



Queensland

# Liquor and Other Legislation Amendment Regulation (No. 1) 2008

## Explanatory Notes for SL 2008 No. 418

made under the

*Gaming Machine Act 1991*

*Keno Act 1996*

*Land Act 1994*

*Liquor Act 1992*

*Prostitution Act 1999*

*Wagering Act 1998*

---

### Short title

*Liquor and Other Legislation Amendment Regulation (No. 1) 2008 (the amendment regulation).*

### Authorising law

- Section 235 of the *Liquor Act 1992*
- Section 366 of the *Gaming Machine Act 1991*
- Section 243 of the *Keno Act 1996*
- Section 448 of the *Land Act 1994*
- Section 140 of the *Prostitution Act 1999*
- Section 312 of the *Wagering Act 1998*

## **Objectives of the legislation**

The objective of the legislation is to give effect to reforms resulting from the review of the *Liquor Act 1992*. These reforms include the introduction of risk-based annual licence fees which seek to cover the direct costs to government of regulating the liquor industry.

In addition to annual licence fees, the regulation will provide for amendments to the fee schedule to reflect new licence and permit categories and increase existing application fees by 4.8% in line with the CPI increase for the period March 2007 to March 2008. Several fees are also being increased to better recover costs for administrative processes within the Office of Liquor, Gaming and Racing.

## **Reasons for the subordinate legislation**

On 10 September 2008, the *Liquor and Other Acts Amendment Bill 2008* was passed by Parliament. The aim of the Bill was to implement recommendations arising from the review of the *Liquor Act 1992*, including enhancement of the role of harm minimisation, increasing administrative efficiency, and clarifying existing provisions.

The licence type and fee restructure will commence on 1 January 2009 to allow for the collection of annual licence fees for the second half of the 2008–09 financial year.

## **Consistency with authorising law**

The amendment regulation is consistent with the relevant authorising laws viz section 235 of the *Liquor Act 1992*, section 366 of the *Gaming Machine Act 1991*, section 243 of the *Keno Act 1996*, section 448 of the *Land Act 1994*, section 140 of the *Prostitution Act 1999* and section 312 of the *Wagering Act 1998*.

## **Estimated cost of government implementation**

Any expenditure associated with implementation of the regulation will be met through existing budget allocations.

## **Fundamental legislative principles**

The proposed regulation is consistent with fundamental legislative principles.

## **Results of consultation**

### ***(a) Community***

A Regulatory Impact Statement (***RIS***) and Draft Public Benefit Test (***DPBT***) for the *Liquor Act 1992* and *Liquor Regulation 2002* was released for public consultation on 14 February 2008. Over 8,400 submissions to the RIS/DPBT were received by the closing date of 13 March 2008.

There was majority industry support for the Government's preferred policy positions except the introduction of annual licence fees and changes to trading hours.

### ***(b) Government***

All relevant government agencies have been consulted through Cabinet Legislation and Liaison Office network. The Office of the Queensland Parliamentary Counsel has drafted the amendment regulation.

## **NOTES ON PROVISIONS**

*Section 1* provides for the short title of the regulation.

*Section 2* provides for the regulation to commence on 1 January 2009.

*Section 3* provides for the amendment of the *Liquor Regulation 2002*.

*Section 4* amends section 4 by omitting references to nominees and replacing superseded licence types with the relevant new licence categories.

*Section 5* amends section 5 to replace superseded licence and permit categories.

*Section 6* omits section 6 due to catering away permits no longer being an available permit.

*Sections 7–9* amend sections 7–9 respectively, to align with the renumbered provisions of the *Liquor Act 1992*. Section 7 is further amended to remove reference to the superseded on-premises (meals) licence category.

*Section 10* amends section 11 by omitting reference to a ‘general licence’ and replacing it with ‘commercial hotel licence’ and aligns with renumbered section 60(1)(d)(ii) of the *Liquor Act 1992*.

*Section 11* amends the part 4 heading to correspond with the new category of ‘community club licence’.

*Section 12* amends section 16 to align with the section number containing the definition of ‘other premises’ in the *Liquor Act 1992*.

