

2010

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

LIQUOR REGULATION 2010

SUBORDINATE LAW SL2010-40

EXPLANATORY STATEMENT

**Presented by
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Statutory Rules

Overview

The *Liquor Bill 2010* was introduced in the Legislative Assembly on 24 June 2010, passed on 26 August 2010 and notified on 6 September 2010. The *Liquor Act 2010* regulates the sale, supply, promotion and consumption of liquor in a way that minimises harm associated with the consumption of liquor, and in a way that takes into account the safety of the community. The *Liquor Act 2010* will replace the *Liquor Act 1975*.

The object of this regulation is to make statutory rules under the *Liquor Act 2010* with respect to the following matters by prescribing:

- additional information to be included on the liquor licence form;
- licensing conditions which a licensee must comply with under the liquor licence;
- expiry periods for the different types of liquor licence;
- requirements which a licensee must satisfy when displaying a public notice at premises informing the public of an intention to apply for a liquor licence;
- the extent of the public consultation period;
- a new certificate of occupancy if ACTPLA issues a certificate to be provided to the Commissioner for Fair Trading (the commissioner);
- new maximum renewal periods for certain types of liquor licences;
- additional information which must be included on a liquor permit form;
- conditions on a permit which a permit-holder must comply with;
- the factors which the commissioner must consider when having regard to the harm minimisation and community safety principles in deciding the suitability of premises;
- information which must be included in a Risk Assessment Management Plan (RAMP);
- information which must be included in an application to hold a young people's event in an adults-only area of licensed premises;
- approval criteria which the commissioner must be satisfied has been met by a licensee who has applied to hold a young people's event;
- additional information which must be included on the young people's events form;
- conditions which a licensee must comply with if given approval by the commissioner to hold a young people's event;
- how a licensee or permit-holder must display an offence sign at the licensed premises;
- how a sign marking an adults-only area must be displayed at the licensed or permitted premises;
- how an occupancy loading sign must be displayed at the licensed or permitted premises;
- how a breath analysis sign must be displayed at the licensed or permitted premises;
- an exemption from the offence of selling petrol at licensed premises;
- a prohibition on certain promotional or marketing activities related to liquor;
- exemptions from the offence of allowing sexually explicit entertainment at licensed or permitted premises;

- permanent alcohol-free places in the ACT;
- licensed and permitted times for the sale and supply of liquor in the ACT.

This regulation is made under the *Liquor Act 2010*, including sections 30, 31, 32, 34, 36, 42, 54, 55, 88, 95, 96, 97, 98, 109, 123, 126, 134, 136, 137, 140, 198 and 229 (the general regulation-making power).

PART 1 PRELIMINARY

Section 1 Name of regulation

This section names the regulation as the *Liquor Regulation 2010*.

Section 2 Commencement

This section explains that the regulation will commence on the same day as the *Liquor Act 2010*.

Section 3 Dictionary

This section explains that the dictionary at the end of the regulation is part of the substantive provisions of the regulation.

Section 4 Notes

This section makes it clear that the notes in the regulation are explanatory only and do not form part of the substantive provisions of the regulation.

Section 5 Offences against regulation – application of Criminal Code etc

This section makes it clear that other legislation applies to offences against the regulation.

PART 2 LIQUOR LICENCES

Section 6 Licence form – Act, s 30(1)(b)(vii)

This section sets out additional information which the commissioner must include on the licence which is issued to the licensee. It also requires the licence to include a floor plan with licensed areas, public areas, adults-only areas and outdoor dining areas to be identified, as well as occupancy loadings and certain other permits and licences in force for public areas.

Section 7 Licence conditions – Act, s 31(2)(a)

This section sets out the standard licensing conditions which all licensees and licensed premises must comply with under the liquor licence at the premises. Failure to comply could result in action being taken by the commissioner in the ACT Civil and Administrative Tribunal. The conditions are in schedule 1.

