

South Australia

Liquor Licensing (General) (Miscellaneous) Variation Regulations 2017

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) (Miscellaneous) Variation Regulations 2017*.

2—Commencement

These regulations will come into operation on the day on which the *Liquor Licensing (Liquor Review) Amendment Act 2017* comes into operation.

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 2012*

4—Insertion of regulation 4

After regulation 3 insert:

4—Application of Act

In accordance with section 138(1a)(b) of the Act, the Act does not apply to—

- (a) the sale of liquor by the owner or operator of a vessel engaged in voyages that operate wholly or partly in waters that are within the limits of the State, if—
 - (i) the vessel has sleeping facilities for at least 100 passengers, other than crew members; and
 - (ii) the liquor is only sold to passengers or crew members of the vessel for consumption on the vessel; and
 - (iii) the liquor is sold by and to a person of or above the age of 18 years; and
 - (iv) the liquor is not sold by or to a person who is intoxicated; or
- (b) the consumption of liquor on such a vessel by passengers or crew members of the vessel of or above the age of 18 years.

Note—

A person who consumes liquor on regulated premises that are unlicensed is guilty of an offence under section 129 of the Act.

5—Variation of regulation 7—Cases where licence not required

- (1) Regulation 7(2)(a)(i)—after "Australia" insert:
 - or enter Australia
- (2) Regulation 7(2)(c) and (d)—delete paragraphs (c) and (d) and substitute:
 - (c) the sale of liquor at cottage or bed and breakfast style accommodation premises with accommodation for a maximum of 16 persons if—
 - (i) the supply of liquor is complimentary; and
 - (ii) the liquor is supplied to a person of or above the age of 18 years accommodated at the premises; and
 - (iii) the liquor has been purchased on a retail basis from the holder of a hotel licence, retail liquor merchant's licence or producer's licence; and
 - (iv) —

- (A) the supply of liquor is ancillary to the provision of the accommodation, the liquor is delivered to the person at that part of the premises where the person is accommodated and the volume of liquor supplied does not exceed 1.5 litres per accommodation booking; or
 - (B) the supply of liquor is ancillary to a meal hosted by the operator of the premises and the volume of liquor supplied does not exceed 750mL per person; or
 - (C) the supply of liquor is ancillary to the supply of a picnic basket and the volume of liquor supplied does not exceed 750mL per person who may reasonably be expected to consume the contents of the picnic basket;
- (d) the sale of liquor in the course of the business of selling flowers, confectionery, food or other things to be delivered as a gift to a person other than the purchaser if—
- (i) the liquor is delivered by the vendor, together with the flowers, confectionery, food or other things, directly to the donee of the gift (or to another person of or above the age of 18 years) at a place other than the premises at which the business is conducted; and
 - (ii) the liquor has been purchased on a retail basis by the person conducting the business from the holder of a hotel licence, retail liquor merchant's licence, producer's licence or special circumstances licence; and
 - (iii) the volume of liquor supplied in respect of each sale does not exceed the prescribed volume; and
 - (iv) the value of the liquor and its container is not more than 50 per cent of the total sale price of the gift; and
 - (v) both the purchaser and the donee of the gift are of or above the age of 18 years;
- (da) the supply of liquor by and to a person of or above the age of 18 years in the course of—
- (i) a business the primary purpose of which is to provide hairdressing or barber services; or
 - (ii) a business the primary purpose of which is the sale of jewellery,
- if—
- (iii) the liquor is consumed on the premises of the business; and
 - (iv) the liquor is supplied without charge and the supply is ancillary to the provision of hairdressing or barber services, or the sale of jewellery (as the case requires);

- (3) Regulation 7(2)—after paragraph (g) insert:
- (ga) the sale of liquor at designated premises if—
 - (i) the sale is made by and to a person—
 - (A) who is of or above the age of 18 years; and
 - (B) who is a patient, or a guest of a patient, accommodated at the designated premises; and
 - (ii) the liquor is consumed on the premises;
 - (gb) the sale of liquor at a retirement village (within the meaning of the *Retirement Villages Act 2016*) for consumption on the premises of the retirement village by a resident or a guest of a resident if the sale is made by and to a person who is of or above the age of 18 years;
- (4) Regulation 7(2)(i)—delete "(other than a flight that both begins and ends in South Australia)"
- (5) Regulation 7(2)—after subregulation (2) insert:
- (3) For the purposes of paragraph (d)(iii) of subregulation (2), the *prescribed volume* is—
 - (a) 2.25 litres; or
 - (b) if the Commissioner, on application by a vendor referred to in paragraph (d), grants the vendor an approval to supply a greater volume, the volume approved by the Commissioner.
 - (4) For the purposes of paragraph (ga) of subregulation (2), premises are *designated premises* if—
 - (a) the primary purpose of activities conducted at the premises is the provision of accommodation and care for patients undergoing a course of medical treatment; and
 - (b) the premises are designated by the Commissioner, by notice published on a website maintained by the Commissioner, as designated premises for the purposes of that paragraph.