*Sections 13 and 14* amend sections 17 and 21 respectively by changing the name of the relevant licence category to ‘community club licence’. Section 21 is further amended to align with the section number containing the definition of ‘other premises’ in the *Liquor Act 1992*.

*Section 15* amends section 25 to require transaction records maintained by the holder of a producer/wholesaler licence to include liquor acquired or supplied by the licensee. Section 25 is further amended by the addition of categories of liquor under which a licensee is required to keep records.

*Section 16* inserts a new section 25A which provides for the particulars required in transaction records for licensees other than the holder of a producer/wholesaler licence.

*Section 17* omits section 26 which is already provided for in section 203 of the Act.

*Section 18* amends section 27 by clarifying that details about meals and beverages are only required to be recorded only by the holder of a commercial other licence for which the principal activity is the provision of meals.

*Section 19* amends section 29 by replacing the heading with ‘Prescribed conditions for permits’ and to align with renumbered section 103P(2) of the *Liquor Act 1992*.

*Section 20* amends section 30 to align with renumbered section 103Q(c) of the *Liquor Act 1992*.

*Section 21* amends section 31 by removing the reference to a nominee.

*Section 22* replaces part 8 (Fees).

Division 1 inserts a new section 36 that provides for a licence fee for a licence for a licence period, which is comprised of the base fee for the licence and the fee for each risk criterion that applies to the licence. A fee for a new licence is reduced on a pro-rata basis based on the number of remaining months in the licence period after the grant of the licence. Additionally, the holder of a provisional licence is exempt from the annual licence fee.

A new section 36A provides the base fees for licences.

A new section 36B provides for the risk criterion of 'extended trading hours' on a seven day or 'weekend only' basis. 'Weekend only' means an approval that only authorises extended trading hours for Saturday and Sunday.

A new section 36C provides for the risk criterion of 'provision of meals', clarifying the circumstances in which this fee is payable and licensees to whom this criterion does not apply.

A new section 36D provides that the fees payable under the *Liquor Act 1992* other than those in relation to the tribunal or the licence fee for a licence period are stated in schedule 1 or are otherwise set at \$80.

Division 2 provides the day for payment of licence fees.

A new section 36E prescribes the day for payment of a licence fee as being 28 days after an applicant is given notice of the grant of a new licence or otherwise 31 July each licence period.

Division 3 provides for the self-assessment of licence fees.

A new section 36F provides that the licence fee must be self-assessed by a licensee.

A new section 36G provides for the information that a licensee must provide to the chief executive about a self-assessment.

Division 4 provides for the reassessment of licence fees.

A new section 36H clarifies that the purpose of division 4 is to provide for the reassessment of licence fees.

A new section 36I provides for reassessment of licence fees by the chief executive. A reassessment may be conducted on the chief executive's own initiative and must be conducted on application by a licensee.

A new section 36J provides for the circumstances under which a licensee may apply for reassessment of a licence fee.

A new section 36K provides for the chief executive to give written notice of a reassessment to a licensee if the fee determined is different to the self-assessment conducted by the licensee and requirements relating to the notice.

Division 5 provides for consequences of failing to pay licence fees.

A new section 36L provides that if the licence fee is not paid by the due date, the licence is automatically suspended for a period of 28 days. The licence is cancelled if the annual licence fee is not paid before the end of the suspension period. Payment of the fee within the suspension period ends the suspension of the licence.

Division 6 provides for appeals to the tribunal about failure to pay a licence fee.

A new section 36M clarifies the purpose of division 6.

A new section 36N provides the grounds on which a licensee may appeal to the tribunal, how an appeal is started and clarifies that if a notice of appeal has been filed with the tribunal, the licence will not automatically be cancelled at the end of the 28 day suspension period, but continues suspended until it is restored or cancelled by the decision of the tribunal.

A new section 36O provides for the powers of the tribunal relating to an appeal.

Division 7 provides for exemptions from payment of certain application fees.

A new section 36P provides an exemption for an applicant from payment of a fee relating to certain Anzac Day related applications.