Section 8 Licence term – Act, s 32(2)

This section sets out the expiry times for the different types of liquor licences. For example, a low-risk licence for which trade ceases at midnight or low-risk premises with a total occupancy loading

not exceeding 80 people can be issued for up to three years. Licensees who choose to trade past midnight, either to 2am, 4am or 5am will only be able to apply for a 12-month licence, which will expire on 30 November each year after the day it is issued.

Section 9 Public notice requirements – Act, s 34(2)(b)

This section sets out the notice requirements which a licensee must satisfy when displaying a public notice at premises informing the public of an intention to apply for a liquor licence. The section also sets out the information the licensee must include on the written representation statement. This statement gives the public an opportunity to lodge a representation with the commissioner, who will assess the merits of any representations made about the liquor licence application in terms of satisfying the harm minimisation and community safety principles.

Section 10 Public consultation period – Act, s 36(1)(a)

This section gives the public 30 days to make a representation to the commissioner about an application for a new liquor licence.

Section 11 Licence amendment for change to floor plan – Act, s 39

This section requires the licensee to provide a new certificate of occupancy if the ACT Planning and Land Authority issued one for a change to the floor plan, as approved by the commissioner.

Section 12 Licence maximum renewal period – Act, s 42(1)

This section sets out the renewal periods for each type of liquor licence. The 12-month licensing period has been extended to three years for low-risk premises which pose minimal risk to the community and require minimal regulatory supervision.

PART 3 LIQUOR PERMITS

Section 13 Permit form – Act, s 54(1)(b)(vii)

This section prescribes additional information which the commissioner must include when issuing either a commercial or non-commercial permit.

Section 14 Permit conditions – Act, s 55(2)(a)

This section prescribes a condition on a permit in relation to the provision of free water. Failure to comply could result in action being taken by the commissioner in the ACT Civil and Administrative Tribunal.

PART 4 SUITABILITY OF PREMISES FOR LICENCES AND PERMITS

Section 15 Suitability of premises – cumulative impact

This section prescribes the factors which the commissioner must consider having regard to the harm minimisation and community safety principles when deciding the suitability of a liquor licence premises in the local area where there are other licensees.

PART 5 RISK-ASSESSMENT MANAGEMENT PLANS

Section 16 Risk-assessment management plan – Act, s 88

This section lists the information which an applicant for a liquor licence or permit must include in their risk assessment management plan, setting out how they intend to manage and mitigate the risks associated with the sale and supply of liquor at the licensed or permitted premises.

PART 6 YOUNG PEOPLE’S EVENTS

Section 17 Meaning of young people’s event information – pt 6

This section explains the meaning of young people’s event information.

Section 18 Young people’s events – details for application – Act, s 95(2)(b)(v)

This section sets out additional information a licensee must include in an application for approval to hold a young people’s event in an adults-only area of licensed premises

Section 19 Young people’s events – approval criteria – Act, s 96(2)

This section sets out the approval criteria which the commissioner must be satisfied will occur before granting approval for the applicant to hold a young people’s event.

Section 20 Young people’s event form – Act, s 97(1)(b)(vi)

This section prescribes additional information which must be included on a young people’s event approval form.

Section 21 Young people’s events conditions – Act, s 98(a)

This section prescribes conditions which a licensee must comply with in relation to a young people’s event at licensed premises.

PART 7 CONDUCT OF LICENSEES AND PERMIT-HOLDERS

Section 22 Abuse offence sign – Act, s 109(1)(b) and (2)(b)

This section describes how a sign must be displayed at licensed or permitted premises informing the public that it is an offence for a patron to abuse, threaten or intimidate a staff member working at the premises who has refused to sell or supply liquor to an intoxicated person, as part of the responsible service of alcohol principles.

Section 23 Marking adults-only areas – Act, s 123(1)(b) and (2)(b)

This section describes how a sign must be displayed at licensed or permitted premises informing the public that children and young people are not allowed into the adults-only area at licensed or permitted premises.

