

SELF-PACED GUIDE RESTAURANT AND CAFE LICENCE



CONTENTS

Topic 1: Introduction	3
Topic 2: About a Restaurant and cafe licence.....	5
Sample red-line plan – The Red Duck Cafe	8
Check your understanding: About a Restaurant and cafe licences.....	9
Topic 3: Restaurant and cafe licence conditions.....	11
Check your understanding: Restaurant and cafe licence Conditions.....	15
Conclusion	17
Answers	18
Check your understanding: About a restaurant and cafe licences	18
Check your understanding: Restaurant and cafe licence Conditions.....	20

Please note: Information about the law may have been summarised or expressed in general statements. This information should not be relied upon as a substitute for professional legal advice or reference to the actual legislation.

TOPIC 1

INTRODUCTION

Introduction

Complete this self-paced guide to understand:

- what holding a restaurant and cafe licence means for you
- the standard conditions on a restaurant and cafe licence
- the special conditions on some restaurant and cafe licences.

Who should use this guide?

Anyone who needs to know about a restaurant and cafe licence and its conditions.

This may include:

- new licensees, nominees or managers
- existing licensees who want to refresh their knowledge
- company directors who hold a restaurant and cafe licence
- staff at a restaurant and cafe licence.

Learning outcomes

Once you have completed this guide, you should be able to:

- identify when and where you are permitted to supply liquor to customers
- identify any special conditions that apply to your licence
- identify possible breaches to a restaurant and cafe licence.

Topics

The following topics are included in this guide:

- Introduction
- About a restaurant and cafe licence
- Restaurant and cafe licence conditions.

Before you begin

Make sure you are clear about the type of licence you have or have applied for or the type of licence the venue that you are employed at has.

Locate and read the licence or a copy of the application form submitted to the Victorian Commission for Gambling and Liquor Regulation (VCGLR) to assist you as you work your way through the guide.

How to use this guide

This guide is self-paced so you can work through it in your own time and at your own pace.

Icons you will see in this guide

The following icons have been used throughout this guide:



This is a **tip** – something you may find useful.



Each topic has a **Check your understanding**. It includes questions on the content covered and in some instances, uses a scenario.



Once you've completed the **Check your understanding**, this icon directs you to the **answers** at the back of the guide.

TOPIC 2

ABOUT A RESTAURANT AND CAFE LICENCE

What this topic covers

This topic looks at the types of premises that hold a restaurant and cafe licence and where liquor can be served and consumed.

Introduction

The definition of a restaurant under the Victorian Planning Scheme is land used to prepare and sell food and drink, for consumption on the premises.

It may include:

- entertainment; and
- the supply of liquor other than in association with the serving of meals, provided that tables and chairs are set out for at least **75% of patrons present** on the premises at any one time.

Criteria for this licence type

The predominant activity carried out on the premises at all times, for a restaurant and café licence, is the preparation and serving of meals to be consumed on the licensed premises.

To clarify this a little further, please note the following:

- tables and chairs must be placed in position so as to be available for at least **75% of the patrons** attending the premises at any one time.
- The meals you offer are substantial and not just snacks.
- The majority of the customers in your venue are there to eat or have eaten a meal.
- this licence type does not permit the live performance of music or the playing of recorded music on the premises at higher than background level at any time outside ordinary trading hours.

Note: With this licence type you cannot operate as a restaurant or cafe during the day and become a bar at night. A different licence is required if you want to operate as a bar at night.

Display of liquor licence and posters

The licensee is required to display:

- a copy of the most recent liquor licence in an obvious place where the public can read the conditions
- the required posters (signage) in the size, format and manner specified by the VCGLR.

Where can liquor be supplied and consumed?

A restaurant and cafe licence authorises the supply of liquor for consumption on your premises only.

The supply of liquor to customers must be carried out within the red-line area unless your licence states otherwise.

