



*Wine Industry Act 1994*

# **Wine Industry Regulation 2009**

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## Queensland

# Wine Industry Regulation 2009

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# Wine Industry Regulation 2009

## 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;
  - (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 *Planning Act 2016*.

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

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## **Part 3    Advertising and submissions on licence applications**

### **4                          Advertisement of applications—Act, s 25(2)**

- (1) For the Act, section 25(2), an application must be advertised by—
  - (a) publishing a notice in a newspaper circulating—
    - (i) in the area of the State to which the application relates; or
    - (ii) in the State, if there is not a newspaper circulating in the area of the State to which the application relates; and
  - (b) conspicuously displaying a notice on the premises for the submission period.
- (2) The notice must state the following information—
  - (a) the type of licence being applied for;
  - (b) the name of the applicant;
  - (c) the name of the premises;
  - (d) the principal activity of the business operated on the premises;
  - (e) the trading hours of the premises;
  - (f) that written submissions may be made to the chief executive objecting to the granting of the application;
  - (g) the notice date;
  - (h) the submission period.
- (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.

## **9 Requirements of submission by petition**

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

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- (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.
- (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

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- (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
- (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

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- (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;
- (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
  - (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—

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- (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—
  - (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;

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- (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).

**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 schedule 1.

### 18AA Rounding of amounts expressed as numbers of fee units

- (1) This section applies for working out the amount of a fee expressed in this regulation as a number of fee units.
- (2) For the purpose of the *Acts Interpretation Act 1954*, section 48C(3), the amount is to be rounded—
  - (a) if the result is not more than \$100—to the nearest multiple of 5 cents (rounding one-half upwards); or



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- (b) if the result is more than \$100 but not more than \$1,000—to the nearest multiple of 10 cents (rounding one-half upwards); or
  - (c) if the result is more than \$1,000 but not more than \$5,000—to the nearest dollar (rounding one-half upwards); or
  - (d) if the result is more than \$5,000 but not more than \$100,000—to the nearest multiple of 10 dollars (rounding one-half upwards).

*Example—*

If a fee were 35 fee units and the value of a fee unit were \$1.015, the number of dollars obtained by multiplying 35 by \$1.015 would be \$35.525. Because \$35.525 is halfway between \$35.50 and \$35.55, it is rounded upwards, so the amount of the fee would be \$35.55.

## 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 1      Fees**

section 18

	<b>Fee units</b>
1 Application for wine producer licence (Act, s 7(1)(c))	637.80
2 Application for wine merchant licence (Act, s 7(1)(c))	2,726.00
3 Annual fee for wine producer licence or wine merchant licence (Act, s 53(2))	637.90
4 Application for transfer of licence under section 21 of the Act (Act, s 7(1)(c))	325.50
5 Application for interim licence under section 24(1) of the Act (Act, s 7(1)(c))	127.50
6 Application for nominee for new licence or existing licence, or additional or replacement nominee, under section 13 of the Act (Act, s 7(1)(c))	325.50
7 Application for a condition under section 15(3A) of the Act (Act, s 7(1)(c))	325.50
8 Application for a condition under section 16(2) of the Act (Act, s 7(1)(c))	195.00
9 Application for extended trading hours under section 19(1) of the Act (Act, s 7(1)(c))	45.50
10 Inspecting the register (Act, s 59(b))	35.80