



FAQs for 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.

Note that all the amendments will come into effect on 1 March 2019 or earlier if proclaimed.

The following FAQs answer some of the queries that may arise from these changes. For further details on the legislative amendments, please see the liquor information sheet 'Changes to the *Liquor Control Reform Act 1998*' ([insert hyperlink](#)).

Supply of liquor to minors

New restrictions will apply to the sale and supply of liquor to persons under 18 years of age (minors). These include the following:

- minors are not permitted to consume liquor on licensed premises under any circumstances
- the supply of liquor to a minor within a residence by an adult (i.e. a person of or over the age of 18 of who is a 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 providing they are over the age of 18) may only occur if the adult supplying the liquor demonstrates responsible supervision of the supply.
- a delivery person must not knowingly deliver liquor to a minor without reasonable excuse.

1. *Previously, licensees could supply liquor to a minor for consumption on a licensed premises as part of a meal if the minor was accompanied by a parent, guardian or spouse. Why has this requirement changed?*

The amendment ensures that the prohibition on minors consuming alcohol on licensed premises is clearer and easier to enforce as it will now prohibit the consumption of alcohol by minors on licensed premises in all cases rather than being a prohibition with exemptions.

2. *What does responsible supervision of supply entail in relation to the supply of liquor to a minor in a private residence?*

The factors that will be considered when determining whether supply of liquor to a minor is being made under responsible supervision include:

- the age of the minor;
- whether or not the person supplying the liquor is intoxicated;
- whether or not the minor is consuming food with the liquor;
- whether or not the person supplying the liquor is providing supervision of the minor's consumption of the liquor;
- the quantity and type of liquor being supplied;

- the period of time over which the liquor is supplied;
- whether or not the minor is intoxicated.

3. *Can I supply liquor to a minor who is employed to work at my licensed premises?*

A licensee is permitted to supply liquor to a minor only in circumstances where the minor is engaged to deliver liquor to a person of or over the age of 18 years for consumption off the licensed premises and that minor is a relative, employee or apprentice of the licensee.

4. *Can a minor accept delivery of a pizza and a bottle of wine ordered by an adult at a private residence?*

The delivery of liquor to a minor, including delivery with a food order at a private residence, is not permitted without reasonable excuse. Delivery drivers should check the identification of persons receiving the order to ensure they are not delivering alcohol to a minor.

Licensees are reminded that they are also responsible for verifying the age of their customers for liquor supplied from their licensed premises, including in the case of delivery.

5. *What is considered a reasonable excuse in relation to the delivery of liquor to a minor?*

It is a reasonable excuse to the offence of delivering liquor to a minor 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.

Static alcohol advertising

New offences have been created regarding alcohol advertising. In particular, it will be an offence for a person to display or cause to be displayed, static alcohol advertising within 150 metres of the perimeter of a school.

The prohibition is subject to some exemptions, including transitional arrangements for alcohol advertising displayed under a contract that was entered into before 28 March 2018.

6. *What is alcohol advertising?*

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

7. *What is meant by static advertising?*

Static advertising includes (but is not limited to):

- banners, billboards, hoardings, signs, images or rolling static displays;
- digital billboards and panels including those that display moving or video images; and
- moveable billboards and displays (e.g. A-frame movable display boards).

Static advertising does not include:

- broadcast television, radio or digital media such as websites or social media;
- commercial print media such as magazines and newspapers.

8. *What are the exemptions to the static alcohol advertising prohibition?*

The static alcohol advertising prohibition does not apply to static alcohol advertising within 150 metres of the perimeter of a school that is:

- a logo, emblem or product name on a building that is occupied by a person conducting a business that is associated with the supply of liquor;
- within a licensed premises or on the exterior of a licensed premises;
- on an item of clothing worn by a person;
- on a vehicle that is in reasonable transit; or
- at a sporting ground or racecourse.

Additionally, a two year transition period applies to advertising displayed under a contract entered into before 28 March 2018. Please see question 9 for more details.

9. *What if I have an advertising contract in place that is currently in effect?*

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.

An *alcohol advertising contract* means a contract or agreement entered into for the purpose of the display of any information, term, expression, symbol or other thing that gives publicity to, or otherwise promotes, liquor.