For example, the VCGLR may provide additional approval for footpath trading (tables and chairs on the footpath outside your premises) or off-site catering (i.e. provide catering for offsite functions).

Unconsumed liquor

A licensee may permit a person, 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; and
- no more than one resealable container of unconsumed liquor per person is taken away.

Footpath trading

Many licensed venues have tables and chairs setup on the footpath outside their venue. To serve alcohol in this area, it needs to be included within the red-line plan of your venue.

First, you need council approval to use the footpath before the VCGLR can grant approval for footpath trading.

Special events

You may hold special events on your premises such as functions (e.g. weddings, birthdays) or be part of a local festival or community event.

If the special event requires you to trade outside your:

- specified trading hours on your licence
- licence conditions or
- red-line area

you need to apply for a temporary limited licence or if it is a large event (5,000 or more people), a major event licence.

A temporary limited licence or major event licence is granted in addition to your restaurant and cafe licence and is only valid for the times, days and locations specified on the additional licence.

You and your guests at home

As a licensee, you can entertain personal guests and supply liquor to them at any time, if you:

- live on the licensed premises, and
- serve and drink the liquor in the part of the licensed premises that is set aside as your private residence.

The licensee residence is not part of the red-line area.

What is your red-line plan?

The red-line plan (the plan) is submitted with the application for the liquor licence, or if you are the transferee for an existing licensed premises, the plan submitted by the previous licensee.

This plan is important as it shows where liquor can be supplied and consumed on the licensed premises.

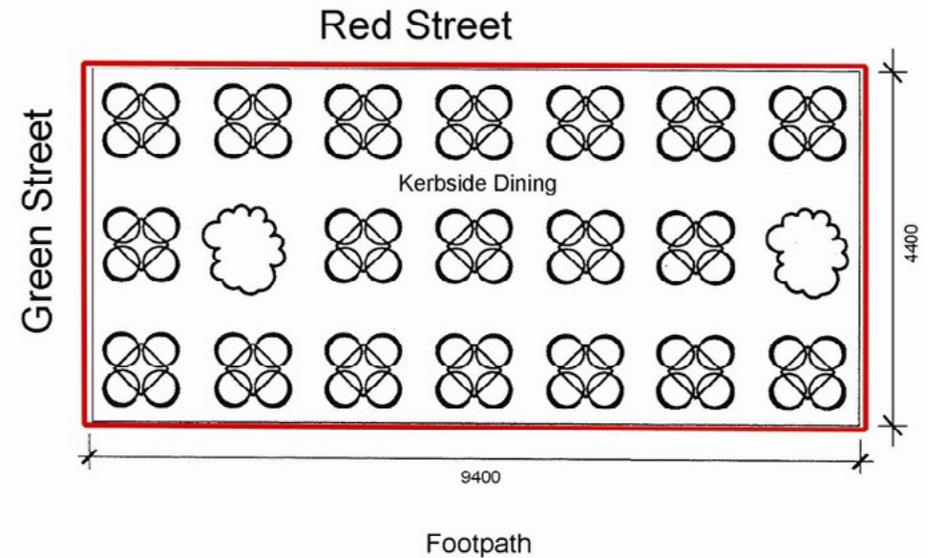
If you are visited by a member of Victoria Police or a VCGLR Inspector, they will likely request that you provide a copy of your plan and they may check that you are operating within the red-line area.

It is an obligation under the Liquor Control Reform Act 1998 (the Act) that you:

- keep a copy of your red-line plan on your premises and
- produce it if requested by Victoria Police or a VCGLR Inspector.

If you intend to do renovations to your licensed premises, you may need to submit a new plan to the VCGLR for approval to vary your licence, prior to making the proposed changes.

SAMPLE RED-LINE PLAN – THE RED DUCK CAFE



CHECK YOUR UNDERSTANDING ABOUT A RESTAURANT AND CAFE LICENCES



It's time to check your understanding of what has been covered so far.

