

LIQUOR CONTROL REFORM ACT 1998
ENFORCEABLE UNDERTAKING
SECTION 133F

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

European Beer Imports Pty Ltd
ACN 128 230 437
ABN 91 128 230 437
C/- 135 Mostyn Street
Castlemaine Vic 3450

1. Description of the Licensee and other relevant particulars

- 1.1 EUROPEAN BEER IMPORTS PTY LTD ACN 128 230 437 (**the Licensee**) is an Australian Proprietary Company, limited by shares, registered on 30 October 2007.
- 1.2 The licensee holds an On-Premises liquor licence no. 32274875 (**the licence**) which authorises the Licensee to supply liquor on the licensed premises, for consumption on the licensed premises in accordance with the conditions of the licence and the *Liquor Control Reform Act 1998*.
- 1.3 The licence is currently in force up to and including 31 December 2011.
- 1.4 The Licensee trades in respect of the licence under the trading name 'Breakfast & Beer'.
- 1.5 The Licensee operates in respect of the licence from the premises situated at 117 Vincent Street, Daylesford, 3460 (**the premises**).
- 1.6 In this undertaking-

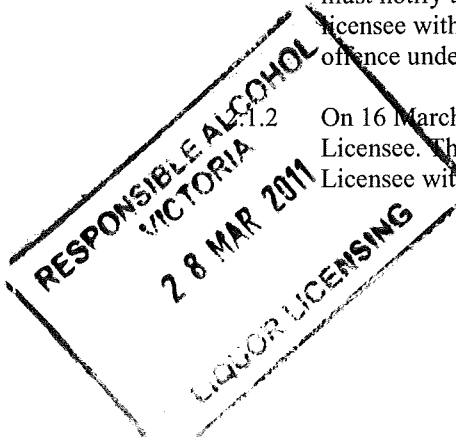
Act means the *Liquor Control Reform Act 1998*;

Director means the Director of Liquor Licensing; and

Licensed Premises has the same meaning as in the Act.

2. Description of the conduct engaged in by the Licensee

- 2.1 **Licensee failed to notify the Director of the cessation of directorship of the company contrary to section 103(1) of the Act**
 - 2.1.1 Pursuant to section 103(1) of the Act, a licensee that is a body corporate must notify the Director in writing if a person ceases to be a director of that licensee within 14 days after the person so ceases. Failure to do so is an offence under the Act.
 - 2.1.2 On 16 March 2010, Karen Leann Brown ceased to be a director of the Licensee. The Director was not notified of her cessation as a director of the Licensee within 14 days after her cessation.



2.2 Licensee failed to notify the Director of the cessation of an associate of the company contrary to section 103A(2) of the Act

2.2.1 Pursuant to section 103A(2) of the Act, a licensee must notify the Director in writing that a person has ceased to be its associate within 14 days after the event. Failure to do so is an offence under the Act.

2.2.2 Margaret Rosalind Marchbank was a shareholder of the Licensee prior to 16 March 2010. Pursuant to section 3AC(1)(a) of the Act, Margaret Rosalind Marchbank was an associate of the Licensee.

2.2.3 On 16 March 2010, Margaret Rosalind Marchbank ceased to be a shareholder of the Licensee. The Director was not notified of her cessation as a shareholder of the Licensee within 14 days after the event.

2.3 Licensee supplied liquor other than in accordance with the licence and the Act contrary to section 108(1)(a)(i) of the Act

2.3.1 Pursuant to section 9 of the Act, an on-premises licence authorises the licensee to supply liquor on the licensed premises during specified times for consumption on the licensed premises. The licensed premises is a defined area depicted by a red line on the plan of the premises approved by the Director.

2.3.2 At approximately 1.57 pm on 24 November 2010, two female patrons were observed by Compliance Inspectors consuming liquor at a table positioned on the footpath adjacent to the premises. The footpath does not form part of the licensed premises.

2.3.3 At approximately 2.00 pm on 24 November 2010, a further two female patrons were observed by Compliance Inspectors consuming liquor at a table positioned within the rear courtyard area of the premises. The rear courtyard area does not form part of the licensed premises.

