

Liquor Amendment Regulation (No. 3) 2014

Explanatory notes for SL 2014 No. 106

made under the

Liquor Act 1992

General Outline

Short title

Liquor Amendment Regulation (No. 3) 2014

Authorising law

Sections 86(1), 105(1)(d), 202(1) and 235 of the *Liquor Act 1992*.

Policy objectives and the reasons for them

The objective of the amendment regulation is to make a technical amendment to clarify that the risk criterion fee for extended trading hours extends to all licensees trading between midnight and 5am.

Since 2009, the Office of Liquor and Gaming Regulation has applied a fee for the risk criterion of extended trading hours to all licensees that trade between midnight and 5am if they operate under the ordinary trading hours framework of 10am to midnight.

Section 36B of the Liquor Regulation 2002 (Liquor Regulation) prescribes the risk criterion fee that applies to a licence which holds an extended trading hours approval. An extended trading hours approval that allows the licensee to trade between the hours of midnight and 5am is provided for under section 86(1) of the *Liquor Act 1992* (Liquor Act). The provision provides that any licensee (other than a community other licensee) may make the application for an extended trading hours approval.

Significant legislative reforms were undertaken in 2008 via the *Liquor and Other Acts Amendment Act 2008* and in 2009 via the *Resorts and Other Acts Amendment Act 2009* in order to minimise the harm from liquor in the community. A key objective of the amendments which commenced in 2009 involved the implementation of a new harm minimisation risk framework. This included the introduction of new licence types and an annual licence fee regime for late trading venues by applying ordinary trading hours across all categories of licence unless expressly excluded under section 9(1A) of the Liquor Act.

It was the intention of the 2009 amendments that annual liquor licence fees would be applied across all categories of licence with additional loadings based on risk factors such as extended

trading hours. In addition, the standardised ordinary trading hours of between 10am and midnight would apply across all licence types other than casinos and airports (that have trade commencing prior to 10am); industrial canteens; producers/wholesalers and some takeaway sales facilities for which the standard trading hours are provided for in other sections of the Liquor Act.

The authority of a commercial special facility licence is provided under section 64 of the Liquor Act. Due to ambiguity between the wording of this provision and the context of the ordinary trading hours framework contained in section 9 of the Liquor Act, an amendment regulation is necessary to clarify that commercial special facility licensees, when authorised to trade beyond midnight, are required to pay the fee associated with the risk criterion of extended trading hours under section 36B of the Liquor Regulation, as intended by the 2009 amendments.

The regulation amendment will clarify that the fee for the risk criterion of extended trading hours applies to licensees that trade beyond midnight based on either an extended trading hours approval or times authorised under the licence and ensures the risk based fee can be consistently applied.

Achievement of policy objectives

The policy objectives are achieved by amending section 36B of the Liquor Regulation to ensure that licensees authorised to trade beyond midnight are required to pay the risk criterion fee for extended trading hours.

The regulation amendment is consistent with the intent of the 2009 Liquor Act amendments, which was to ensure that all licensees (other than community other licensees) would be required to apply for an extended trading hours approval to trade during the period of midnight and 5am and pay the associated application and risk based fees.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the objectives of the Liquor Act.

Inconsistency with policy objectives of other legislation

The amendment regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

There will be no impact or additional cost burden on current or future licensees as a result of this amendment which simply reinforces current practice. The amendment will ensure that the risk criterion fee for extended trading hours can continue to be collected from all licensees, including relevant commercial special facility licensees, that trade beyond midnight.

Consistency with fundamental legislative principles

The amendment regulation is consistent with fundamental legislative principles.

Consultation

Consultation for this amendment has been undertaken with the Department of the Premier and Cabinet, Queensland Treasury and Trade and the Office of Best Practice Regulation. No concerns were expressed with the proposal.