

# Liquor (Artisan Liquor) Amendment Regulation 2021

Explanatory notes for SL 2021 No. 35

made under the

*Liquor Act 1992*

## General Outline

### Short title

Liquor (Artisan Liquor) Amendment Regulation 2021

### Authorising law

Sections 74A, 74B, 75H, 75I, 103ZA, 103ZF, 105, 202, 203, 217 and 235 of the *Liquor Act 1992*

### Policy objectives and the reasons for them

The objective of the Liquor (Artisan Liquor) Amendment Regulation 2021 (Amendment Regulation) is to make consequential amendments to the *Liquor Regulation 2002* (Liquor Regulation), and prescribe relevant fees and particulars, to complete the regulatory framework for artisan liquor introduced by the *Liquor (Artisan Liquor) Amendment Act 2021* (Amendment Act).

The Amendment Act amends the *Liquor Act 1992* (Liquor Act) to introduce a new 'commercial other – artisan producer licence' (artisan producer licence) for eligible craft brewers and artisan distillers. An artisan producer licence will allow licensees to:

- sell craft beer or artisan spirits produced on the licensed premises for consumption at the venue, as takeaway (including via online orders), and as wholesale; and
- sell other Queensland craft beer, artisan spirits and wine for on-premises consumption, up to 30% of yearly sales.

To ensure the licence is only available to genuine boutique producers, craft brewers must produce between 2,500 and five million litres of beer per year to be eligible for the licence, while artisan distillers must produce between 400 and 450,000 litres of spirits per year. The maximum limits include beer or spirits produced by any company which is related to the licensee.

In addition, artisan producer licensees must not be 20% or more owned by a large brewer (producing more than 40 million litres of beer per year) or a large distiller (producing more than 2 million litres of spirits per year).

The Amendment Act also enhances the existing framework under the Liquor Act which allows eligible licensees and permittees to market their artisan liquor at promotional events, such as farmers markets. These enhancements include creation of a new artisan spirits producer permit and allowing approved licensees and permittees to sell samples of their liquor at promotional events, rather than being required to give them away for free.

The Amendment Act also makes a number of amendments to the regulatory framework in support of the new artisan producer licence and enhanced promotional events framework. This includes changes to record-keeping and annual return requirements, to demonstrate ongoing eligibility for the artisan producer licence; compliance with the authorities of the licence; and compliance with requirements for attendance at promotional events.

To support these changes, a number of consequential and supporting amendments are required to be made to the Liquor Regulation. These amendments are necessary to ensure the full regulatory framework for artisan liquor will be in place from 4 May 2021. The required consequential and supporting amendments are outlined below.

### Fees

As the Amendment Act introduces a new artisan producer licence and artisan spirits producer permit, amendments are necessary to:

- ensure an annual base liquor licence fee of \$1,050 applies for an artisan producer licence (section 202 of the Liquor Act); and
- ensure an application fee of \$72.95 per day of an event applies to an application for an artisan spirits producer permit (section 105(1)(d) of the Liquor Act).

Amendments are also necessary to give effect to an announced waiver of the 2020-21 annual liquor licence fee for existing licensees wishing to transition to the artisan producer licence. This waiver will only apply to licensees that already had their 2020-21 annual liquor licence fee waived by the *Liquor (Fee Relief) and Other Legislation Amendment Regulation 2020*.

### Record-keeping and annual return requirements

To ensure relevant information relating to ongoing eligibility for the artisan producer licence and compliance with the authorities of the licence is available, amendments are necessary to ensure the following particulars must be included in an annual return lodged by an artisan producer licensee (section 203(4) of the Liquor Act):

- the quantity of liquor produced at the licensed premises;
- the value of total sales by the licensee of the licensee's own liquor;
- the value of total sales by the licensee of liquor produced other than at the licensed premises;
- if the licensee is a corporation:
  - who owns the corporation's shares; and

- who may cast votes, or on whose behalf votes may be cast, at the corporation's general meetings; and
- the quantity of liquor produced by each entity that owns at least 20% of the corporation's shares or who may cast at least 20% of the votes at the corporation's general meetings;

Amendments for the same purpose are also necessary to ensure the following particulars must be contained in a transactions record kept by an artisan producer licensee (section 217(2)(b)(i) of the Liquor Act):

- the quantity of liquor sold;
- the type of liquor sold;
- the sale price of liquor sold; and
- whether or not the liquor was produced on the licensed premises.