2.4 Licensee failed to produce a plan of the premises for inspection contrary to section 101B(2) of the Act

2.4.1 Pursuant to section 101B(2) of the Act, a licensee must produce copy of the last plan or depiction of the licensed premises that was submitted to the Director as part of an application that was granted or that was certified by the Director if asked to do so by a compliance inspector. Failure to do so is an offence under the Act.

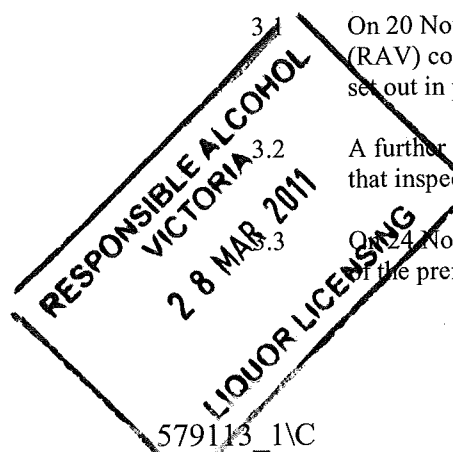
2.4.2 The Licensee was unable to and did not produce such a plan relating to the licence when asked to produce the plan by a Compliance Inspector during the inspection of the premises on 20 November 2010.

3. Details of the investigation by Responsible Alcohol Victoria

3.1 On 20 November 2010 Compliance Inspectors from Responsible Alcohol Victoria (RAV) conducted an inspection of the premises. During the inspection, the matters set out in paragraph 2.4 above were identified.

3.2 A further inspection of the premises was conducted on 24 November 2010. During that inspection, the matters set out in paragraphs 2.1 to 2.3 above were identified.

3.3 On 24 November 2010 Compliance Inspectors gave the Licensee a copy of the plan of the premises relating to the licence which it was initially unable to produce.



- 3.4 Mr Benjamin O'Brien, director of the company, was interviewed by Compliance Inspectors under caution in relation to the matters set out in paragraph 2 above on 24 November 2010.

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

- 4.1 The Director considers that the matters identified in paragraph 2 above constitute a contravention of the following provisions of the Act:
- (a) Section 103(1) – Fail to notify the Director of the cessation of Karen Leann Brown as a director of the Licensee within 14 days after her cessation.
 - (b) Section 103A(2)(a) – Fail to notify the Director of the cessation of Margaret Rosalind Marchbank as an associate of the Licensee within 14 days after that event.
 - (c) Section 108(1)(a)(i) – Supply liquor other than in accordance with licence and the Act in that liquor was consumed outside the licensed premises.
 - (d) Section 101B(2) – Fail to produce an approved plan of the premises for the licence upon the request of a Compliance Inspector to produce that plan

5. Voluntary Admissions

- 5.1 The Licensee acknowledges the breaches of the Act outlined in paragraph 4 and admits the facts, matters and circumstances outlined in paragraph 2.

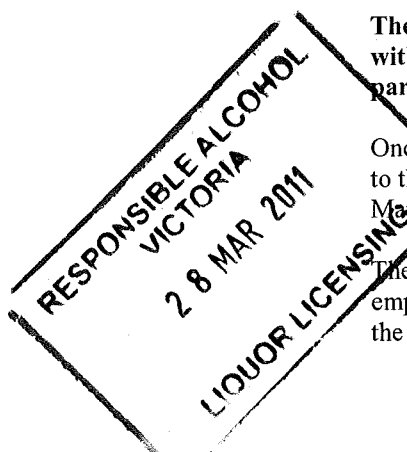
6. Undertakings given by the Licensee

- 6.1 The Licensee agrees to undertake the following remedial action with the aim of ensuring that it does not contravene the Act in future:
- (a) The Licensee will develop a management plan with respect to the licence (the **Management Plan**). The Management Plan will set out all the steps that the Licensee will take to ensure that the conditions of the licence are adhered to at all times. The Management Plan will include:
 - i. How the Licensee will ensure that liquor is not served or consumed outside the licensed premises;
 - ii. An induction program for new staff members to ensure that they understand the requirements of the licence; and
 - iii. Any other matters relevant to the licence which the Licensee considers appropriate.

