

South Australia

Liquor Licensing (General) (Liquor Review) Variation Regulations 2019

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) (Liquor Review) Variation Regulations 2019*.

2—Commencement

These regulations come into operation on the day on which section 22 of 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—Variation of regulation 4—Application of Act etc

Regulation 4—after its present contents (now to be designated as subsection (1)) insert:

- (2) If the conditions of a short term licence—
 - (a) authorise the consumption of liquor on the licensed premises; and
 - (b) allow a person to bring liquor onto the licensed premises and later take from the licensed premises the unconsumed portion of that liquor,the person is exempt from section 102(1)(a) of the Act and (to the extent necessary) the person and the licensee are exempt from section 103 of the Act.

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

- (1) Regulation 7(2)(c)(iii)—delete "hotel licence, retail liquor merchant's licence or producer's licence" and substitute:

general and hotel licence, packaged liquor sales licence or liquor production and sales licence
- (2) Regulation 7(2)(d)(ii)—delete "hotel licence, retail liquor merchant's licence, producer's licence or special circumstances licence" and substitute:

general and hotel licence, packaged liquor sales licence or liquor production and sales licence
- (3) Regulation 7(2)—after paragraph (da) insert:
 - (db) the supply of liquor by and to a person of or above the age of 18 years in the course of a business the primary purpose of which is the provision of funeral services, if—

- (i) the liquor is consumed on the premises of the business; and
 - (ii) the supply is ancillary to the provision of funeral services;
- (4) Regulation 7(2)(j) to (l)—delete paragraphs (j) to (l) (inclusive) and substitute:
 - (j) the sale of liquor by or on behalf of a secondary school if—
 - (i) the liquor is produced as part of a course offered by the school and sold as part of, or for the purposes of, that course; and
 - (ii) the sale is made by and to a person of or above the age of 18 years.

6—Substitution of regulation 7A

Regulation 7A—delete the regulation and substitute:

7A—Restaurant and catering licence—prescribed circumstances

For the purposes of section 35(1)(b)(i) of the Act, circumstances where the liquor is consumed by persons undertaking formal instruction in cooking conducted by or on behalf of the licensee are prescribed.

7AB—Packaged liquor sales licence—prescribed premises

For the purposes of section 38(7) of the Act, premises of the following kind are prescribed:

- (a) premises used primarily as a restaurant or for the preparation and sale of food for immediate consumption off the premises (or both);
- (b) premises ordinarily known as or advertised as a supermarket, convenience store or delicatessen;
- (c) premises used primarily for the sale of non-consumable, domestic or commercial goods and merchandise;
- (d) petrol stations, including any parts of a petrol station—
 - (i) that consist of a shop, or shops, selling goods by retail; or
 - (ii) used for or in connection with the repair and servicing of motor vehicles;
- (e) premises used primarily for the sale of tobacco products and e-cigarette products;
- (f) premises used directly or indirectly in connection with the sale of firearms or ammunition;
- (g) premises that are a public conveyance;
- (h) premises that may be accessed by the public directly from premises of a kind referred to in paragraph (a) to (g).

7—Variation of regulation 7B—Additional areas in which small venue licences permitted—bodies to be consulted

Regulation 7B—delete "section 40A(4)" and substitute:

section 37(4)

8—Insertion of regulation 7C

After regulation 7B insert:

7C—Power of licensing authority to impose conditions—prescribed body

For the purposes of section 43(2)(d) of the Act, each Recognised Aboriginal Representative Body (*RARB*) determined or appointed under Part 2B of the *Aboriginal Heritage Act 1988* in respect of an area is prescribed in relation to any licence where the licensed premises that relate to the licence are situated in the area for which the RARB is determined or appointed.