Please complete the questions below and check your responses against the answers provided at the back of this guide.

Q1. You have a restaurant and cafe licence. A customer drinks only one glass out of a bottle of wine they have purchased with their lunch in your cafe. Can they take the bottle of wine home with them?

Yes

No

Explain your answer:

Q2. Customers at a table in your restaurant have been drinking an imported wine that you order in from overseas. They ask if they can buy a dozen bottles from you to put into their wine cellar at home.

Is it a breach of your restaurant and cafe licence to sell the wine to this customer?

Yes

No

Explain your answer:

Q3. The Red Duck Cafe is a popular venue for the 18 to 35 age range, serving breakfast, lunch and dinner Wednesday to Sunday.

On Friday and Saturday nights:

- they are open until 12.30am
- the kitchen closes at 10.00pm
- many of the patrons coming after 8.00pm do not eat a meal.

Does the Red Duck Cafe meet the criteria for a restaurant and cafe licence?

Yes

No

Explain your answer:

Q.4 A group of four customers sit at table in your restaurant. When the waiter takes the orders at their table, they order drinks while they continue to look at the menu. When the waiter returns to take their orders, only three of them order a meal.

Is this scenario a breach of a restaurant and cafe licence?

Yes

No

Explain your answer:

Use the red line plan on page 8 to answer the following questions.



Q.5 Yolanda is having a drink with friends in the Red Duck Cafe when she receives a call from Sara. Sara hasn't been there before and Yolanda says she will wait on the footpath for Sara.

Yolanda takes her glass of wine onto the footpath to wait for Sara.

Is there a breach of the Red Duck Cafe restaurant and cafe licence?

Yes

No

Explain your answer:

Q.6 The licensee at the Red Duck Cafe wants to renovate the cafe and increase the size of the external courtyard area to add more tables for dining.

What does the licensee need to do to ensure he/she is not in breach of the restaurant and cafe licence?

Apply to the VCGLR for a variation to the licence and submit a new red-line plan that includes the new renovations to the external courtyard area.

Nothing, the licensee owns the building and can make any changes.

Nothing as long as people purchase liquor from the inside bar and take it into the courtyard.

Now check your answers on [page 18](#) of this guide.



TOPIC 3

RESTAURANT AND CAFE LICENCE CONDITIONS

What this topic covers This topic looks at the conditions that may be applied to a restaurant and cafe licence.

Introduction Licence conditions outline what you can and cannot do in order to operate your licensed premises legally. Licence conditions are monitored and enforceable by Victoria Police and the VCGLR.

What do licence conditions specify? There are standard conditions that all restaurant and cafe licence holders have.

Licence conditions specify:

- your authorised trading hours
- the ratio of tables and chairs that a restaurant and cafe must have available to customers
- the amenity condition
- other conditions that are relevant to the type of licensed premises you have.

Ordinary trading hours Unless requested otherwise, your licence will have ordinary trading hours applied to it. Ordinary trading hours finish at 11pm on any day.

Ordinary trading hours allow you to sell liquor for consumption on the premises at the following times:

- **Sunday:** 10am to 11pm
- **Good Friday and ANZAC Day:** 12noon to 11pm
- **Monday to Saturday (excluding ANZAC Day and Good Friday):** 7am to 11pm.

Note: You have a 30-minute grace period after closing time for customers to finish the drinks they have already purchased. However, no further liquor sales are to occur during this time.

Underage customers (minors)

As a restaurant or cafe, you may allow under 18-year olds on your premises within ordinary trading hours.

Anyone under 18 years old may be on the premises and consume a meal or non-alcoholic drink within ordinary trading hours.

If you are licensed to trade late, you may not allow people under 18 years into the licensed area after 11pm, unless you have an underage approval from the VCGLR or the younger person is:

- in the company of a responsible adult
- partaking in a meal
- employed in duties other than the supply of liquor
- in a VCGLR approved training program in hospitality or completing work experience.

