

South Australia

Liquor Licensing (General) Variation Regulations 2012

under the *Liquor Licensing Act 1997*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Liquor Licensing (General) Variation Regulations 2012*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Liquor Licensing (General) Regulations 1997*

4—Substitution of Part 5

Part 5—delete the Part and substitute:

Part 5—Fees

16—Annual fees

- (1) For the purposes of section 50A of the Act and subject to subregulation (3), the annual fee for a licence is payable on or before 30 June in each year and is payable in advance in respect of the following financial year (that is, the 12 months commencing on 1 July and ending on the following 30 June).
- (2) However, the annual fee payable under section 50A of the Act in respect of the 2012/2013 financial year is payable on or before 31 December 2012.
- (3) If, on 31 December 2012 or on 30 June in any subsequent year, a licence is suspended (other than for disciplinary reasons), the annual fee for the licence is not payable on or before that day in that year, but, if the licence ceases to be suspended during the following financial year, the annual fee for the licence in respect of that financial year is payable 28 days after the day on which the licence ceases to be suspended.
- (4) The annual fee payable under subregulation (3) is to be adjusted on a pro rata basis by applying the proportion that the number of months from the cessation of the suspension until the next 30 June bears to 12 (with part of a month being counted as a whole month).
- (5) Despite Schedule 1, no fee is payable for an application for a variation of trading hours or the imposition, variation or revocation of a licence condition so as to reduce the trading hours or reduce the capacity of the licensed premises contemplated by the licence and effect a reduction in the annual fee for the licence.

17—Waiver, reduction or refund of fees

The Commissioner may, in his or her absolute discretion, waive, reduce or refund fees in exceptional circumstances that, in the opinion of the Commissioner, warrant the exercise of the discretion.

5—Substitution of Schedule 1

Schedule 1—delete the Schedule and substitute:

Schedule 1—Application fees

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| 1 | Application for the grant of a licence other than a limited licence | \$473.00 |
| 2 | Application for the grant of a limited licence— | |

(a)	if the licence is sought for 1 function lasting 1 day or less	\$39.50
(b)	if the licence is sought for more than 1 function held on the same day (for each function)	\$39.50
(c)	if the licence is sought for 1 or more functions lasting more than 1 day (for each day of each function or part of a day)	\$39.50
	However, no fee is payable for an application for a limited licence if the licence is granted for a function or functions that, in the opinion of the licensing authority, are to be held for charitable or other community purposes.	
3	Application for an extended trading authorisation	\$473.00
4	Application for removal of a licence	\$473.00
5	Application for transfer of a licence	\$473.00
6	Application for—	
(a)	approval of an alteration or proposed alteration to licensed premises	\$102.00
(b)	redefinition of licensed premises as defined in the licence	\$102.00
(c)	designation of part of licensed premises as a dining area or reception area	\$102.00
7	Application for authorisation to sell liquor in an area adjacent to licensed premises	\$102.00
8	Application for a variation of trading hours or for the imposition, variation or revocation of a condition of the licence	\$473.00
9	Application for approval of a natural person or persons as the manager or managers of the business conducted under the licence or the assumption by a person of a position of authority in the trust or corporate entity that holds the licence—	
(a)	if the person is the subject of an approval of the Commissioner in force under section 37 or 38 of the <i>Gaming Machines Act 1992</i>	no fee
(b)	in any other case	\$102.00
10	Application for conversion of a temporary licence into an ordinary licence	\$473.00
11	Application for consent of the licensing authority to use part of the licensed premises or area adjacent to the licensed premises for the purpose of providing entertainment	\$473.00
12	Additional fee on an application where an identification badge is issued	\$17.30
13	Application for approval to act as a crowd controller for licensed premises	\$102.00

Schedule 1AA—Licence fees, annual fees and default penalties

1	Licence fee on grant of a limited licence if the application for the licence is made on or after 1 January 2013 and—	\$700.00
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- (a) the licence authorises the sale or supply of liquor past 1 am, the licensed premises are outdoors and the licence states the maximum capacity of the licensed premises as a number of persons exceeding 300; or
- (b) the licence contemplates boxing, wrestling or other entertainment that, in the opinion of the licensing authority, should be regarded as adult entertainment being provided at the licensed premises during the whole or part of the hours that the licence authorises the sale or supply of liquor; or
- (c) the licence authorises the sale or supply of liquor past 1 am and the product of the number of persons stated in the licence as the maximum capacity of the licensed premises and the number of days on which the licence authorises the sale or supply of liquor exceeds 1 000; or
- (d) the product of the number of persons stated in the licence as the maximum capacity of the licensed premises and the number of days on which the licence authorises the sale or supply of liquor exceeds 5 000; or
- (e) the licensing authority determines on other grounds that the nature of the special occasion or series of special occasions to which the licence will relate has required or will require the devotion of significant resources for the purposes of the administration or enforcement of the Act in relation to the licence.

However, no fee is payable if—

- (a) no fee was payable for the application for the licence; or
- (b) the licence is granted to the holder of a licence (other than a limited licence) and the licensed premises of the limited licence comprise the whole or a part of the licensed premises of the other licence held by the licensee.

The Commissioner may refund a licence fee if the special occasion or series of special occasions to which the licence relates is cancelled and significant resources have not been devoted for the purposes of the administration or enforcement of the Act in relation to the licence.

For the purposes of this item, a licence authorises the sale or supply of liquor past 1 am if it authorises the sale or supply of liquor immediately before and immediately after 1 am on any 1 or more days.

