



Victorian Commission for Gambling and Liquor Regulation

Liquor Information Sheet

Changes to the *Liquor Control Reform Act 1998*

On 5 June 2018, the Victorian Parliament passed the *Liquor and Gambling Legislation Amendment Act 2018* (the LGLA Act).

The LGLA Act amends the *Liquor Control Reform Act 1998* (LCR Act), which will mean a number of changes for liquor licensees.

It is the responsibility of licensees to ensure they understand their obligations under the LCR Act and to make any necessary arrangements to remain compliant.

The purpose of this fact sheet is to provide a summary to licensees and their staff about the changes following passage of the LGLA Act

What has changed?

The amendments make a number of important changes to the LCR Act to address harm minimisation in the community and to reduce red tape for licensees. For information on the commencement date of the changes, please refer to the table at the end of this document.

RSA certificates

Currently, holders of an on-premises, general, packaged liquor and late-night licence are required to establish and maintain a Responsible Service of Alcohol (RSA) program register under the LCR Act. From 18 July 2018, it will no longer be mandatory for licensees to establish and maintain an RSA register. Licensees will still be required to retain a copy of the most up-to-date RSA certificate or report evidencing completion of an approved RSA program issued to any staff member involved in the sale and service of liquor.

Further, a licensee must still provide information to an authorised person on request, including the name of the responsible person at the licensed premises, the name of each person who is engaged in the sale and service of liquor and the date on which each person first sold or served liquor on the premises.

If a licensee holds any other licence containing a specific condition requiring it to keep an RSA program register, the licensee need only hold a copy of the most recent RSA certificate or other report evidencing completion of an approved RSA program.

Alcohol advertising

From 18 July 2018, a person is prohibited from displaying or causing to be displayed, static alcohol advertising within 150 metres of the perimeter of a school. This includes:

- banners, hoardings, signs, images or rolling static displays
- digital billboards and panels including moving or video images
- moveable billboards and displays.

Alcohol advertising means any information, term, expression, symbol or other thing that gives publicity to, or otherwise promotes liquor.

The prohibition on static alcohol advertising prohibition does not apply where the advertising is:

- a logo, emblem or product name on a building occupied by a person conducting a business that is associated with liquor
- alcohol advertising within a licensed premises or on an exterior of a licensed premises
- alcohol advertising on clothing worn by a person
- alcohol advertising at a sporting ground or a racecourse.

For further information on the exceptions, see the FAQ document on our website, vcglr.vic.gov.au,

A two year transition period applies to advertising displayed under a contract entered into before 28 March 2018. This means that the static alcohol advertising prohibition does not apply to advertising displayed under an advertising contract entered into before 28 March 2018 for a period of two years from 28 March 2018. Any contracts entered into after 28 March 2018 will be subject to the prohibition.

Amenity

The amenity of an area is the quality an area has of being pleasant and agreeable. In determining whether the grant of a liquor licence application would detract from or be detrimental to the amenity of an area, the VCGLR may consider a range of factors under the LCR Act, including:

- the presence or absence of parking facilities;
- traffic movement and density; and
- noise levels.

From 18 July 2018, these factors are being repealed as it is intended that these matters are better determined as part of the planning process. This is intended to reduce unnecessary duplication between the liquor licence and planning processes.

Removing these factors is not intended to limit the VCGLR's ability to grant a licence that has conditions relating to parking, traffic or noise levels on the basis of its consideration of amenity.

Changes to wine and beer producer's licence

The wine and beer producer's licence will be substituted by a new licence category called the producer's licence. This change will come into effect on 1 March 2019 or earlier if proclaimed.

Producers of beer, wine, cider and spirit may apply for this licence category if:

- in the case of beer, the beer has been brewed by or at the direction of the applicant and they have assumed the financial risk of production;
- in the case of wine, cider or a spirit that is brandy, the wine, cider or spirit has been made from fruit grown by the applicant or under their direction and they have assumed the financial risk of production; or
- in the case of a spirit that is not brandy, the spirit is distilled by or at the direction of the applicant and they have assumed the financial risk of production.

This change will not affect any obligations for existing wine and beer producer's licensees.

Existing spirit distillers operating under a renewable limited licence or other licence category may also apply to vary their licence category to a producer's licence. For more details on what a producer's licence entails, please visit our website at vcglr.vic.gov.au.