A **responsible adult** is a person who is over the age of 18 years and who is:

- the younger person's parent, step-parent, guardian or grandparent, or
- the younger person's spouse (over the age of 18 years), or
- a person who is acting in place of a parent and who could reasonably be expected to exercise responsible supervision of the younger person (e.g. a sports coach).

Note: Minors are not allowed to be served or drink liquor on licensed premises under any circumstances.

Amenity

Amenity is the impact that your venue and its patrons may have on the surrounding area.

The *Liquor Control Reform Act 1998* defines amenity as:

"The quality that the area has of being pleasant and agreeable".

Amenity includes:

- **Parking facilities**
Do you have a car park? Do patrons park in nearby residential streets?
- **Traffic movement and density**
Is there a lot of traffic in the surrounding area from patrons coming and going to your venue?
- **Noise levels**
What measures do you have in place to minimise noise from your venue if you have amplified music, or from patrons leaving your venue?
- **Possibility of nuisance or vandalism**
Are your patrons likely to cause a nuisance to nearby residents? Is there a potential that they may cause noise, nuisance or damage to property or cars?
- **Harmony and coherence of the environment**
What general effect does your venue have on the local community and neighbouring businesses/residents?

Amenity condition

There will be a condition on your licence regarding amenity. This condition is explained below:

Condition	What this means
<p>The licensee shall not cause or permit undue detriment to the amenity of the area to arise out of, or in connection with, the use of the premises to which the licence relates during or immediately after the trading hours authorised by this licence.</p> <p>The licensee shall ensure that the level of noise emitted from the licensed premises shall not exceed the permissible noise levels for entertainment noise as specified in the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2.</p>	<p>You are responsible for what happens in and around your licensed premises. This includes the time that you are open for business and when patrons are leaving your premises.</p> <p>This condition relates to the Environment Protection Authority (EPA).</p> <p>For further information, go to www.epa.vic.gov.au/for-community/environmental-information/noise</p>

Restaurant conditions

The following restaurant conditions are applied to all restaurant and cafe licences:

Condition	What this means
a) The predominant activity carried out on the licensed premises must be the preparation and serving of meals for consumption on the licensed premises.	The preparation and serving of meals is the main activity for the premises.
b) Tables and chairs must be placed in position on the licensed premises so as to be available for at least 75% of the patrons attending the premises at any one time.	<p>You must provide tables and chairs for at least 75% of patrons at all times.</p> <p>E.g. if you have 50 customers you must have at least 38 seats available.</p>

Restaurant conditions (continued)

<p>c) The licensee must not permit:</p> <ul style="list-style-type: none">(i) the live performance of any musical works; or(ii) the playing of any recorded musical works: on the premises at higher than background music level at any time outside ordinary trading hours. <p>Condition (c) does not apply to music performed or played on the licensed premises outside ordinary trading hours as part of a function that is held in an area of the premises that is set aside for the exclusive use of persons who have booked a table in that area and their guests, and is attended only by those persons and their guests.</p>	<p>You must not permit any music other than background music outside ordinary trading hours (after 11pm). Background music is defined in the Act as music played at a volume where two people can hold a conversation 60cms apart without raising their voices. Private functions with music above background music level are permitted in a separate area provided they are prebooked and attended by persons and their guests who have booked a table in that area. You will need to keep evidence to show Victoria Police or a VCGLR Inspector that the function has been pre-booked.</p>
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Maximum patron capacity

The maximum patron capacity is the maximum number of patrons allowed on a licensed premises at any one time. This is to prevent overcrowding inside the venue and to minimise impacts on local amenity.

The maximum patron capacity is often based on the planning permit or an occupancy permit obtained through council and submitted with the original licence application. In instances where maximum patron numbers are not stated on the licence, then the VCGLR's policy requiring an area of 0.75 square metres per person is applied.