2 Annual fee for a licence—

- (a) for a hotel licence or entertainment venue licence—
 - (i) if the licence does not authorise the sale or supply of liquor past 2 am and states the maximum capacity of the licensed premises as a number of persons not exceeding 200 level 1 fee
 - (ii) if the licence does not authorise the sale or supply of liquor past 2 am and states the maximum capacity of the licensed premises as a number of persons exceeding 200 level 2 fee
 - (iii) if the licence authorises the sale or supply of liquor past 2 am and states the maximum capacity of the licensed premises as a number of persons not exceeding 200 level 3 fee

- (iv) if the licence authorises the sale or supply of liquor past 2 am and states the maximum capacity of the licensed premises as a number of persons exceeding 200 but not exceeding 400 level 4 fee
- (v) if the licence authorises the sale or supply of liquor past 2 am and states the maximum capacity of the licensed premises as a number of persons exceeding 400 level 5 fee
- (b) for a club licence (other than a limited club licence)—
 - (i) if the licence does not authorise the sale or supply of liquor past 2 am and states the maximum capacity of the licensed premises as a number of persons not exceeding 1 000 level 1 fee
 - (ii) if the licence does not authorise the sale or supply of liquor past 2 am and states the maximum capacity of the licensed premises as a number of persons exceeding 1 000 level 2 fee
 - (iii) if the licence authorises the sale or supply of liquor past 2 am and states the maximum capacity of the licensed premises as a number of persons not exceeding 1 000 level 3 fee
 - (iv) if the licence authorises the sale or supply of liquor past 2 am and states the maximum capacity of the licensed premises as a number of persons exceeding 1 000 level 5 fee
- (c) for a residential licence or restaurant licence—
 - (i) if the licence does not authorise the sale or supply of liquor past 2 am level 1 fee
 - (ii) if the licence authorises the sale or supply of liquor past 2 am and states the maximum capacity of the licensed premises as a number of persons not exceeding 200 level 2 fee
 - (iii) if the licence authorises the sale or supply of liquor past 2 am and states the maximum capacity of the licensed premises as a number of persons exceeding 200 level 4 fee
- (d) for a producer's licence—
 - (i) if the licence does not authorise consumption of liquor on the licensed premises level 1 fee
 - (ii) if the licence authorises consumption of liquor on the licensed premises and—
 - (A) the licence does not authorise the sale or supply of liquor past 2 am level 1 fee
 - (B) the licence authorises the sale or supply of liquor past 2 am and states the maximum capacity of the licensed premises as a number of persons not exceeding 200 level 2 fee
 - (C) the licence authorises the sale or supply of liquor past 2 am and states the maximum capacity of the licensed premises as a number of persons exceeding 200 level 4 fee
- (e) for a retail liquor merchant's licence, wholesale liquor merchant's licence or direct sales licence level 2 fee

- (f) for a special circumstances licence for a bus, limousine, boat, train, aeroplane, caterer or retirement village level 1 fee
- (g) for a special circumstances licence for licensed premises other than a bus, limousine, boat, train, aeroplane, caterer or retirement village—
 - (i) if the licence does not authorise the sale or supply of liquor past 2 am and states the maximum capacity of the licensed premises as a number of persons not exceeding 200 level 1 fee
 - (ii) if the licence does not authorise the sale or supply of liquor past 2 am and states the maximum capacity of the licensed premises as a number of persons exceeding 200 level 2 fee
 - (iii) if the licence authorises the sale or supply of liquor past 2 am and states the maximum capacity of the licensed premises as a number of persons not exceeding 200 level 3 fee
 - (iv) if the licence authorises the sale or supply of liquor past 2 am and states the maximum capacity of the licensed premises as a number of persons exceeding 200 but not exceeding 400 level 4 fee
 - (v) if the licence authorises the sale or supply of liquor past 2 am and states the maximum capacity of the licensed premises as a number of persons exceeding 400 level 5 fee

No annual fee is payable for a limited club licence.

The Commissioner may—

- (a) if the business operated under a licence is, in the opinion of the Commissioner, so similar to that under another licence class for which a lower annual fee is payable as to warrant a reduction in the fee, reduce the annual fee to that applicable to a licence of that other class; and
- (b) if the annual fee payable is a level 2 fee, reduce the fee to a level 1 fee for a particular year on grounds of financial hardship.

For the purposes of this item—

- (a) a level 1 fee is \$100; and
- (b) a level 2 fee is \$700; and
- (c) a level 3 fee is \$700 plus, if the licence authorises the sale of liquor for consumption on the premises past 2 am, \$700 plus, if the licence authorises the sale of liquor for consumption on the premises past 4 am, a further \$700; and
- (d) a level 4 fee is \$700 plus, if the licence authorises the sale of liquor for consumption on the premises past 2 am, \$1 400 plus, if the licence authorises the sale of liquor for consumption on the premises past 4 am, a further \$1 400; and

- (e) a level 5 fee is \$700 plus, if the licence authorises the sale of liquor for consumption on the premises past 2 am, \$2 500 plus, if the licence authorises the sale of liquor for consumption on the premises past 4 am, a further \$7 500; and
 - (f) a licence authorises the sale of liquor past 2 am if it authorises the sale or supply of liquor immediately before and immediately after 2 am on any 1 or more days (disregarding sale or supply to a lodger); and
 - (g) a licence authorises the sale or supply of liquor past 4 am if it authorises the sale or supply of liquor immediately before and immediately after 4 am on any 1 or more days (disregarding sale or supply to a lodger).
- 3 Penalty for default payable under section 50A(4) of Act 20% of the amount outstanding

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 14 June 2012

No 160 of 2012

MLI00014/12CS