9—Insertion of regulation 9A

Before regulation 10 insert:

9A—Application and modification of Part 4 of Act in relation to short term licences

- (1) In accordance with section 40(8)(f) of the Act, Part 4 of the Act applies with the following variations in relation to a short term licence:
 - (a) section 51A(1)(a) applies as if after "temporary licence" there were inserted:

or short term licence, unless the Commissioner determines otherwise
 - (b) section 52 applies as if after subsection (1) there were inserted:
 - (1a) However, this section does not apply to an application for consent of the licensing authority under section 105 by the holder of a short term licence, unless the Commissioner determines otherwise.
 - (c) section 56(1) applies as if after "must" there were inserted:

, if the licensing authority directs the applicant to do so,
 - (d) section 72 applies as if after subsection (1) there were inserted:

- (1a) Unless the Commissioner determines otherwise, a consent under this section is not required in relation to an application for or in relation to a short term licence.
- (2) In accordance with section 40(8)(f) of the Act, Part 4 Division 4 of the Act does not apply in relation to a short term licence.

10—Variation of regulation 10—Plans to accompany applications

- (1) Regulation 10(1)(a)—delete "limited licence" and substitute:

short term licence or packaged liquor sales licence that authorises the licensee to sell liquor only through direct sales transactions
- (2) Regulation 10(1)(d)—delete paragraph (d)
- (3) Regulation 10(2) and (3)—delete subregulations (2) and (3) and substitute:
 - (2) Plans required to accompany an application under subregulation (1) must be in a form, and comply with any other requirements, determined by the Commissioner.
- (4) Regulation 10(4)—delete "limited" and substitute:

short term
- (5) Regulation 10—after subregulation (4) insert:
 - (5) For the purposes of section 51(1)(b) of the Act, an application to a licensing authority for consent under section 105 of the Act must be accompanied by plans (complying with the requirements of the licensing authority) of the area of the licensed premises proposed to be used for the purpose of providing prescribed entertainment.

11—Substitution of regulation 11

Regulation 11—delete the regulation and substitute:

11—Time limitation for application for short term licence

- (1) For the purposes of section 51(1)(c) of the Act, an application for a short term licence must be made—
 - (a) in the case of a licence sought in respect of a class 1 event—at least 7 days before the commencement of the event or occasion in respect of which the licence is sought; or
 - (b) in the case of a licence sought in respect of a class 2 event—at least 30 days before the commencement of the event, or, if the licence is sought in respect of a series of events, the first in the series; or
 - (c) in the case of a licence sought in respect of a class 3 event—at least 60 days before the commencement of the event, or, if the licence is sought in respect of a series of events, the first in the series; or

- (d) in the case of a 5 year short term licence—at least 60 days before the commencement of the event in respect of which the licence is sought, or, if the licence is sought in respect of a series of events, the first in the series.
- (2) In this regulation—
class 1 event, class 2 event, class 3 event, and 5 year short term licence have the same respective meanings as they have in the *Liquor Licensing (Fees) Regulations 2019*;
event includes an occasion.

12—Insertion of regulation 12A

After regulation 12 insert:

12A—Designated applications to be in community interest—prescribed matter

For the purposes of section 53A(2)(a)(iv) of the Act, the nature of the business conducted or to be conducted under the licence is prescribed.

13—Insertion of regulation 13AA

After regulation 13 insert:

13AA—Fit and proper persons—prescribed offences

For the purposes of section 55(a1)(a) and (a2)(a) of the Act, the following offences are prescribed:

- (a) an offence against Part 3A of the *Summary Offences Act 1953* (other than an offence against section 21C(1) or 21E of that Act);
- (b) a serious and organised crime offence (as defined in the *Criminal Law Consolidation Act 1935*);
- (c) an offence against the *Controlled Substances Act 1984* involving a controlled drug, controlled precursor or controlled plant (other than an offence constituted of possessing a controlled drug, controlled precursor or controlled plant);
- (d) an indictable offence involving violence;
- (e) an offence against the *Firearms Act 2015*, other than—
- (i) an offence against section 16; or
 - (ii) an offence against—
 - (A) section 22(6) or (7); or
 - (B) section 25(4); or
 - (C) section 29(4)(c),

committed in relation to a category of firearm that is not a prescribed firearm or category C, D or H firearm; or

- (iii) an offence against section 31(10); or
 - (iv) an offence against section 34; or
 - (v) a category E or F offence against the code of practice under section 35 of the Act; or
 - (vi) an offence against section 62; or
 - (vii) an offence against section 65; or
 - (viii) an offence against the *Firearms Regulations 2017*;
- (f) an offence of attempting to commit, or assault with an attempt to commit, an offence prescribed by a preceding paragraph;
- (g) an offence against the law of another jurisdiction that would, if committed in this State, constitute an offence prescribed by a preceding paragraph.