At no time, should you allow entry to more than the maximum number of patrons stated on your licence as you will be committing an offence and it could pose amenity risks as well as a risk to the health and safety of your patrons and staff.

Three documents are considered by the VCGLR in order to determine the maximum patron capacity:

1. The maximum patron capacity allowed under the planning permit for the premises.
2. The patron capacity prescribed on an occupancy permit of the premises or a report from a building surveyor on the same basis as per an occupancy permit.
3. A report from a registered building surveyor that states the number of patrons that may be accommodated on the premises based on a ration of 0.75 square metres per person.

For more information you can read the [maximum patron capacity factsheet](#)

Authorised off site catering

Some restaurant and cafe licences will have a condition allowing the supply of liquor during catering for social receptions or functions at another location other than the licensed premises (offsite).

CHECK YOUR UNDERSTANDING RESTAURANT AND CAFE LICENCE CONDITIONS



CHECK YOUR
UNDERSTANDING

It's time to check your understanding of what has been covered so far.

Please complete the questions below and check your responses against the answers provided at the back of this guide.

Q1. The Red Duck Cafe has a restaurant and cafe licence and is open for trading until 1am on Saturday nights.

It is Saturday night and they have a full restaurant plus their small function room is booked for a 40th birthday party. There is a live band playing music above background level for the function from 9pm until midnight.

At 12.30am, the party is still going.

Is there a breach of the restaurant and cafe licence conditions?

Yes

No

Explain your answer:

Q2. At 4pm each Saturday, the Red Duck Cafe has live music.

From midday to 4pm they have tables and chairs for their maximum capacity of 100 people. At 4pm, they reduce their tables and chairs to accommodate only 50 people to make room for salsa dancing.

By 10pm, they have reached their maximum capacity of 100 patrons.

Is there a breach of the restaurant and cafe licence conditions?

Yes

No

Explain your answer:

Q3. Your premises has a restaurant and cafe licence. Three people enter your cafe at 3pm on a Saturday. They are obviously under 18 years of age but just want to order coffees.

Can you allow this?

Yes

No

Explain your answer:

Q.4 The Red Duck Cafe is open until 1am on Saturday and Sunday morning (Friday and Saturday nights) and they have live music until 12.30am on these days.

Neighbours have complained that they can hear the music in their homes and have made several requests to the licensee to turn the music down.

a) Is the licensee in breach of their restaurant and cafe licence?

Yes

No

Explain your answer:

b) If so, what time must the music be turned down to background level?

11pm

12:30am

1:00am

the premises should not be playing music.

Now check your answers on [page 20](#) of this guide.



CONCLUSION

Congratulations!

You've completed the restaurant and cafe licence self-paced guide.

Breaches and fines

Holding a liquor licence comes with legal obligations.

The way you run your business has a direct impact on the safety of your patrons and the community. You have a responsibility to ensure that liquor is managed in a way that encourages responsible and appropriate drinking.

The Act provides for the issue of fines for specified [breaches](#).

General information

A liquor licence does not override local laws, planning schemes and conditions on planning permits. It is the licensee's responsibility to ensure they comply with these.



TIP

Helpful links:

- [Maximum Patron Capacity](#)
- [Intoxication guidelines](#)
- [Advertising and Promotion Guidelines](#)
- [Free water poster - optional](#)
- [Required signage](#)
- [Delivery poster- optional](#)
- [Safe Function Guidelines](#)
- Subscribe to [VCGLR News](#) – free monthly newsletter

CHECK YOUR UNDERSTANDING ABOUT A RESTAURANT AND CAFE LICENCES

Q.1 You have a restaurant and cafe licence. A customer drinks only one glass out of a bottle of wine they have purchased with their lunch in your cafe. Can they take the bottle of wine home with them?

A. Yes. If the customer is over the age of 18, unconsumed liquor supplied in the course of a meal can be taken away 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.**

Q.2 Customers at a table in your restaurant have been drinking an imported wine that you order in from overseas. They ask if they can order a dozen from you to put into their wine cellar at home.

