industry Regulation 1995*, part 3, as in force immediately before the commencement, continues to apply to an application under the Act, that was made, but not decided, before the commencement.

Schedule Fees

section 18

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1 Application for wine producer licence—Act, section 7(1)(c)	472.10
2 Application for wine merchant licence—Act, section 7(1)(c)	2 022.00
3 Annual fee for wine producer licence or wine merchant licence—Act, section 53(2)	472.10
4 Application for transfer of licence—Act, section 21(1) . . .	242.90
5 Application for nominee for existing licence or additional or replacement nominee—Act, section 13	242.90
6 Application for a condition under section 15(3A) of the Act	242.90
7 Application for a condition under section 16(2) of the Act.	144.25
8 Application for extended trading hours—Act, section 19(1)	33.90
9 Application for interim licence—Act, section 24(1)	94.35
10 Inspection of register—Act, section 59(b)	26.50

Endnotes

1 Index to endnotes

	Page
2 Date to which amendments incorporated	17
3 Key	17
4 Table of reprints	18
5 List of legislation	18
6 List of annotations	19

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 1 July 2011. Future amendments of the Wine Industry Regulation 2009 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	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	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 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	14 August 2009	
1A	2009 Act No. 24 (amd 2009 Act No. 48)	1 December 2009	
1B	2009 SL No. 280	18 December 2009	
1C	2010 SL No. 128	1 July 2010	
1D	2011 SL No. 115	1 July 2011	

5 List of legislation

Wine Industry Regulation 2009 SL No. 170

made by the Governor in Council on 13 August 2009

notfd gaz 14 August 2009 pp 1366–7

commence on date of notification

exp 1 September 2019 (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

amending legislation—

Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 ss 1–2, ch 5 pt 79 (this Act is amended, see amending legislation below)

date of assent 26 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2009 (2009 SL No. 252)

amending legislation—

State Penalties Enforcement and Other Legislation Amendment Act 2009 No. 49 ss 1, 102 (amends 2009 No. 24 above)

date of assent 19 November 2009

commenced on date of assent

Sustainable Planning Regulation 2009 SL No. 280 ss 1–2, pt 9 div 49

notfd gaz 27 November 2009 pp 1001–6

ss 1–2 commenced on date of notification

remaining provisions commenced 18 December 2009 (see s 2)

**Fair Trading and Other Legislation Amendment Regulation (No. 1) 2010 SL No. 128
pts 1, 30**

notfd gaz 18 June 2010 pp 529–35

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2010 (see s 2)

Justice (Fees) Amendment Regulation (No. 1) 2011 SL No. 115

notfd gaz 1 July 2011 pp 589–96

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2011 (see s 2)

Note—An explanatory note was prepared.

6 List of annotations

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

s 2 amd 2009 SL No. 280 s 205

Requirements of submission by petition

s 9 amd 2009 Act No. 24 s 872 (amd 2009 Act No. 48 s 102)

SCHEDULE—FEES

sub 2010 SL No. 128 s 67; 2011 SL No. 115 s 3 sch