*Section 23* replaces section 37F, specifying the expiry date of each training course certificate kept by the licensee or permittee as the information to be contained in the licensee's training register for the purposes of section 142AI(2)(a) of the Act.

*Section 24* omits section 37G due to house policies being superseded by risk-assessed management plans.

*Section 25* amends section 37H to remove references to 'premises to which a permit relates' and to align with the relevant renumbered sections of the *Liquor Act 1992*.

*Section 26* inserts a new section 38A which prescribes matters for a risk-assessed management plan.

*Section 27* amends section 39 to align with the relevant renumbered sections of the *Liquor Act 1992*.

*Section 28* inserts a new section 39A which prescribes the information to be contained in a licensee's training register.

*Section 29* inserts a new section 42 which prescribes golf and lawn bowls as sports for community clubs for the purposes of applying for an extended hours permit or extended trading hours approval between 7a.m. and 9a.m.

A new section 43 is also inserted which prescribes South Bank Parklands as a public place where the consumption of liquor is prohibited

*Section 30* inserts a new part 12, 'Transitional provisions for the Liquor and Other Acts Amendment Act 2008'. A new section 59 provides for initial licence fees. This section clarifies that an initial licence fee applies to a licensee who under section 289(2) of the Act, is taken to hold a column 2 licence. The licence fee for the licence for the licence period ending 30 June 2009 is half the annual licence fee under section 36. The date for payment of the licence fee is 2 March 2009.

A new section 60 provides for exemptions from payment of application fees. This section applies to a licensee who under section 289(2) of the Act is taken to hold a commercial special facility licence and applies for a commercial other licence before 1 January 2010. This section also applies to a licensee who under section 289(2) of the Act is taken to hold a community club licence and applies for a community other licence before 1 January 2010.

*Section 31* replaces schedule 1 (Fees).

*Section 32* amends schedule 2 (Dictionary) to omit the definition of 'house policy'.

*Section 33* provides for the amendment of the *Gaming Machine Regulation 2002*.

*Section 34* amends section 57(b) by updating the licence category reference to 'commercial special facility licence' and by changing the applicable conditions for prescribed liquor licences.

*Section 35* amends schedule 1 by omitting reference to the 'Liquor Licensing Division, Queensland' and inserting the 'Office of Liquor, Gaming and Racing, Queensland'.

*Section 36* amends schedule 6 by omitting item 5 which relates to a surrendered licence and updates the relevant licence category to ‘commercial special facility’.

*Section 37* provides for the amendment of the *Keno Regulation 2007*.

*Sections 38, 39 and 40* amend sections 4, 8 and 10 respectively by omitting references to the former categories of ‘club licence’ and ‘general licence’ and replacing them with ‘community club licence’ and ‘commercial hotel licence’.

*Section 41* amends schedule 1 by omitting reference to the ‘Liquor Licensing Division, Queensland’ and inserting the ‘Office of Liquor, Gaming and Racing, Queensland’.

*Section 42* amends schedule 4 by omitting references to the former categories of ‘club licence’ and ‘general licence’ and replacing them with ‘community club licence’ and ‘commercial hotel licence’.

*Section 43* provides for the amendment of the *Land Regulation 1995*.

*Section 44* amends section 14 by omitting reference to the former category of ‘club licence’ and replacing it with the new category of ‘community club licence’.

*Section 45* provides for the amendment of the *Prostitution Regulation 2000*.

*Section 46* amends schedule 1 by omitting reference to the ‘Liquor Licensing Division, Queensland’ and inserting the ‘Office of Liquor, Gaming and Racing, Queensland’.

*Section 47* provides for the amendment of the *Wagering Regulation 1999*.

*Section 48* amends section 3 to update the definitions affected by the new ‘commercial special facility licence’ category.

*Section 49* amends section 11 to update the licence category reference to ‘commercial special facility licence’.

*Section 50* amends schedule 1 by omitting reference to the ‘Liquor Licensing Division, Queensland’ and inserting the ‘Office of Liquor, Gaming and Racing, Queensland’.



ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Treasury Department.

© State of Queensland 2008