Further, to ensure relevant information relating to compliance with requirements for attendance at promotional events is available, amendments are necessary to ensure the following particulars and documents must be included in or accompany an annual return lodged by an artisan producer licensee or producer/wholesaler licensee where the licensee attended a promotional event (section 203(4) of the Liquor Act):

- the name of the promotional event;
- the date of the promotional event;
- a copy of the organiser's written consent for the licensee to sell liquor at the promotional event;
- the value of total sales of liquor sold at all promotional events for consumption away from the event; and
- the value of total sales of liquor sold at all promotional events for the purpose of sampling the liquor.

#### Promotional events

In relation to attendance by approved licensees and permittees at promotional events, to ensure the liquor sold is for the purpose of sampling only, amendments are necessary to limit the maximum size of individual samples of craft beer and artisan spirits that can be sold by approved licensees and permittees at promotional events (sections 74A(7)(b), 74B(7)(b), 75H(4)(b), 75I(4)(b), 103ZA(2)(b) and 103ZF(2)(b) of the Liquor Act). Samples will be limited to 150 millilitres of craft beer or 15 millilitres of artisan spirits.

It is also necessary to ensure a minimum 21 day timeframe applies in respect of when an application for an artisan spirits producer permit must be made, consistent with the timeframe that applies to the craft beer producer permit.

#### Patron facilities

In relation to facilities for patrons on the licensed premises, amendments are necessary to ensure artisan producer licensees must make free, clean and potable drinking water available to each patron of the licensed premises.

## **Achievement of policy objectives**

The Amendment Regulation achieves the policy objective by making the following amendments to the Liquor Regulation. These amendments commence on 4 May 2021.

### Fees

The Amendment Regulation:

- amends section 36A of the Liquor Regulation to prescribe an annual base liquor licence fee for an artisan producer licence of \$1,050;
- amends Schedule 1, item 3 of the Liquor Regulation to prescribe an application fee for an artisan spirits producer permit of \$72.95 per day of an event; and
- inserts a new section 36AB into the Liquor Regulation to waive the 2020-21 annual liquor licence fee for existing licensees that have transitioned to the new artisan producer licence.

### Record-keeping and annual return requirements

The Amendment Regulation:

- inserts a new section 24G into the Liquor Regulation to prescribe the required particulars and documents:
  - for an annual return for an artisan producer licence; and
  - for an annual return for an artisan producer licence or producer/wholesaler licence where the licensee attended a promotional event; and
- amends section 25A of the Liquor Regulation to prescribe the required particulars for a transactions record for a licensee that holds an artisan producer licence.

### Promotional events

The Amendment Regulation:

- inserts new sections 24A to 24F into the Liquor Regulation, to provide that the maximum sample size that can be sold by an approved licensee or permittee to a person at a promotional event is 150 millilitres of craft beer or 15 millilitres of artisan spirits; and
- amends section 5 of the Liquor Regulation to ensure an application for an artisan spirits producer permit must be made at least 21 days prior to the promotional event.

### Patron facilities

The Amendment Regulation amends section 27A of the Liquor Regulation to add an artisan producer licence to the list of licence types where the licensee must ensure clean and potable drinking water is available to each patron of the premises, free of charge.

## **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**

The Amendment Regulation benefits liquor licences that transition to the new artisan producer licence on or before 30 June 2021 by removing the requirement to pay the annual base liquor licence fee of \$1,050 for the new licence for the 2020-21 licence period. It is estimated there are approximately 90 craft brewers and 34 artisan distillers operating in Queensland who may be eligible for an artisan producer licence and the fee waiver.

The fee waiver will not result in an additional cost to Government, as it will only apply to licensees whose 2020-21 annual liquor licence fees have already been waived.

There will be costs associated with updating systems, processes and training staff within the Office of Liquor and Gaming Regulation to accommodate the new licence type. However, these costs will be met from within existing budget allocations.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with fundamental legislative principles.

## **Consultation**

On 2 March 2020, a roundtable meeting was held with key stakeholders, including representatives from the Independent Brewers Association, the Australian Distillers Association, the Queensland Hotels Association and Clubs Queensland. General agreement about the artisan producer licence authorisations was reached at this roundtable.

The amendments contained in the Amendment Regulation have been exempted from regulatory impact assessment.