

Liquor (Regulated Car Parks) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 41

Made under the

Liquor Act 1992

General Outline

Short Title

Liquor (Regulated Car Parks) Amendment Regulation 2018.

Authorising law

Sections 58A and 235 of the *Liquor Act 1992*.

Policy objectives and the reasons for them

The policy objective of the *Liquor (Regulated Car Parks) Amendment Regulation 2018* (Amendment Regulation) is to amend section 3FA of the *Liquor Regulation 2002* (Liquor Regulation) to ensure a licensee of a regulated premises is not obliged to scan photo identification (ID) of patrons who are entering a regulated car park on the premises that is not being used for the sale, supply or consumption of liquor.

ID Scanning

Under section 173EF of the *Liquor Act 1992* (Liquor Act), “regulated premises” are those licensed premises located within a safe night precinct, that are not of an exempt class, where the licensee is authorised under a permanent extended trading hours approval to sell or supply liquor anytime between midnight and 5am.

Under section 173EH(1) of the Liquor Act, licensees must not allow a person to enter the regulated premises as a patron during regulated hours unless their photo ID is scanned by an approved ID scanner, and the scan indicates the person is not subject to a banning order issued by the Queensland Police Service or imposed by a court. “Regulated hours” are defined in section 173EH(9) as the period during which the regulated premises is open for business between 10pm and 5am under the authority of a licence, extended hours permit or extended trading hours approval (or another period conditioned on the licence).

Under section 173EH(8) of the Liquor Act, the ID scanning requirement does not apply to a patron entering a premises or part of the premises if the licence is subject to a condition declaring the premises or part of the premises not to be regulated premises.

Regulated car parks

A “regulated car park”, for licensed premises, is defined in section 4 of the Liquor Act as a car park, or part of a car park, that is in or on the licensed premises. Under section 142ZZE of the Liquor Act, a licensee must not allow liquor to be sold, supplied or consumed in a regulated car park unless authorised under an approval issued by the Commissioner for Liquor and Gaming (Commissioner).

ID scanning provisions for regulated car parks

The wording of section 173EH(1) of the Liquor Act requires that a licensee for a regulated premises must ensure, during regulated hours, a person’s photo ID is scanned prior to entering any part of a licensed premises.

Accordingly, where a regulated premises includes a regulated car park, section 173EH requires that all patrons should have their ID scanned prior to entering the car park. However, while scanning patron IDs upon entry to a regulated car park is warranted where a car park approval is in place to sell, supply or consume liquor in that area, it is not necessary when the regulated car park is being used solely as an area to park cars.

Therefore, an additional licence condition has been developed to provide that a regulated car park is not regulated premises, other than on the days and during the hours stated in a car park approval relating to the regulated car park. This condition will ensure that licensees of regulated premises will only have to scan patron IDs on entry to the premises’ regulated car park when the car park is subject to a car park approval.

Under the regulation-making power of section 58A(1) of the Liquor Act, a licence is subject to the conditions imposed under a regulation. Section 58A(2) clarifies that any condition that may be imposed on the licence by the Commissioner may be prescribed under regulation. Further, section 58A(3) and (4) specify that licence conditions may be prescribed for all licences, all licences in a particular area, a particular class of licence, or a particular class of licence in a particular area.

It is intended that the additional licence condition should apply to all licensees of regulated premises with a regulated car park. Accordingly, the Amendment Regulation amends the Liquor Regulation to prescribe the additional licence condition for “licences for regulated premises with a regulated car park” class of licence, in accordance with section 58A of the Liquor Act.

It is considered that prescribing a condition declaring a regulated car park is not a regulated premises, other than on the days and during the hours stated in a car park approval granted for the regulated car park, will ensure consistency and clarity for licensees operating ID scanning systems.

Achievement of policy objectives

The Amendment Regulation achieves the policy objectives by amending section 3FA of the Liquor Regulation to prescribe a condition clarifying ID scanning requirements in respect of regulated car parks.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the main policy objectives of the Liquor Act and the ID scanning regime.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

There are no costs associated with the implementation of this Amendment Regulation.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

In accordance with the Queensland Government Guide to Better Regulation, the Department sought an exclusion from the Office of Best Practice Regulation (OBPR) from undertaking further regulatory impact analysis under category (k) – *Regulatory proposals designed to reduce the burden of regulation, or that clearly do not add to the burden, and it is reasonably clear there are no significant adverse impacts*. OBPR considered the proposal would not add to the burden of regulation and should not be subject to further assessment.