

Queensland



Subordinate Legislation 1992 No. 162

Liquor Act 1992

LIQUOR REGULATION 1992

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PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Liquor Regulation 1992*.

PART 2—EXEMPTIONS

Exemptions from application of Act

- 2.(1) The Act does not apply to—
 - (a) a sale in good faith of spirituous or distilled perfume as perfumery; or
 - (b) a sale of liquor in a refreshment room of Parliament House by permission and under control of the Parliament; or
 - (c) a sale of liquor in the lawful operation of an Australian Defence Force canteen; or
 - (d) a sale in good faith by any apothecary, chemist or druggist of spirits or wine as medicine or for medicinal or chemical purposes; or
 - (e) a sale at auction conducted by a licensed auctioneer—
 - (i) of liquor on behalf of a person who is authorised by the Act to sell the liquor; or
 - (ii) by order of a trustee under the Bankruptcy Act 1966 (Commonwealth), of liquor held by the trustee as trustee under that Act; or
 - (iii) by order of the executor, administrator or trustee of the estate of a deceased person, of liquor that is the property of the deceased's estate; or
 - (iv) by order of the Public Trustee, of liquor that is the property of an estate in course of administration by the Public Trustee; or

- (f) a sale during actual flight of an aircraft that is unlicensed premises of liquor to a passenger on the aircraft made by or on behalf of the operator of the aircraft and for consumption of the liquor during the flight.

(2) The Act does not apply to the carrying or exposure in an aircraft that is unlicensed premises of liquor for sale as permitted by subsection (1)(f).

PART 3—APPLICATIONS

Particulars to be stated fully

3. An application for a licence or permit must state fully the particulars required by the form approved by the chief executive as the form of application for the licence or permit concerned.

Particulars to accompany application for licence

4. An application for a licence must be accompanied by—

- (a) in the case of an application for a general licence, a residential licence or a special facility licence—a typical menu of meals provided or to be provided on the premises to which the application relates; and
- (b) in the case of an application for an on-premises licence for premises where meals are to be provided—a typical menu of the meals; and
- (c) in the case of an application for any licence other than a club licence, a restricted club licence or a producer/wholesaler licence—a description of the general nature and character of the premises to which the application relates; and
- (d) in the case of an application relating to premises on land—a copy of the registered plan of survey and of the instrument of title of the land, and a description of each proposed licensed area on the premises; and

- (e) in the case of an application relating to premises where entertainment is to be provided—details of the type and nature of the entertainment; and
- (f) in the case of an application for any licence other than a producer/wholesaler licence—evidence of the acoustic qualities of the premises to which the application relates; and
- (g) in the case of all applications for a licence—
 - (i) a plan (drawn to scale) of the premises to which the application relates, showing the general layout of the premises; and
 - (ii) a plan showing the location of the premises to which the application relates in relation to adjacent premises; and
 - (iii) verification of the identity of the applicant and the nominee, who, in either case, is a natural person by any means acceptable to the chief executive.

Particulars to accompany application for transfer of licence

5. An application for transfer of a licence must be accompanied by—

- (a) in the case of an application for transfer of a licence other than a restricted club licence—
 - (i) if the current licensee is the holder of a licence to which section 205(2) of the Act applies—a return of all liquor purchased or otherwise obtained for the licensed premises in the period—
 - (A) starting on the day on which the current licensee obtained the licence or 1 July before the day on which the application was made, whichever is later; and
 - (B) ending on the day on which the application is made; or
 - (ii) if the current licensee is the holder of a licence or certificate to which section 205(3) of the Act applies—a return of all liquor sold or supplied under authority of the licence or certificate in the period—
 - (A) starting on the day on which the current licensee

obtained the licence or certificate or 1 July before the day on which the application was made, whichever is later; and

(B) ending on the day on which the application is made; and

(b) in the case of all applications for transfer—

(i) the current licence; and

(ii) verification of the identity of the transferee and the nominee, who, in either case, is a natural person, in any way acceptable to the chief executive.

Time for making application for permits

6. An application for a general purpose permit or an extended hours permit (other than an extended hours permit that would extend trading hours on a regular basis) must be made at least 21 days before the day on which the permit is to take, or first take, effect.

