

Liquor (Licence Conditions) Amendment Regulation 2017

Explanatory notes for SL 2017 No. 91

Made under the

Liquor Act 1992

General Outline

Short Title

Liquor (Licence Conditions) Amendment Regulation 2017.

Authorising law

Sections 58A and 235 of the *Liquor Act 1992*.

Policy objectives and the reasons for them

The policy objective of the *Liquor (Licence Conditions) Amendment Regulation 2017* (Amendment Regulation) is to prescribe certain licence conditions, which will apply to all licensees of regulated premises, that will ensure appropriate compliance with ID scanning privacy obligations under the *Liquor Act 1992* (Liquor Act).

The obligation for licensees of regulated premises to scan patron IDs, in accordance with section 173EH of the Liquor Act, is set to be enforced from 1 July 2017. Under section 173EF, regulated premises are those located within a safe night precinct, authorised to sell or supply liquor anytime between midnight and 5am, that are not of an exempt class. Scanning of IDs at these premises must occur from 10pm until the premises closes, or other such hours as conditioned on the licence.

Section 173EI of the Liquor Act provides that it is a licence condition that licensees of regulated premises are required to comply with the *Privacy Act 1988* (Cwlth) (Privacy Act) to safeguard the handling of personal information gathered through the scanning of IDs. The Privacy Act outlines 13 Australian Privacy Principles which relevant organisations must comply with when handling personal information. Personal information includes information or an opinion about an identified individual, or an individual who is reasonably identifiable. This would encompass information such as a person's name, date of birth or gender, which can generally be found on a driver's licence, proof of age card, passport or other documents that a person may use to prove their identity.

A number of additional licence conditions have been developed in order to assist licensees of regulated premises to comply with the existing provisions of the Liquor Act with respect to ID scanning privacy obligations.

Under the regulation-making power of section 58A(1) of the Liquor Act, a licence is subject to the conditions imposed under a regulation. Section 58A(2) clarifies that any condition that may be imposed on the licence by the Commissioner for Liquor and Gaming may be prescribed under regulation. Further, section 58A(3) and (4) specify that licence conditions may be prescribed for all licences, all licences in a particular area, a particular class of licence, or a particular class of licence in a particular area.

It is intended that the additional ID scanning privacy conditions should apply to all licensees of regulated premises. Accordingly, the Amendment Regulation amends the *Liquor Regulation 2002* to prescribe the additional conditions for the “licences relating to regulated premises” class of licence, in accordance with section 58A of the Liquor Act.

It is anticipated that, by more fully outlining the responsibilities of licensees of regulated premises with respect to personal information, as well as by defining arrangements for repairs and privacy breaches, the conditions contained in the Amendment Regulation will provide greater certainty to licensees by assisting their efforts to comply with the Liquor Act.

Achievement of policy objectives

The Amendment Regulation prescribes certain licence conditions, which will apply to licensees of regulated premises, to ensure appropriate compliance with the ID scanning privacy obligations under the Liquor Act.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy 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 are no costs associated with the implementation of this Amendment Regulation.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

The proposal to clarify the existing overarching privacy obligation for licensees of regulated premises under the Liquor Act (via licence conditions imposed by an Amendment Regulation) was developed in response to advice received from the Office of Australian Information Commissioner (OAIC). The OAIC advised that dedicated privacy guidance material be developed to detail the obligations for licensees and approved operators under the Liquor Act and the Privacy Act, with respect to the operation of approved ID scanners and approved ID scanning systems.

The Department of the Premier and Cabinet (DPC) and Queensland Treasury were consulted on the Amendment Regulation throughout the drafting process and are satisfied that the Amendment Regulation should proceed to Executive Council.

An application was made to the Office of Best Practice Regulation (OBPR) seeking an exclusion from undertaking further regulatory impact analysis (RIA). OBPR concluded that the proposal is unlikely to result in significant adverse impacts, and will not increase the regulatory burden on business or the community. Accordingly, OBPR determined that no further analysis or assessment under the RIA process is required.