

Liquor Amendment Regulation (No. 5) 2014

Explanatory notes for SL 2014 No. 318

made under the

Liquor Act 1992

General Outline

Short title

Liquor Amendment Regulation (No. 5) 2014

Authorising law

Sections 173EE, 173EK, 173EN, 173EO, 173EQ and 235 of the *Liquor Act 1992* (the Act)

Policy objectives and the reasons for them

The Safe Night Out Strategy is a comprehensive action plan to restore responsible behaviour and respect in and around licensed premises. It includes the implementation of a range of initiatives aimed at addressing alcohol and drug-related violence and anti-social behaviour including the introduction of networked ID scanners in safe night precincts.

As-yet-uncommenced provisions of the *Safe Night Out Legislation Amendment Act 2014* (the Amendment Act) will amend the Act to provide that a late-trading licensed venue in a safe night precinct must not, during the premises' regulated hours (10pm to closing), admit a patron without first scanning that patron's ID and assessing any banning information returned by the system. The requirement will apply to those licensed venues that are approved to sell or supply liquor on the premises at any time between 12 midnight and 5am as well as those licensed venues that have been conditioned to adhere to the ID scanning requirement.

To ensure that licensees are technologically able to perform these ID scanning duties by the intended commencement date of mid-2015, recently commenced provisions of the Amendment Act provide for the evaluation and approval of ID scanners and ID scanning systems, and the approval of approved operators (who will centrally operate the networked ID scanner system/s). The commencement of these provisions brings into effect a number of application and evaluation processes for which the commissioner may charge a fee.

Additionally, the commencement of section 173EE of the Act (as inserted by clause 74 of the Amendment Act) provides a regulation-making power that allows certain classes

of licensee to be prescribed as an “exempt class” for the purposes of the ID scanning requirement.

The policy objective of the *Liquor Amendment Regulation (No. 5) 2014* (Amendment Regulation) is therefore to amend the *Liquor Regulation 2002* to:

- prescribe classes of licence as exempt classes for Part 6AA of the Act (section 173EE);
- prescribe the fees that the commissioner may charge for carrying out an evaluation of an ID scanner or an evaluation of a modified ID scanner (section 173EN);
- prescribe the fees that the commissioner may charge for carrying out an evaluation of an ID scanning system or an evaluation of a modified ID scanning system (section 173EO);
- prescribe the fee that must accompany an application for approval to operate an approved ID scanning system (section 173EQ);
- prescribe the fee that must accompany a change of executive officers notice (for an approved operator) (section 173EK).

Exempt licence classes

The ID scanning requirement does not apply to premises whose licence is of an exempt class, unless otherwise conditioned by the commissioner. An exempt class is defined under the Amendment Act to mean a class of licence prescribed by regulation as an exempt class.

Section 235 of the Act provides that a “class” of licensees may be defined with reference to:

- a particular type of licence or permit;
- the times at which liquor may be sold on premises;
- the principal activity of a business conducted on licensed premises;
- another appropriate matter.

Accordingly, this Amendment Regulation proposes that the future ID scanning requirement will not apply to licence categories that are low-risk (such as those held by a restaurant or café), or licence types associated with venues that already have in place high security and surveillance measures over and above what would normally be found in other liquor licensed venues. Casinos and convention centres fall into the latter category.

Approved operator application fee

Under the Amendment Act, a fee is to be paid by a person seeking approval to operate an approved ID scanning system. The commissioner may grant the application if he is satisfied that the applicant is not a licensee or an associate of a licensee, and is a suitable person to operate an approved ID scanning system.

It is proposed that a fee be charged for an approved operator application to recover the costs of undertaking the required investigations to assist the commissioner with his determination of the application.

Change of executive officer notice fee

The commissioner may grant an applicant approval to operate an approved ID scanning system under the Amendment Act if he is satisfied that each executive officer of the applicant (if the applicant is a corporation) is a suitable person. If there is a change to the approved operator's executive officers, the approved operator must provide the commissioner with a written notice of the change and pay a fee.

It is proposed that a change of executive officers notice be accompanied by a fee to recover the cost of undertaking a probity investigation as well as a criminal history check on the newly appointed executive officers.

ID scanner/scanning system evaluation fees

The Amendment Act provides that the commissioner may carry out an evaluation for an ID scanner/scanning system and charge a fee or direct an applicant to have their ID scanner/scanning system evaluated by an external approved evaluator.

It is envisaged that the level of technical expertise and assessment required to evaluate ID scanners/scanning systems will be similar to that needed for the evaluation of gaming systems. Where the commissioner undertakes an evaluation of an ID scanner/scanning system (including in circumstances where additional evaluation work is required after an initial evaluation by an external evaluator), it is proposed that the commissioner charge the same previously approved evaluation fees as currently charged for the evaluation of gaming equipment.

Achievement of policy objectives

The policy objectives are achieved by prescribing in the *Liquor Regulation 2002* –

- for section 173EE of the Act, the classes of licence deemed to be exempt from the ID scanning requirement;
- for section 173EK of the Act, the fee to be accompanied by a change of executive officer notice;
- for section 173EN of the Act, the evaluation fees that may be charged by the commissioner for carrying out an evaluation of an ID scanner or modification of an ID scanner;
- for section 173EO of the Act, the evaluation fees that may be charged by the commissioner for carrying out an evaluation of an ID scanner system or modification of an ID scanner system; and
- for section 173EQ of the Act, the fee to be accompanied by an application for approval to operate an approved ID scanning system.

Consistency with policy objectives of authorising law

The subordinate legislation is consistent with the objectives of the primary legislation.

Inconsistency with policy objectives of other legislation

The subordinate legislation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

Each safe night precinct board will be able to apply for funding out of the \$8 million pool of funds set aside to fund initiatives to address alcohol-related violence. These funds may be used to assist with the purchase or lease of approved ID scanners depending on local need.

Consistency with fundamental legislative principles

The subordinate legislation is consistent with fundamental legislative principles.

Consultation

The Office of Best Practice Regulation has advised that the Amendment Regulation does not require a Regulatory Impact Statement.

The Department of the Premier and Cabinet and Queensland Treasury and Trade have been consulted and have no issues with the Amendment Regulation.