PART 4—APPLICATIONS CONCERNING AREA OF COUNCIL

Application of Part

7. This Part applies to an application for—

(a) the grant of a licence or permit; or

(b) a variation or transfer of a licence or permit;

in relation to premises in a community area of a Council.

Application of other provisions of regulation

8. Parts 3 and 6 apply to an application to which this Part applies.

Requirements for application

9. The application must be—
- (a) made in writing to the chief executive; and
 - (b) signed by the applicant.

Additional requirements for application by Council

10. If the application is made by the Council, the application must be accompanied by—
- (a) particulars of any consultation with residents of the community area; and
 - (b) particulars of any residents' opinions ascertained by the Council in relation to the application.

Notice of application

- 11.(1) If the application is not an application for—
- (a) a general purpose permit; or
 - (b) an extended hours permit (other than an extended hours permit that would extend trading hours on a regular basis);

this section applies to the application.

- (2) The applicant must—
- (a) cause notice of the application to be displayed, by way of a sign—
 - (i) on the premises to which the application relates; and
 - (ii) in at least 1 prominent place in the community area concerned; and
 - (b) ensure that the notice is displayed in accordance with paragraph (a) conspicuously on the premises for 28 days immediately before the last day for making objections to the application.
- (3) The notice must specify—
- (a) the type of the application; and
 - (b) the location of the premises to which the application relates.

(4) The sign must be—

- (a) in a form approved by the chief executive; and
- (b) of such dimensions (including dimensions of the print) as are approved by the chief executive;

either generally or in a particular case.

(5) The applicant must give the chief executive evidence of the display of the sign.

Objection to grant of application

12.(1) If section 11 applies to the application, any adult resident of the community area may object to the grant of the application.

(2) The objection must be made by writing given to the Council on or before the last day for making objections to the application as specified in the notice under section 11.

(3) The objection may be made individually or by petition.

(4) The grounds on which the objection may be made are that, if the application were granted—

- (a) undue offence, annoyance, disturbance or inconvenience to persons who reside or work or do business in the locality concerned, or to persons in travelling to or from an existing or proposed place of public worship, hospital or school is likely to happen; or
- (b) the amenity, quiet or good order of the locality concerned would be lessened in some way.

(5) If the application is made by the Council, the Council must give to the chief executive a copy of each objection given to it within 14 days after the day mentioned in subsection (2).

Requirements for objection by petition

13. If an objection is by petition, the objection may be disregarded unless—

- (a) the first and each subsequent page of the petition bears an

identical heading that clearly specifies the subject matter of the petition, so positioned as 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 address.

Council to consider all objections

14. The Council must consider all objections properly made to it.

Council to make submission concerning application made by another person

15.(1) If the application is referred to the Council for its consideration, the Council must submit to the chief executive, in writing—

- (a) its recommendation as to whether or not the application should be granted; and
- (b) the reasons for its recommendation.

(2) If the application is for—

- (a) a licence other than a club licence or restricted club licence; or
- (b) an extended hours permit that would extend trading hours on a regular basis;

the applicant must satisfy the Council that, having regard to—

- (c) the number and condition of licensed premises already existing in the locality to which the application relates; and
- (d) the distribution of licensed premises already existing throughout the locality; and
- (e) the extent and quality of services provided, or to be provided, by licensed premises already existing; and
- (f) whether the services that would be provided, if the application is granted, could be adequately provided through licensed premises already existing by way of orders of the chief executive or requisitions of investigators; and

- (g) any other relevant matter as to which the Council seeks to be satisfied;

the licence or permit applied for is necessary to provide for the reasonable requirements of the public in the locality to which the application relates for liquor and related services that would be provided if the application were granted.

(3) In considering what the requirements of the public in a locality may be, the Council must take into account the matters mentioned in subsection (2) and must have regard to—

- (a) the population of the locality to which the application relates and the foreseeable population growth in the locality; and
- (b) the number and kinds of persons residing in, resorting to or passing through the locality, or likely in the foreseeable future to do so, and their respective expectations; and
- (c) the extent to which any requirement or expectation—
 - (i) varies during different periods or at different times; and
 - (ii) is lawfully met by other premises, licensed or unlicensed; and
- (d) the likely health and social impact that the grant of an application would have on the population of the locality to which the application relates.