10. *What if the barriers on the footpath trading area of my premises have alcohol advertising on them?*

The area of a licensed premises, and hotels in particular, does not include the footpath even if the premises has a footpath trading permit from the council.

If a licensed premises has barriers that indicate the external boundary of their footpath trading area and alcohol advertising are on those barriers, these will be considered a movable display and therefore not permitted unless exempted by transitional arrangements for alcohol advertising contracts as detailed above in question 9.

Any other alcohol advertising situated outside the licensed premises that falls within the definition of static advertising (including A-frame advertising, etc) and to which an exemption does not apply, is prohibited.

11. How do I know if I am within 150 metres of a school?

Data.Vic has a comprehensive list of all schools and their locations on their website.¹ The 150 metres is measured as a straight-line distance from the boundary of each school.

It is up to licensees to determine whether they are within 150 metres of a school, and if so, to ensure that any alcohol advertising displayed does not contravene the static alcohol advertising prohibition.

12. Does the static alcohol advertising prohibition apply only to liquor licensees?

The prohibition relating to alcohol advertising applies to any person who displays or causes to display static alcohol advertising within 150 metres of the perimeter of a school.

Taking away unconsumed liquor from restaurant and café licensed premises

Restaurant and cafe licensees will be able to allow a person of or over the age of 18 to take away 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 (e.g. a wine bottle that can be resealed); and
- no more than one resealable container of unconsumed liquor per person is taken away.

13. Does this only apply to restaurant and cafe licences?

Yes, this amendment only relates to holders of restaurant and cafe licences. The changes mean the licensee can allow patrons to take away unconsumed liquor that is supplied in the course of a meal on the licensed premises providing it is in the original resealable container.

Note that this amendment does not affect existing licensees who hold other licence categories that already permit the supply of liquor for consumption off the licensed premises (e.g. holder of a general licence).

RSA register

The obligation for a licensee to maintain a Responsible Service of Alcohol (RSA) register is no longer mandatory. Licensees can continue to voluntarily use the registers if they wish.

¹ www.data.vic.gov.au

14. *Having an RSA register assists me with keeping track of my staff member's training requirements and dates. Can I still continue to use one?*

Licensees can continue to use an RSA register if they wish. Licensees will no longer be required to show a register upon inspection of venues by VCGLR inspectors or Victoria Police.

15. *Do I still need to keep copies of my RSA certificates at my venue?*

Licensees are still obliged to retain up-to-date copies of RSA certificates for staff members involved in the sale and service of liquor on the licensed premises, and to produce them upon inspection. An electronic version of an RSA certificate will be acceptable as proof of RSA training.

If requested by VCGLR inspectors or Victoria Police, licensees must still provide information regarding:

- the licensee's name, and if the licensee is a body corporate the name of the responsible person;
- the name of each person who sells, offers for sale or serves liquor on the licensed premises; and
- the date on which each person first sold, offered for sale or served liquor on the licensed premises.

16. *Who is affected by these changes?*

These changes affect holders of an on-premises, general, packaged liquor or late night licence who are currently required by the LCR Act to establish and maintain an RSA register.

The changes will also affect licensees who hold other types of licences if their licence contains a condition requiring them to maintain a RSA register. Following the commencement of the provisions, any condition of this type is taken to mean a requirement to retain up-to-date copies of RSA certificates.

Changes to wine and beer producer's licence

The wine and beer producer's licence will be substituted with a new category of licence, the producer's licence. This will mean that wine, beer, cider and spirit producers can apply for the producer's licence if:

- in the case of a spirit that is brandy, the 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 of existing licensees holding a wine and beer producer's licence and they are not required to take any action.

17. *Do I need to update my displayed licence with the new name if I hold a wine and beer producer's licence?*

The licence category will be updated automatically during the 2019 licence renewal period and will be distributed to renewing licensees during this time. Licensees must continue to display their current wine and beer producer's licence until a new copy of the licence with the updated licence category is mailed to them.

18. Do I have to vary my current licence to a producer's licence if I am spirit distiller operating under a different licence category?