The Management Plan must be submitted to the Director for approval within 28 days of the date of execution of this undertaking by the parties.

Once the Management Plan has been approved by the Director and returned to the Licensee, the Licensee will retain a copy of the approved Management Plan on the licensed premises at all times.

The Licensee will take reasonable steps to ensure that each staff member employed by the Licensee understands the Management Plan approved by the Director.



The Licensee will ensure that each staff member signs a document acknowledging that they understand the Management Plan approved by the Director.

The Licensee will ensure that the Management Plan approved by the Director is implemented.

- (b) The Licensee will develop and retain at the licensed premises a folder with the respect to the licence (the **Licence Folder**) containing the following:
- i. A copy of the last red line plan of the licensed premises approved by the Director;
 - ii. A copy of the Management Plan approved by the Director referred to at paragraph 6.1(a);
 - iii. A list of all staff employed by the Licensee containing a written acknowledgement by each staff member that they understand the requirements of the licence;
 - iv. The signed acknowledgement(s) of each staff member employed by the Licensee that they understand the Management Plan referred to at paragraph 6.1(a); and
 - v. A copy of this enforceable undertaking executed by the parties.

The Licence Folder must be developed within 28 days of the date of execution of this undertaking by the parties.

The Licence Folder must be made available and produced for inspection upon the request of any person authorised under the Act to conduct an inspection of the premises.

- (c) The Licensee will notify the Director in writing of the cessation of Karen Leann Brown as a director of European Beer Imports Pty Ltd **within 7 days of the date of execution of this undertaking by the parties.**
- (d) The Licensee will notify the Director in writing of the cessation of Margaret Rosalind Marchbank as an associate of European Beer Imports Pty Ltd **within 7 days of the date of execution of this undertaking by the parties.**
- (e) The Licensee will erect and maintain, at its own expense, signage at all exit points to the licensed premises displaying the words:

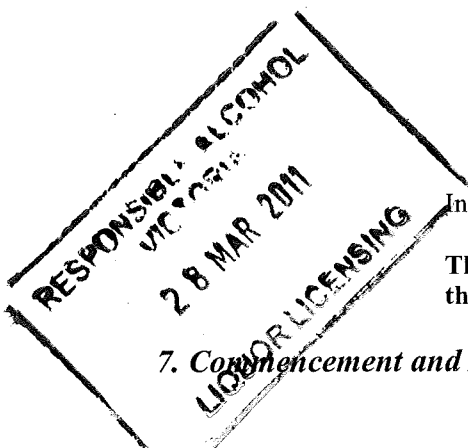
‘NO ALCOHOL PAST THIS POINT’

In letters no less than 20mm in height, followed by the words:

‘THE LIQUOR CONTROL REFORM ACT 1998
REQUIRES THAT ALCOHOL PURCHASED
FROM THESE PREMISES ARE TO BE CONSUMED
INSIDE AND ARE NOT TO BE TAKEN OUTSIDE.
PENALTIES MAY APPLY

In letters no less than 15mm in height.

These sign(s) must be erected within 28 days of the date of execution of this undertaking by the parties.



7. Commencement and Duration

7.1 This undertaking:

- (a) Comes into effect when it is executed by the Licensee and the Director accepts and signs the undertaking; and
- (b) Continues in effect for a period of twelve (12) months from the date of commencement.

8. Acknowledgements by Licensee

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 its Regulations.

9. Execution of Undertaking

Executed by:

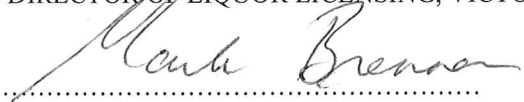
EUROPEAN BEER IMPORTS PTY LTD ACN 128 230 437

Director/Nominee 

Dated this 24th day of MARCH 2011 

Accepted by:

THE DIRECTOR OF LIQUOR LICENSING, VICTORIA



Director of Liquor Licensing

Dated this 30th day of March 2011

