



Queensland

Liquor Amendment Regulation (No. 1) 2006

Explanatory Notes for SL 2006 No. 22

made under the

Liquor Act 1992

1 Short Title

Liquor Amendment Regulation (No. 1) 2006 (the Regulation).

2 Authorising Law

Sections 142AG(a), 142AH(c)(i), 142AI((1)(a), 142AI(2)(a), 142AJ(3), and section 235(2)(b) of the *Liquor Act 1992* (Liquor Act).

3 Objectives of the Legislation

The objective is to amend the regulation to provide for statutory licence conditions as stated in the Brisbane City Safety Action Plan (the Action Plan). The Regulation provides for:

- the number of crowd controllers to patrons ratio for licensed premises;
- the minimum requirements for closed circuit television equipment;
- the information required to be collated for an incident register;

- the information required to be contained in a training register; and
- the information to be contained in a house policy.

4 Reasons for the subordinate legislation

The *Liquor and Other Acts Amendment Bill 2005* (the Bill) contains amendments to the Liquor Act to impose statutory licence conditions on all licensed premises in the Brisbane City Council (BCC) area that are authorised to operate after 1am. These conditions include a requirement that:

- all licensees develop and maintain a Liquor Licensing Division (the Division) approved House Policy;
- licensees must employ sufficient numbers of crowd controllers as outlined under the Regulation;
- all staff must complete *Responsible Service of Alcohol* (RSA) training; and
- Closed Circuit Television (CCTV) is installed at each public entrance and exit.

The amendments to impose statutory licence conditions on all licenses in the BCC area are the most efficient and effective means of imposing uniform regulation. The amendments will enhance community safety through improved standards and increased security measures.

The Bill also contains a number of miscellaneous amendments to the Liquor Act to minimise cumbersome administrative processes, clarify intent and reinforce the objectives of the Act.

Finally, the Bill contains amendments to the *Property Agents and Motor Dealers Act 2000* (PAMD Act). These amendments do not require any consequential changes to the Regulation.

5 Consistency with authorising law

The Regulation is consistent with subsection 235(2)(b) of the Liquor Act which provides that a regulation may be made with respect to obligations of holders of licences or permits, or holders of particular licences or permits.

6 Estimated cost of government implementation

Any financial impact from the development and implementation of initiatives in the Bill will be met from the Department of Tourism, Fair Trading and Wine Industry Development's (DTFTWID) existing budget allocations.

7 Fundamental legislative principles

None of the amendments raise issues relating to Fundamental Legislative Principles.

8 Consultation

(a) Community Consultation

The Premier and Minister for Trade hosted a summit on 25 February 2005 of Ministers, the Lord Mayor of Brisbane, the Lord Mayor of the Gold Coast, licensees, industry representatives, the Queensland Police Service and not-for-profit community organisations to discuss safety concerns and possible solutions to the problem. Key issues raised were policing, licensing arrangements, the success of the lock out provision on the Gold Coast and advertising of discount drinks.

The Brisbane City Safety Action Plan Taskforce, chaired by the Director General of the Department of Tourism, Fair Trading and Wine Industry Development has been consulted on the proposed amendments relating to the implementation of the Brisbane City Safety Action Plan. The Taskforce includes representatives from key stakeholder groups including industry organisations, industry businesses, community groups and the BCC.

Consultation has also taken place with the Liquor Industry Consultative Forum. This forum is also convened by the Director General of the Department of Tourism, Fair Trading and Wine Industry Development with representatives from industry organisations, licensees, social justice groups, industry consultants, and representatives of the Gold Coast City Council, Queensland Health and Queensland Police.

Consultation regarding the proposed ratio for security providers was conducted with the working party for the Office of Fair Trading review of the *Security Providers Act 1993*. This group comprises representatives from the Office of Fair Trading, security industry, unions, Griffith University, the Consumer's Association and representatives from the

Department of the Premier and Cabinet, Queensland Treasury, Department of Justice and Attorney-General and the Division.

The Liquor, Hospitality and Miscellaneous Workers Union have also been consulted.

On the 23 March 2005, the Division mailed a questionnaire to all licensees in the BCC area who have the authority to operate after 1am seeking comment on the proposed amendments. The survey was distributed to approximately 327 licensees with 80 responses received (25% response rate).

During mid June a telephone survey was conducted to canvass licensee's views about three of the proposed amendments and to determine how much of an impact the proposals would have on business. These three items were crowd controllers, CCTV and RSA training. Of the 327 licensees contacted, 152 provided responses (46% response rate).

On 24 June 2005, senior officers of the Division met with representatives of the Brisbane City Licensees Association (BCLA). BCLA is a group of licensees representing the interests of liquor licensees in Fortitude Valley, Caxton Street and the central business district.

Senior officers of the Division have also discussed the proposed amendments with individual licensees and their representatives including liquor consultancy companies.

The proposed amendments were also canvassed in a combined Regulatory Impact Statement/Draft Public Benefit Test (RIS/DPBT), pursuant to the *Statutory Instruments Act 1992* and the National Competition Policy agreements, that was released for public consultation on 22 July 2005 with a closing date for submissions of 22 August 2005.

(b) Results of Consultation

Since the release of the Action Plan, stakeholders have raised a number of concerns regarding the impact of the proposed statutory licence conditions on their businesses. In particular licensees are concerned about the financial impact on their businesses of complying with the crowd controllers ratio. In response to the RIS/DPBT stakeholders expressed a willingness to engage further in best practice venue management in an effort to lessen the ratio. Submissions also identified that the crowd controller ratio, if implemented, would impose considerable costs on their businesses. It was proposed that in situations where venues had extensive CCTV coverage that the ratio should be less onerous. It was also identified that the ratio contained in the RIS/DPBT had been developed prior to

advances in CCTV, which it was contended reduced the need for such a high ratio of crowd controllers to patrons.