Some spirit distillers may be operating under a renewable limited licence or other licence types such as general or pre-retail licences. Spirit distillers can choose to continue trading under their current licence category or they can apply to vary their licence category to a producer's licence. If they wish to vary their licence category, a variation application will need to be submitted to the VCGLR.

There is no obligation for spirit distillers to vary their licence category.

For more information about the producer's licence, please visit [our website](#).

When a transfer of licence takes effect

To reduce delays during the transfer of an existing licence or BYO permit, the amendments will allow the purchaser of a liquor licensed business to trade immediately on the date they gain the legal right to occupy the licensed premises, providing the licence transfer has already been granted by the VCGLR.

Currently, transferees cannot trade until the VCGLR grants the licence transfer application following receipt of a transferee's declaration of its right to occupy the licensed premises.

The amendments mean that the VCGLR will be able to grant a transfer application providing it is satisfied that the application meets all requirements, even if the transferee has not yet obtained the legal right to occupy the premises.

19. Can I supply liquor as soon as my transfer of licence is granted?

If a transfer application is granted prior to the transferee obtaining the legal right to occupy the premises, the transferee must not commence supplying liquor under the licence until that right to occupy is obtained.

If a transfer application is granted after the transferee obtains the legal right to occupy the premises, the transferee can only commence supplying liquor from the day of the grant of the application.

20. Once I obtain the legal right to occupy the premises, what next?

If a transferee obtains the legal right to occupy the premises after the VCGLR grants the transfer application, the transferee may commence supplying liquor however it must provide notice of its right to occupy the premises to the VCGLR within 24 hours of obtaining that right. Failure to do so will incur a penalty of 5 penalty units.

Automatic removal of demerit points

In addition to the above changes to the transfer application process, any demerit points that have been incurred by a previous licensee or permittee will be automatically removed on 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 arises as the result of either a family or business relationship between a transferee and transferor.

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

21. What is a relevant relationship?

A relevant relationship exists if the transferee:

- has a financial interest in, or is able to exercise power or influence any business of the transferor involving the sale of liquor;
- is a director of any business of the transferor involving the sale of liquor;
- is an employee of the transferor;
- is engaged as a contractor by the transferor.

In the case of a transferee who is a natural person, a relevant relationship exists if the transferee is related to the transferor as a:

- spouse or domestic partner; or
- grandparent, parent or step-parent, uncle, aunt, son, daughter, sibling, nephew, niece, grandchild, or child of the aunt or uncle of the transferor.

22. How do I remove the demerit points incurred on the licence by the transferor if I have a relevant relationship with the transferor?

Demerit points will not automatically be removed if the VCGLR finds that the transferee has a relevant relationship with the previous licensee. The transferee will need to apply to the VCGLR if they wish to remove demerit points. See the VCGLR website for the relevant application form.

Evidence of planning permission

The VCGLR generally 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.

The amendments in the Act make it clear that an application for a liquor licence and planning permit can run concurrently.

This means that the VCGLR must not delay the determination of applications 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 a liquor licence application is granted before a planning permit is approved, the grant of the licence will take effect on the day the applicant obtains planning approval or the day on which evidence is provided to the VCGLR that planning approval is not required.

23. Can I begin supplying liquor under the new, varied or relocated licence straight away once my application is granted by the VCGLR?

A licence will not be in effect where that licence (or the variation or relocation of the licence) is granted by the VCGLR prior to council issuing a planning permit or prior to evidence that planning approval is not required being provided to the VCGLR. This means that the supply of liquor cannot take place until the date the planning approval is granted or the day on which evidence is provided to the VCGLR that planning approval is not required.

24. Once my planning approval is granted, what next?

If planning approval is outstanding at the time a licence (or variation or relocation of a licence) is granted by the VCGLR, an applicant must notify the VCGLR that it has obtained the relevant planning approval within 7 days of obtaining that approval.

25. Is there a time limit for obtaining planning approval if my application has been granted by the VCGLR?

If a licence (or variation or relocation of a licence) is granted by the VCGLR prior to an applicant obtaining the relevant planning approval from council, the applicant must obtain that planning approval within 12 months of the VCGLR's decision to grant, vary or relocate the licence.