Taking away unconsumed liquor from restaurants and cafes

From 18 July 2018, a restaurant and cafe licensee may permit a person of or over the age of 18 years to take away from the licensed premises unconsumed liquor supplied in the course of a meal provided that:

- the unconsumed liquor is taken away in the same resealable container in which it was supplied; and
- no more than one resealable container of unconsumed liquor per person is taken away.

Supply of liquor to minors

Supply of liquor to minors on licensed premises

From 13 September 2018, licensees will no longer be permitted to supply liquor to persons under 18 years of age (minors) for consumption on licensed premises under any circumstances.

A licensee may supply liquor to a minor if the minor is engaged to deliver that liquor to a person of or over the age of 18 years for consumption off the premises and that minor is a relative, employee or apprentice of the licensee.

Supply of liquor to minors in residences

From 13 September 2018, there will also be new requirements regarding liquor supplied to minors in residences. An adult (i.e., a person over 18 who is the parent, guardian or spouse of the minor, or who is authorised to supply liquor to the minor by the minor's parent, guardian or spouse) can only supply liquor to a minor in a residence if they can demonstrate responsible supervision of the supply of liquor.

Factors to be considered when determining whether responsible supervision has been demonstrated include:

- the age of the minor;
- whether the person supplying the liquor is intoxicated;
- whether the minor consumes food with the liquor;
- whether the person supplying the liquor is providing supervision of the minor's consumption of the liquor;
- the quantity and type of liquor supplied;
- the period of time over which the liquor is supplied; and
- whether the minor is intoxicated.

Delivery of liquor to minors

Additionally, from 13 September 2018 a person must not, without reasonable excuse, knowingly deliver liquor to a minor. It is a reasonable excuse if the person making the delivery has seen an evidence of age document confirming the person receiving the delivery is 18 years of age or over.

It is important for licensees to remember that they are responsible for any liquor supplied from their licensed premises, including in the instance of off-premises delivery.

When a transfer of licence or BYO permit takes effect

Currently, transferees must wait until the VCGLR grants the application following receipt of a transferee's declaration of its right to occupy the licensed premises prior to being able to trade. To reduce delays during the transfer of an existing licence or BYO permit, the amendments provide that the transfer of a liquor licence or BYO permit takes effect on the date the VCGLR grants the application or the date on which the transferee obtains the legal right to occupy the premises, whichever is later. This change will come into effect on 1 March 2019 or earlier if proclaimed.

The amendments mean that the VCGLR can grant a transfer application if it is satisfied that the application meets all requirements, even if the transferee has not obtained the legal right to occupy the premises. If an application is granted in these circumstances, the transfer will take effect on the day the transferee obtains the legal right to occupy the premises. The transferee may commence supplying liquor at this time.

The transferee must provide notice of its right to occupy the premises to the VCGLR within 24 hours of obtaining the right to occupy the premises.

Automatic removal of demerit points on transfer of licence or BYO permit

In addition to the above changes regarding the transfer application process, any demerit points that have been incurred by a previous licensee or permittee will also be automatically removed on the grant of a transfer application.

Licensees/permittees were previously required to apply to the VCGLR for the removal of any demerit points attached to a licence that was incurred by a previous licensee or permittee.

Under the amendments, demerit points will be automatically removed following the grant of a transfer application if the VCGLR is satisfied that the transferee does not have a relevant relationship with the transferor. A relevant relationship exists where, for example, the transferee has a financial interest in the business of the transferor, the transferee is the director of the transferor, or in the case of natural persons, the transferee is related to the transferor.

If the VCGLR finds that the transferee has a relevant relationship with the previous licensee/permittee, demerit points will not automatically be removed and the new licensee/permittee will need to apply to the VCGLR if they wish to remove the demerit points. This change will come into effect on 1 March 2019 or earlier if proclaimed.

Evidence of planning permission

The VCGLR currently requires applicants applying for the grant, variation or relocation of a liquor licence to provide a copy of the planning permit for their premises or evidence that a planning permit is not required, prior to the application being determined.

Under the amendments due to come into effect on 1 March 2019 (or earlier if proclaimed), the VCGLR must not delay a decision on an application on the ground that a planning application has not yet been determined. Instead, the VCGLR will be able to grant applications before applicants obtain the relevant planning approval from their local council.

If an application is granted in this circumstance, the grant takes effect on the day the applicant obtains planning approval or the day on which other evidence is provided to the VCGLR that planning approval is not required. Applicants must advise the VCGLR within 7 days of obtaining such approval.