In summary most respondents supported the proposed introduction of mandatory RSA training, the House Policy and a ban on competitions however industry associations raised concerns regarding the impact of the proposed crowd controller ratio.

(c) Changes made due to Consultation

In response to these concerns two modifications have been made to the policy. The first modification is to exempt all premises holding an 'on-premises (meals)' licence from the requirement to employ adequate security. This licence category applies to licensed restaurants. The rationale for this shift in policy, is that it is considered that the primary purpose of a restaurant is not the sale of alcohol and that there is little evidence to suggest that restaurants significantly contribute to alcohol related violence.

If restaurants were not exempted from the requirement, all restaurants in the Brisbane City Council area, licensed to trade after 1am, would be required to employ, on all trading nights, a minimum of two licensed crowd controllers from 8pm (regardless of whether they traded beyond 1am on that particular evening). However all restaurants licensed to trade after 1am will be required to install and maintain CCTV and will be captured by the mandatory RSA training requirement.

Exemptions will also apply to the Brisbane Domestic and International Airport, Brisbane Convention Centre, Suncorp Stadium, 'the Gabba' and ANZ Stadium. The rationale behind this decision is that the airports are already a highly regulated environment with extensive security provisions; and the remaining premises have extensive Event Management Plans in conjunction with a number of State Government Departments to ensure the public's safety and well being.

The second modification is to adjust the crowd controller ratio as follows:

- 1 to 100 patrons or part thereof – 1 crowd controller
- more than 100 patrons but not more than 200 patrons – 2 crowd controllers
- more than 200 patrons but not more than 300 patrons – 3 crowd controllers
- more than 300 patrons but not more than 400 patrons – 4 crowd controllers

- more than 400 patrons but not more than 500 patrons – 5 crowd controllers
- plus at least 1 crowd controller for every 250 patrons thereafter

It is considered that this lessened ratio strikes an effective balance between the need to provide adequate security and the need to minimise the potentially onerous impact on business. This reduction of the initially proposed ratio will reduce the financial impost on licensees, especially those from small premises.

Notes on Provisions

Clause 1 sets out the short title by which the Regulation will be known.

Clause 2 provides the commencement date for the Regulation which will be 1 March 2006.

Clause 3 identifies the Liquor Regulation which will be amended.

Clause 4 inserts a new Part 8B into the Regulation. The new Part 8B includes the following new sections 37C, 37D, 37E, 37F, and 37G.

New section 37C outlines the minimum ratios for patrons to crowd controllers as required in subsection 142AG(a) of the Act. Subsection 37C(a) to 37C(f) identifies the ratios as follows:

- not more than 100 patrons—1;
- more than 100 but not more than 200 patrons—2;
- more than 200 but not more than 300 patrons—3;
- more than 300 but not more than 400 patrons—4;
- more than 400 but not more than 500 patrons—5;
- more than 500 patrons—5, plus at least 1 crowd controller for each 250 patrons, or part of 250, more than 500.

New section 37D provides the minimum requirements for closed circuit television equipment as required in subsection 142AH(c)(i) of the Act. Subsection 37D(a) states that the equipment must be installed in a way that clearly records, at each entrance and exit of the premises, which provides access for patrons, all patrons entering and exiting the premises, and any

interaction between the patrons and a crowd controller or staff of the premises. Subsection 37D(b) provides that each recording must display the time and date of the recording.

New section 37E outlines the information required to be noted for an incident in an incident register as required in subsection 142AI(1)(a) of the Act. Subsection 37E(a) to 37E(f) provides that the following information must be noted:

- the date and time of the incident;
- a description of where in the premises the incident happened;
- a description of each person involved in the incident, including the patrons name if obtainable;
- the details of the incident;
- the details of any injuries sustained by persons in the incident;
- and
- the details of action taken by the member of staff, including crowd controllers, in response to the incident.

New section 37F prescribes what must be recorded in a training register as required in subsection 142AI(2)(a) of the Act. Subsection 37F(a) states that the expiry of each certificate must be written in the register. Subsection 37F(b) provides that a check-list must be kept which identifies that each member of staff has lodged their current training course certificate with the licensee. Subsection 37F(c) requires that each member of staff engaged at the premises, including crowd controllers, must have read the house policy for the licensed premises.

New section 37G outlines the matters which must be addressed in the House Policy as required in subsection 142AJ(3) of the Act. Subsection 37G(a) to 37G(j) prescribes the matters as:

- responsible service of liquor at the licensed premises or premises to which a permit relates;
- dealing with minors on the premises;
- dealing with unduly intoxicated and disorderly patrons of the premises;
- security arrangements for the premises;
- training staff of the premises;
- promotional activities for the premises;

- responsible hospitality practices for the premises;
- noise on, and the amenity of, the premises;
- consultation with community and liquor industry groups about the conduct of business at the premises; and
- ensuring the conduct of business at the premises complies with the Act and other laws.

Clause 5 amends the Schedule 2 Dictionary and inserts the definition of House Policy in the Regulation. This definition provides that the ‘house policy’ is a document containing information about the procedures and practices, for the conduct of business at the premises.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Tourism, Fair Trading and Wine Industry Development.