14—Revocation of regulations 14 and 14A

Regulations 14 and 14A—delete the regulations

15—Variation of regulation 15—Record of residents

- (1) Regulation 15—delete "lodger" wherever occurring and substitute in each case:
resident
- (2) Regulation 15(a)—delete "lodgings" and substitute:
residence

16—Insertion of regulation 15B

After regulation 15A insert:

15B—Exemption from section 109 of Act—certain packaged liquor sales licensees

In accordance with section 138(1a)(b) of the Act, the holder of a packaged liquor sales licence that only authorises the sale of liquor through direct sales transactions is exempt from the requirements of section 109 of the Act.

17—Revocation of regulation 16

Regulation 16—delete the regulation

18—Variation of regulation 17

- (1) Regulation 17—delete "section 112(6) of the Act, the following class of minors are exempt from the ambit of section 112" and substitute:
section 112(6)(a) of the Act, the following classes of minors are prescribed

(2) Regulation 17—after paragraph (b) insert:

- (c) minors who—
 - (i) are engaged in training for the purposes of a hospitality program, employment or work experience; and
 - (ii) comply with any conditions of the training relating to entering, or remaining in, licensed premises;
- (d) minors granted an approval by the Commissioner to enter and remain in licensed premises and who comply with the conditions of the approval.

19—Substitution of regulations 21 and 22

Regulations 21 and 22—delete the regulations and substitute:

21—Definition of *prescribed entertainment*—section 130

For the purposes of paragraph (b) of the definition of *prescribed entertainment* in section 130(4) of the Act, it is declared that an event commonly known as a rave is prescribed entertainment for the purposes of that section.

22—Transitional provision related to *Liquor Licensing (Liquor Review) Amendment Act 2017*—proceedings

Pursuant to section 138(2a) of the Act, an application in relation to a licence made to the licensing authority under the Act and any proceedings related to such an application that have not been finally determined before the commencement of this regulation may be continued and completed under the Act as if the amendments to the Act effected by the *Liquor Licensing (Liquor Review) Amendment Act 2017* had not come into operation.

20—Variation of Schedule 2—Forms

(1) Schedule 2, Form 1—delete Form 1 and substitute:

Form 1—Notice of application under *Liquor Licensing Act 1997*

[Insert full name of applicant] has applied to the licensing authority for *[insert category of application and category of licence as follows]*:

grant of a licence [specify category]
transfer of a licence [specify category]
removal of a licence [specify category]
conversion of a temporary licence [specify category] into a permanent licence
a condition authorising sale of liquor under a club licence for consumption off the licensed premises
consent to use part of licensed premises or area adjacent to licensed premises to provide prescribed entertainment under a licence [specify category]
variation of trading hours previously fixed in relation to a licence [specify category]

in respect of premises *[insert situated at or to be situated at, as appropriate]*
[insert address of premises] and *[insert known as or to be known as, as appropriate]* *[insert name]*.

*The following licence conditions are sought in the application: *[insert description of conditions]*.

* Include only if applicable

The application has been set down for determination or hearing on *[insert date provided by licensing authority]*.

*Any person may make a submission in respect of the application by lodging a notice in the form approved by the Commissioner at least 7 days before the *[insert date appointed for determination or hearing of application]* with:

Liquor and Gambling Commissioner *[insert current address and website (www.cbs.sa.gov.au)]*.

A copy of the submission must be served by the person making the submission on the applicant at least 7 days before the date appointed for the hearing or determination of the application at: *[insert address for service of applicant]*.

The application and certain documents and material relevant to the application may be inspected without fee at www.cbs.sa.gov.au, or the principal office of the Liquor and Gambling Commissioner *[insert current address]*, until *[insert date appointed for determination or hearing of application]*.

- (2) Schedule 2, Forms 2 to 5 (inclusive)—delete Forms 2 to 5

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 7 November 2019

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