

SEPT 2018

# Self-paced guide

Restaurant and cafe licence



Victorian Commission for  
Gambling and Liquor Regulation



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This publication avoids the use of legal language. 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. Authorised by the Victorian Government.

# Topic 1 - Introduction

## Introduction

This is a self-paced training guide outlining:

- what holding a restaurant and cafe licence means for you
- the standard conditions on a restaurant and cafe licence
- 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 or nominees
- existing licensees who don't feel they know enough about their licence
- company directors who hold a restaurant and cafe licence
- managers or supervisors 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 alcohol to customers
- identify any special conditions that apply to your licence type
- identify possible breaches to a restaurant and cafe licence.

## Topics

The following topics are included in this guide:

- Introduction
- About restaurant and cafe licences
- Restaurant and cafe licence conditions

# Topic 1 – Introduction (continued)

## Before you begin

Make sure you are clear about the type of licence you have or have applied for.

Locate your licence or a copy of the application form you submitted to the Victorian Commission for Gambling and Liquor Regulation.

## 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 and questions.



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 alcohol 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 dancing; 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 main criteria and predominant criteria for a restaurant and cafe licence is the preparation and serving of meals to be consumed on the licensed premises at all times.

To clarify this a little further, the following points are a guide to help you assess whether this licence type is the most appropriate for your venue.

- Meals are available within one hour of opening and up to one hour before closing.
- The tables are setup with cutlery and condiments for meals.
- Staff offer a food menu to people entering the premises.
- The majority of people in your venue are there to eat or have eaten a meal.
- The meals you offer are substantial and not just snacks.
- Take-away food cafes will not fit into this category.
- The majority of staff prepare and serve food.

**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.

## Topic 2 – About a restaurant and cafe licence (continued)

### Where can alcohol be supplied and consumed?

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

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

For example, under the *Liquor Control Reform Act 1998* (the Act), the Victorian Commission for Gambling and Liquor Regulation (the Commission) has the authority to grant the supply of liquor on any other premises. This will be clearly stated on your licence if this is the case.

This may include tables and chairs on the footpath outside your premises, or providing catering for off site 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. This area needs to be included within the red-line plan of your venue.

You need council approval to use the footpath before the Commission can grant approval for footpath trading.

### Special events

You may from time-to-time hold special events on your premises such as functions, or be part of a local festival or community event.

If the special event requires you to trade outside your restaurant and cafe licence trading hours, licence conditions or in some cases, red-line area, you need to apply for a limited licence or if it is a large event, a major event licence.

A limited licence or major event licence is granted in addition to your restaurant and cafe licence and is only in force for the times

and locations specified on the additional licence.

*See also:*

*Self-paced guide for a limited licence*

*Self-paced guide for a major event licence.*

### **You and your guest**

As a licensee, you can entertain personal guests and supply alcohol to them at anytime, provided that you:

- live on the licensed premises, and
- serve and drink the alcohol 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 is the plan that you submitted with your application for your liquor licence, or if you are the transferee for an existing licensed premises, the plan submitted by the original or previous licensee.

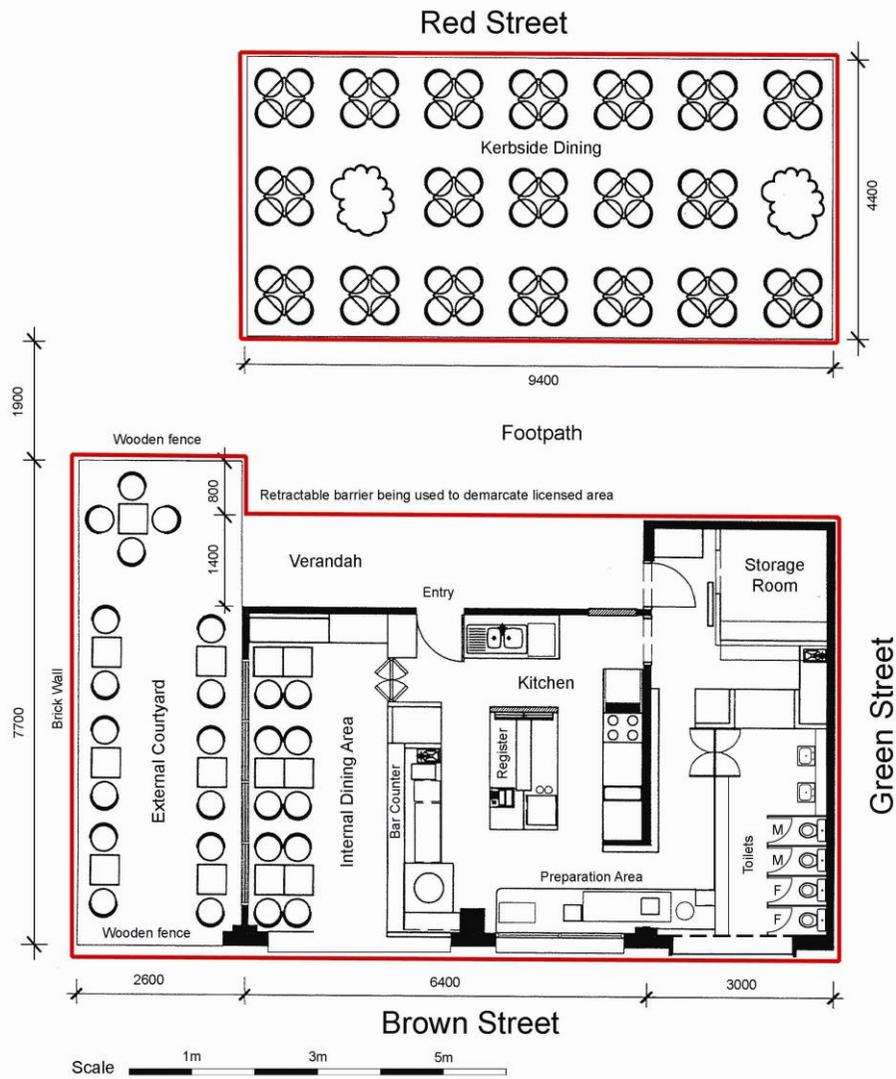
This plan is important as it shows where alcohol can be supplied and consumed on the licensed premises.