Summary of changes

Below is a table that summarises the previous requirements under the LCR Act, the new requirements (as detailed above), and the date these changes commence.

Table – Summary of changes

Previous requirement	New requirements	Date this came, or is expected to come, into effect
Certain licensees must retain an RSA register that includes information about staff training requirements	For licensees that were previously required to retain an RSA register, the obligation to retain RSA registers is no longer mandatory. Licensees are still obliged to retain a copy of the RSA certificates for staff selling or serving liquor on the licensed premises.	18 July 2018
N/A	A person is prohibited from displaying or causing to be displayed, static alcohol advertising within 150 metres of the perimeter of a school unless certain exemptions apply.	18 July 2018
When considering the effect of the grant of an application on the amenity of an area, a range of factors may be considered under the LCR Act.	The following factors have been removed from the list of factors under the LCR Act that may be taken into account when determining whether the effect of the grant, variation or relocation of a licence would detract from or be detrimental to the amenity of an area: <ul style="list-style-type: none"> the presence or absence of parking facilities; traffic movement and density; and noise levels. 	18 July 2018
Wine and beer producer's licence may be held by licensees who produce beer, wine, cider, brandy or perry only.	Wine and beer producer's licence substituted by a producer's licence, which may be held by licensees who produce beer, wine, cider and spirit.	1 March 2019 or earlier if proclaimed
Unconsumed liquor cannot be taken from premises licensed under a restaurant and café licence.	A restaurant and café licensee may permit a person over the age of 18 to take unconsumed liquor that has been provided in the course of a meal away from the licensed premises provided that: <ul style="list-style-type: none"> the unconsumed liquor is taken away in the same resealable container in which it was supplied; and no more than one resealable container of the liquor per person is taken away. 	18 July 2018

Previous requirement	New requirements	Date this came, or is expected to come, into effect
Licensees permitted to supply liquor to a minor for consumption on licensed premises under certain circumstances, including where the supply of liquor to the minor is for the purposes of partaking of a meal and where the minor is accompanied by a parent, guardian or spouse.	<p>Licensees prohibited from supplying liquor to a minor for consumption on licensed premises under any circumstances. Licensees are only permitted to supply liquor to a minor if the minor is a family member, employee or apprentice of the licensee, where the minor is employed to deliver the liquor to a person of or over the age of 18 years for consumption off the licensed premises.</p> <p>The supply of liquor to a minor by an adult in a private residence may only occur if the adult supplying the liquor demonstrates responsible supervision of the supply.</p> <p>A person must not knowingly deliver liquor to a minor without a reasonable excuse.</p>	13 September 2018
The transfer of an existing licence takes effect when the VCGLR grants the application. The VCGLR grants such applications if it is satisfied that all requirements have been met and when all relevant documents are received, including the transferee's declaration of right to occupy the premises.	<p>The transfer of licence takes effect on the date that the application is granted by the VCGLR or the date the transferee obtains the legal right to occupy the premises, whichever is later.</p> <p>This means that the VCGLR may grant a transfer of licence application prior to receiving evidence of the transferee's right to occupy the premises. However, the transfer will only take effect when the transferee obtains the legal right to occupy, at which time, the transferee will be permitted to supply liquor under the licence. Evidence of obtaining the right to occupy the premises must be provided to the VCGLR within 24 hours of obtaining that right.</p>	1 March 2019 or earlier if proclaimed
If a licence or permit is transferred, the new licensee or permittee may apply to the VCGLR to remove any demerit points incurred by the previous licensee or permittee.	When a licence or permit is transferred, demerit points incurred by the previous licensee or permittee are automatically removed, as long as the transferee does not have a relevant relationship with the previous licensee or permittee.	1 March 2019 or earlier if proclaimed
Applications for a new, variation or relocation of a licence must be accompanied by planning permission from the local council or evidence that planning permission is not required.	<p>If a planning permit is required for the grant, variation, or relocation of a licence, the VCGLR may grant the application prior to the planning permit being approved by local council.</p> <p>The grant, variation or relocation of a licence will take effect on the day on which planning approval is obtained or the day on which other evidence is provided to the VCGLR that planning approval is not required.</p>	1 March 2019 or earlier if proclaimed

Disclaimer: The information in this publication is of a general nature only and is not intended as advice for any specific circumstance or as a replacement for professional legal advice. It is a licensee's obligation to understand and comply with the requirements of the *Liquor Control Reform Act 1998*. This information is correct at the time of printing.