

LIQUOR CONTROL REFORM ACT 1998
ENFORCEABLE UNDERTAKING
SECTION 133F

The commitments in this undertaking are offered to the Director of Liquor Licensing by:

DE & WB Burton & Sons Pty Ltd
ACN 100 315 080
90 Stradbroke Avenue
NYAH VIC 3594

1. Description of the licensee and other relevant particulars

- 1.1 DE & WB BURTON & SONS PTY LTD ACN 100 315 080 (**the Licensee**) is an Australian Proprietary Company, limited by shares, registered on 23 April 2002.
- 1.2 The licensee holds a packaged liquor licence no. 32021060 (**the packaged liquor licence**) which authorises the Licensee to supply liquor up to and including 31 December 2011 in accordance with the conditions of the licence.
- 1.3 The Licensee trades under the name 'Burton's Store' and operates from premises situated at 90 Stradbroke Avenue, NYAH VIC 3594 (**the premises**).
- 1.4 The premises is a single storey building and operates as a General Store selling general groceries and is the town Australia Post outlet. There is a liquor display area in the north-east corner of the shop (**the liquor display area**).
- 1.6 In this undertaking –

Act means the Liquor Control Reform Act 1998;

Director means the Director of Liquor Licensing;

Licensed premises has the same meaning as in the Act; and

RAV means Responsible Alcohol Victoria.

2. Description of the conduct that Responsible Alcohol Victoria Investigated

- 2.1 Pursuant to section 11(1) of the Act, a Licensee of a packaged liquor licence is only authorised to supply on the licensed premises. The licensed premises is comprised of the area identified by a red line in the authorised plan of the premises (**the red line area**). Accordingly, any payment for liquor sold by the Licensee must be received at a 'checkout' located within the red line area, unless the Director authorises the Licensee to receive payment at another checkout within the supermarket pursuant to section 11(2) of the Act.
- 2.2 Additionally, section 108(1)(b) of the Act makes it an offence for a Licensee to use any place or premises, other than the licensed premises or authorised premises, for the supply of liquor.

- 2.3 On 4 May 2011, a Compliance Inspector from RAV attended the premises and observed that there were no checkouts located within the red line area where liquor was being sold. The only checkout observed on the premises was located at the entrance to the store. The Licensee was not authorised by the Director to receive payment at another checkout within the store pursuant to section 11(2) of the Act.

3. Brief of details of the investigation by Responsible Alcohol Victoria

- 3.1 On 4 May 2011, a compliance inspector from RAV conducted an unannounced inspection of the premises.
- 3.2 During this inspection the matters set out in paragraph 2 were identified. The compliance inspector spoke to David Burton about these matters. David Burton is the nominee of the premises and a Director of the licensee company.
- 3.3 On 6 May 2011 a compliance inspector from RAV conducted an interview with David Burton the nominee and a Director of the licensee company at the premises. During this interview, the Licensee admitted to being unaware of its breach and stated an intention to apply for a "remote checkout authority"

4. Explanation as to why the Director considers that the conduct contravenes the Act

- 4.1 The Director considers that the conduct described in paragraph 2 above constitutes a contravention of section 108(1)(b) of the Act due to using a place other than the licensed premises for the supply of liquor.

5. Acknowledgement of the breach

- 5.1 The Licensee acknowledges the contravention of the Act set out in paragraph 4 above, and admits the facts, matters and circumstances described in paragraph 2 above.

6. Undertakings

The Licensee agrees to undertake the following remedial action with the aim of ensuring that it does not contravene the Act in future:

- 6.1 The Licensee will ensure that a Director of the Licensee undertakes (at the Licensees expense) to complete the course 'Licensees Compliance Certificate' delivered by 'Franklyn Scholar'.
The Licensee will give effect to this provision within (6) months of the date of execution of this undertaking, or such longer period as the Director may approve (if necessary).

7. Commencement and duration of the undertaking

7.1 This undertaking:

- (a) comes into effect when:
 - (i) it is executed by the Licensee; and
 - (ii) the Director of Liquor Licensing accepts and signs the undertaking.
- (b) continues in effect for a period of two (2) years from the date of commencement.

8. Acknowledgement of compliance to undertaking

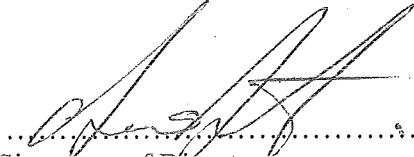
8.1 The Licensee acknowledges that:

- (a) The Director and other relevant parties specified in the Act may make an application to the Victorian Civil and Administrative Tribunal to conduct an enquiry pursuant to section 90(1)(bb) on the basis of any contravention of this undertaking by the Licensee;
- (b) Pursuant to section 133G of the Act, the Director will register this undertaking in the register of undertakings on the Department of Justice website and the undertaking will be available for public inspection;
- (c) The Director and/or Minister for Consumer Affairs may from time to time publicly refer to this undertaking; and
- (d) This undertaking in no way derogates from any of the rights and remedies available to any other person in the State of Victoria arising from the conduct which is the subject of this undertaking, or a breach of the Act or Regulations.

9. Execution

**EXECUTED BY DE & WB BURTON &
SONS PTY LTD ACN 100 315 080 in
accordance with the requirements of
section 127 of the *Corporations Act 2001 (Cth)***

.....*David Burton*.....
Name of Director (Print)

..........
Signature of Director

AND BY

Willis Burton
Name of Director (Print)

Willis Burton
Signature of Director

Dated the 7th day of OCTOBER 2011

ACCEPTED BY:

DIRECTOR OF LIQUOR LICENSING

Mark Brennan
Director of Liquor Licensing

Dated the 19th day of OCTOBER 2011