6—Variation of regulation 12—Requirements relating to notification of applications

- (1) Regulation 12(1)—delete subregulation (1)
- (2) Regulation 12(2)—delete "section 52(2)(c)" and substitute:
section 52(2)

7—Insertion of regulation 13A

After regulation 13 insert:

13A—Notice of revocation of approval of responsible person

For the purposes of section 71AA(4) of the Act, the notice of revocation—

- (a) must contain the identification number of the responsible person; and
- (b) must be published on a website maintained by the Commissioner.

8—Insertion of Part 8

After Part 7 insert:

Part 8—Miscellaneous

21—Special transitional provision in connection with *Liquor Licensing (Liquor Review) Amendment Act 2017*—trading under licences

- (1) In accordance with paragraph (b) of the definition of *designated restriction* or *requirement* in section 137C(3) of the Act, the following designated restrictions or requirements are prescribed:
 - (a) a requirement that a licensee provide a meal at the request of a member of the public or a lodger;
 - (b) a restriction providing that the sale of liquor for consumption on licensed premises only be consumed in a designated dining area or designated reception area;
 - (c) a requirement that licensed premises be kept open to the public for the sale of liquor on days and at times specified by the existing licensing Division (as defined in section 137C(3) of the Act);
 - (d) a requirement that a licensee sell or supply liquor by way of sample for consumption on a part of licensed premises approved by the licensing authority;
 - (e) a requirement that has the effect of restricting the trading that may occur under a relevant licence on a Sunday;
 - (f) a requirement that has the effect of restricting the trading that may occur under a licence on a prescribed public holiday.
- (2) In accordance with section 137C(1) and (2) of the Act—
 - (a) the designated restrictions and requirements prescribed under subregulation (1)(a) to (c) and any condition of a licence that gives effect to a designated restriction or requirement prescribed under subregulation (1)(a) to (c) do not apply to the holder of a licence under the Act; and

- (b) the designated requirement prescribed under subregulation (1)(d) and any condition of a licence that gives effect to a designated requirement prescribed under subregulation (1)(d) do not apply to the holder of a licence under the Act, provided that a sample of liquor sold or supplied under the licence is consumed on the licensed premises; and
 - (c) the designated requirement prescribed under subregulation (1)(e) and any condition of a relevant licence that gives effect to a designated requirement prescribed under subregulation (1)(e) are modified such that—
 - (i) in the case of a hotel licence—liquor may be sold under the licence on a Sunday—
 - (A) between 8 am and midnight for consumption on the licensed premises; and
 - (B) between 8 am and 9 pm for consumption off the licensed premises; and
 - (ii) in the case of a special circumstances licence—liquor may be sold under the licence on a Sunday for consumption on or off the licensed premises between 8 am and midnight; and
 - (iii) in the case of a club licence—liquor may be sold under the licence on a Sunday for consumption on the licensed premises between 8 am and midnight; and
 - (d) the designated requirement prescribed under subregulation (1)(f) and any condition of a licence that gives effect to a designated requirement prescribed under subregulation (1)(f) are modified such that the holder of the licence is authorised—
 - (i) in the case of Good Friday—to trade in accordance with the licence as if it were a Friday other than Good Friday; and
 - (ii) in the case of the day after Good Friday—to trade in accordance with the licence as if it were a Saturday other than the day after Good Friday; and
 - (iii) in the case of any other prescribed public holiday—to trade in accordance with the licence as it applies to the day of the week on which the prescribed public holiday occurs as if that day were not a prescribed public holiday.
- (3) Nothing in subregulation (2)(c) or (d) is to be taken to affect the operation of an extended trading authorisation applying under a licence.

(4) In this regulation—

prescribed public holiday means Good Friday, the day after Good Friday, Christmas Day, the day after Christmas Day or New Year's Eve;

relevant licence means a hotel licence, club licence or special circumstances licence.

9—Variation of Schedule 2—Forms

Schedule 2, Form 1—before "entertainment" insert:

prescribed

10—Variation of Schedule 3—Fees and default penalties

Schedule 3, table, item 12—before "entertainment" insert:

prescribed

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 12 December 2017

No 326 of 2017

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