(4) If the applicant fails to satisfy the Council as prescribed by subsection (2), the Council must recommend that the application should not be granted.

(5) The recommendation and reasons must be submitted by the Council to the chief executive within 28 days after the application is referred to the Council.

(6) In deciding the application, the chief executive must have regard to the recommendation and reasons.

(7) In this section—

“licensed premises already existing” includes premises in relation to which an application for a licence or permit to which subsection (2) applies has been granted.

Conference by chief executive

16.(1) If the chief executive considers it desirable that a conference of interested persons be held, the chief executive may participate in a conference with interested persons or their representatives.

(2) For the purposes of subsection (1), an interested person includes—

- (a) the Council; and
- (b) a person who has properly made an objection to the application; and
- (c) any resident of the community area who has, or any body of residents of the community area that has, in the chief executive's opinion, a proper interest in the locality concerned or is likely to be affected by the grant of the application.

Decision by chief executive

17.(1) The chief executive may—

- (a) grant the application; or
- (b) refuse the application.

(2) If the chief executive grants the application, the licence is subject to the conditions (if any) specified in the licence or permit.

(3) If the chief executive refuses the application, the chief executive must notify the applicant in writing of—

- (a) the refusal; and
- (b) the reasons for the refusal.

PART 5—OBLIGATIONS OF LICENSEES AND PERMITTEES

Alteration of licensed premises

18.(1) A prior notice mentioned in section 154(1) of the Act must be

accompanied by—

- (a) a sketch of the layout of the licensed premises showing the alteration; and
- (b) a written description of the extent of the alteration.

(2) If the licensee of licensed premises becomes aware that the owner of the premises or another person proposes to—

- (a) alter or rebuild the licensed premises; or
- (b) increase or decrease the area used for the conduct of business under the authority of the licence;

the licensee must notify the chief executive within 14 days after becoming aware.

Maximum penalty—10 penalty units.

(3) The notification must be accompanied by the sketch and description mentioned in subsection (1).

(4) A licensee must not fail to comply with subsection (3) to the extent that the licensee is capable of complying.

Maximum penalty—10 penalty units.

(5) The licensee of licensed premises that have been altered, whether by the licensee or any other person, must give to the chief executive, within 14 days after completion of the alteration—

- (a) if the alteration has resulted in an increase or decrease in the area used for the conduct of business under the authority of the licence—the licence for endorsement; and
- (b) a sketch of the layout of the licensed premises showing the alteration; and
- (c) a written description of the extent of the alteration.

Maximum penalty—10 penalty units.

Particulars required in record of transactions

19. The particulars that a record of transactions must contain to satisfy the obligation prescribed for a licensee by section 217 of the Act are—

- (a) in the case of all licensees—
- (i) the quantity of liquor (expressed in litres) purchased or otherwise obtained for the licensed premises in each of the categories—
 - beer;
 - wine;
 - spirits; and
 - (ii) the name and business addresses of the persons from whom the liquor was purchased or obtained; and
 - (iii) the gross amount paid or payable for the liquor;
- (b) in the case of a licensee who holds a producer/wholesaler licence, or a limited licence relating to premises used for conduct of a business selling wines by a person who holds a certificate of registration under the *Wine Industry Act 1974* as a vigneron-vintner—
- (i) the quantity of liquor (expressed in litres) sold or supplied under authority of the licence in each of the categories—
 - beer;
 - wine;
 - spirits; and
 - (ii) the name of the person to whom the liquor was sold or supplied; and
 - (iii) the gross amount paid or payable for the liquor.