Is it a breach of your restaurant and cafe licence to sell the wine to this customer?

A. Yes. Under a restaurant and cafe licence you cannot supply liquor for off-premises consumption.

Q.3 The Red Duck Cafe is a popular venue for the 18-35 age range, serving breakfast, lunch and dinner Wednesday to Sunday.

On Friday and Saturday nights:

- they are open until 12.30am
- the kitchen closes at 10.00pm
- many of the patrons coming in after 8.00pm do not eat a meal.

Does the Red Duck Cafe meet the criteria for a restaurant and cafe licence?

A. No. The main and predominant activity for a restaurant and cafe licence is the preparation and serving of meals.

If the Red Duck Cafe would like to also trade as a bar, an On-premises licence may be a better option for the venue.

Contact the VCGLR for further information to ensure you apply for the right type of licence for your business model.

Q.4 A group of four customers sit at table in your restaurant. When the waiter takes the orders at their table, they order drinks while they continue to look at the menu. When the waiter returns to take their orders, only three of them order a meal.

Is this scenario a breach of a restaurant and cafe licence?

A. No, it is not a breach.

The majority of customers in your venue must be there to eat or have eaten a meal and the meals you offer are substantial and not just snacks.

Q.5 Yolanda is having a drink with friends in the Red Duck Cafe when she receives a call from Sara. Sara hasn't been there before and Yolanda says she will wait on the footpath for Sara.

Yolanda takes her glass of wine on the footpath to wait for Sara.

Is there a breach of the Red Duck Cafe restaurant and cafe licence?

A. Yes, the footpath is not within the red-line area.

Q.6 The licensee at the Red Duck Cafe wants to renovate the cafe and increase the size of the external courtyard area to add more tables for dining.

What does the licensee need to do to ensure he/she is not in breach of the restaurant and cafe licence?

A. Apply to the VCGLR for a variation to the licence and submit a new red-line plan that includes the new renovations to the external courtyard area.

CHECK YOUR UNDERSTANDING RESTAURANT AND CAFE LICENCE CONDITIONS

Q.1 The Red Duck Cafe has a restaurant and cafe licence and is open for trading until 1am on Saturday nights.

It is Saturday night and they have a full restaurant plus their small function room is booked for a 40th birthday party. There is a live band playing music above background level for the function from 9pm until midnight.

At 12.30am, the party is still going.

Is there a breach of the restaurant and cafe licence conditions?

A. No, the function is permitted to have music above background music outside of ordinary trading hours.

Q.2 At 4pm each Saturday, the Red Duck Cafe has live music.

From midday to 4pm they have tables and chairs for their maximum capacity of 100 people. At 4pm, they reduce their tables and chairs to accommodate only 50 people to make room for salsa dancing.

By 10pm, they have reached their maximum capacity of 100 patrons.

Is there a breach of the restaurant and cafe licence conditions?

A. Yes, they must retain 75% of their tables and chairs at any time. By reducing the tables and chairs to accommodate 50 people, they only have 50%.

Q.3 Your premises has a restaurant and cafe licence. Three people enter your cafe at 3.00pm on a Saturday. They are obviously under 18 years of age but just want to order coffees.

Can you allow this?

A. Yes. Minors are allowed on the premises of a restaurant and cafe licence unaccompanied during ordinary trading hours (up until 11pm) so long as they do not consume liquor.

Q.4 The Red Duck Cafe is open until 1am on Saturday and Sunday morning (Friday and Saturday nights) and they have live music until 12.30am on these days.

Neighbours have complained that they can hear the music in their homes and have made several requests to the licensee to turn the music down.

a) Is the licensee in breach of their restaurant and cafe licence?

A. Yes, because it is past 11pm (ordinary trading hours) and the music is having an impact on the amenity of the area, that is, the residential neighbours.

b) If so, what time must the music be turned down to background level?

A. 11pm