Section 24 Occupancy loading signs – Act, s 126(1)(b) and (2)(c)

This section describes how a sign must be displayed at licensed or permitted premises so that the public can easily become aware of the total number of people allowed to be in licensed or permitted premises at any one point in time.

Section 25 Incident register – electronic video surveillance

This section prescribes information that must be included in the incidents register.

Section 26 Incident register – commissioner may require inspection

This section allows the commissioner to require a licensee or permit-holder to provide a copy of an incident register at the premises to the commissioner.

Section 27 Breath analysis sign – Act, s 134(1)(c) and (2)(c)

This section describes how a sign about a breath analysis machine must be displayed at licensed or permitted premises so that the public can read it with ease.

Section 28 Sell petrol exemption – Act, s 136(3)

This section allows a liquor licensed premises in the Division of Tharwa to sell petrol at the licensed premises as an exception to the legislation because of its remote location.

Section 29 Prohibited promotional activity – Act, s 137(5)

This section prohibits a number of promotional activities which encourage the rapid or excessive consumption of liquor in line with the new harm minimisation and community safety principles. In particular, it requires internet advertising to include a statement in relation to offences under the Act. This requirement is a minimum and internet sellers of liquor may include more detailed information about offences that apply in other jurisdictions.

Section 30 Location for sexually explicit entertainment – Act, s 140(3)(a)

This section permits sexually explicit entertainment to occur in the three listed exempt ACT locations.

PART 8 MISCELLANEOUS

Section 31 Permanent alcohol free places – Act, s 198(1)

This section prescribes a number of permanent alcohol free places in the ACT to protect children and young people and the general community.

Section 32 Licensed times and permitted times - definitions – Act, s 229(2)(a)

This section provides definitions used in section 33.

Section 33 Licensed times and permitted times – Act, s 229(2)(a)

This section prescribes the licensed and permitted times for the sale and supply of liquor in the ACT.

Section 34 Legislation amended – Schedule 3

This section provides the authority to make consequential amendments related to the *Smoking (Prohibition in Enclosed Public Places) Amendment Act 2009*.

SCHEDULES 1 - 3

Schedule 1, part 1.1 – *Licence conditions* – prescribes the standards which a licensee must meet and comply with in relation to toilets and the security of passageways to toilets at licensed premises.

Schedule 1, part 1.2 – *Buildings and fittings* – prescribes the standards which a licensee must meet and comply with in relation to fittings – their design, placement and operation – for dance floors, serving counters, bars, bottle shops, outdoor dining areas and residential accommodation.

Schedule 1, part 1.3 – *Conduct of licensed premises* – prescribes requirements which a licensee must comply with in relation to approved risk-management plan awareness, awareness of staff about requirements around examination of identification documents and requiring crowd controllers at the premises to be licensed crowd controllers.

Schedule 1, part 1.4. – *Responsible practices in the service, supply and promotion of liquor* – prescribes requirements which a licensee must comply with in relation to the responsible service, supply and promotion of liquor.

Schedule 1, part 1.5 – *Reporting requirements* – prescribes the reports licensees must make to the commissioner and to the chief health officer.

Schedule 1, part 1.6 – *Additional conditions for licences to sell liquor in open containers for consumption at licensed premises* – prescribes conditions around food service, provision of water and safe practices.

Schedule 1, part 1.7 – *Liquor guidelines* – provides that the licensee must comply with the guidelines and ensure that staff and the premises also comply with the guidelines.

Schedule 2 – *Licensed and permitted times* – prescribes the various classes of liquor licence and the licensed times under each class of licence when a licensee is able to sell and supply liquor at the licensed premises. The different trading times relate to the new risk-based licensing framework. It also prescribes the times when a commercial and non-commercial permit-holder can sell and supply liquor at events.

Schedule 3 – *Consequential amendments related to the Smoking (Prohibition in Enclosed Public Places) Amendment Act 2009* – amends this Liquor Regulation to take into account amendments required for an uncommenced Act. Schedule 3 commences on the commencement of that Act (see s 2(3)).