PART 6—FEES

Particulars required in returns

20. The particulars that a return under section 205 of the Act must contain are—

- (a) in the case of a return under section 205(2) of the Act—
- (i) the quantity of liquor (expressed in litres) purchased or otherwise obtained for the licensed premises in each of the categories—
 - beer;
 - wine;
 - spirits; and
 - (ii) the name and business addresses of the persons from whom the liquor was purchased or obtained; and
 - (iii) the gross amount paid or payable for the liquor.
- (b) in the case of a return under section 205(3) of the Act—
- (i) the quantity of liquor sold or supplied under authority of the relevant licence or certificate in each of the categories—
 - beer;
 - wine;
 - spirits; and
 - (ii) the name of the persons to whom the liquor was sold or supplied; and
 - (iii) the gross amount paid or payable for the liquor.

Liquor excluded from assessment of fees

21. Liquor that is sold or supplied by the holder of a producer/wholesaler licence to the operator of a liquor outlet at an airport controlled by or on behalf of the Commonwealth is a description of liquor to which section 206(d) of the Act applies.

Fees payable for specific purposes

22. Fees are payable to the chief executive as specified in the following Table—

Table

Item for which fee is payable	Amount of fee in dollars
Licences	\$
Application for—	
(a) general licence	1 000
(b) residential licence	1 000
(c) on-premises licence for all purposes other than that mentioned in section 69(1)(g) of the Act	1 000
(d) club licence	1 000
(e) restricted club licence	620
(f) special facility licence	1 000
(g) limited licence	106
(h) temporary licence	96
(i) duplicate licence	68
Application to—	
(a) renew restricted club licence	620
(b) vary licence	96
(c) transfer licence	175
 Permits	
Application for—	
(a) extended hours permit that would extend trading hours on a regular basis	96
(b) any other extended hours permit	24
(c) general purpose permit	24

Miscellaneous applications

Application for—

(a) acceptance of nomination of new or additional nominee	175
(b) approval to let, sub-let or enter into franchise or management agreement in respect of licensed premises	175
(c) authority under section 131 of the Act to conduct business on licensed premises	175
(d) extension of time to comply with condition of provisional grant of licence	175
(e) authority under section 129 of the Act to conduct business under licence	96
(f) approval under section 152 of the Act to conduct business or provide a service on licensed premises	68
(g) approval to change name of licensed premises	46
(h) extension of time for sale of liquor by restricted club	24
(i) registration with chief executive of interest in licensed premises	46
(j) approval of premises for sale of liquor under general licence for consumption off the premises	529

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Search of records

(a) inspection of Register of Licences and Permits	19
(b) as to existence of an order under section 46 of the Act	19

(c)	provision of list of 50 items or fewer	16
(d)	provision of list of more than 50 and fewer than 1500 items	46
(e)	provision of list of 1500 or more items	96
(f)	provision of list of names and addresses on self adhesive labels	460

Additional fee for bars in residential licensed premises and restaurants

23.(1) The additional fee payable by the holder of a residential licence or an on-premises licence as required by section 204 of the Act in respect of a licence period is—

- (a) in the case where the licensed premises were licensed for the whole of the previous financial year—whichever of the following amounts is greater—
 - (i) \$500; or
 - (ii) 20% of the licence fee paid or payable in respect of the licence for the financial year; or
- (b) in any other case—whichever of the following amounts is greater—
 - (i) the amount ascertained in accordance with the following formula—

$$\frac{\text{number of months}}{\$500} \times 12$$

- (ii) 20% of the licence fee assessed by the chief executive in respect of the licensed premises for the licence period in question under section 203(2) of the Act.

(2) In subsection (1)—

“number of months” means the number of calendar months for which the licensed premises were licensed in the previous financial year, including the calendar month in which they became licensed premises.

Minimum licence fee

24. The minimum licence fee payable for a licence period is—

- (a) in the case of a general licence (other than a canteen licence or a spirit merchant's (retail) licence under the repealed Act)—\$2 000;
or
- (b) in the case of any other licence—\$600.

Fee payable where none is otherwise specified

25.(1) A fee of \$68 is payable to the chief executive in relation to any application under the Act for which a fee is not otherwise specified by this regulation.

(2) Subsection (1) does not apply to an application for an on-premises licence in relation to premises of which the primary purpose is their use for the purpose mentioned in section 69(1)(g) of the Act.

ENDNOTES

1. Made by the Governor in Council on 18 June 1992.
2. Published in the Gazette on 19 June 1992.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Tourism, Sport and Racing.