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

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* that you not only keep a copy of your red-line plan on your premises, but that you also produce it if requested by Victoria Police or a VCGLR Inspector.

# Sample red-line plan – The Red Duck Cafe



# Check your understanding – About 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.*

**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?

**Yes / No**

Explain your answer:

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**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?

**Yes / No**

Explain your answer:

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**Q.3**

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:

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**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:

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**Use the red-line plan on page 6 to answer the following question.**

**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:

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**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?

(Circle the correct response.)

- a) Apply to the Commission for a variation to the licence and submit a new red-line plan that includes the new renovations to the external courtyard area.
- b) Nothing, the licensee owns the building and can make any changes
- c) Nothing as long as people purchase alcohol from the inside bar and take it into the courtyard.



*Now check your answers on page 19.*

## 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 gambling and liquor inspectors.

**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 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 alcohol for consumption on the premises at the following times:

- **Sunday:** 10am to 11pm
- **Good Friday and ANZAC Day:** 12noon to 11pm
- **On any other day:** 7am to 11pm.

Remember, you have a 30 minute grace period after closing time for customers to finish the drinks they have already purchased. However, no service is to occur.

**Underage customers**

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 drinks within ordinary trading hours.

Minors are not allowed to drink liquor on licensed premises under any circumstances.

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 Commission 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 training program in hospitality or completing work experience.

A responsible person is a person who is over 18 years of age and is the younger persons spouse, parent, step-parent, guardian or grandparent, or a person who is acting in place of a parent and who could reasonably be expected to exercise responsible supervision.

A spouse is the person to whom they are married and must be over 18 years of age.

A guardian is someone authorised by law to manage the younger person's affairs.

**Amenity**

Amenity is the effect that your venue and its customers 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**  
Is your clientele 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**

The amenity condition on your licence 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 venue. This includes the time that you are open for business and when customers are leaving your venue.</p> <p>This condition relates to the Environment Protection Authority (EPA).</p> <p>For further information, go to <a href="http://www.epa.vic.gov.au/noise">www.epa.vic.gov.au/noise</a>.</p>

**Restaurant conditions**

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

Condition	What this means
<p>a) The predominant activity carried out on the licensed premises must be the preparation and serving of meals for consumption on the licensed premises.</p>	<p>The preparation and serving of meals is the main activity for the premises.</p>
<p>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>	<p>You must provide tables and chairs for at least 75% of patrons at all times i.e. if you have 50 customers you must have at least 38 seats available.</p>

<p>c) The licensee must not permit:</p> <ul style="list-style-type: none"> <li>(i) the live performance of any musical works; or</li> <li>(ii) the playing of any recorded musical works:</li> </ul> <p style="padding-left: 40px;">on the premises at higher than background music level at any time outside ordinary trading hours.</p> <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).</p> <p><b>Background music</b> is defined in the Act as music played at a volume where two people can hold a conversation 60cm apart without raising their voices.</p> <p>Private functions with music above background music level are permitted in a separate area provided they are pre-booked and attended by persons and their guests who have booked a table in that area.</p> <p>You will need to keep evidence to show Victoria Police or a gambling and liquor inspector that the function has been pre-booked.</p>
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**Maximum capacity of patrons**

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 Commission’s policy requiring an area of 0.75m<sup>2</sup> per person is applied.

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

**Authorised off site catering**

Some restaurant and cafe licences will have a condition allowing the supply of liquor in the course of catering for social receptions or social functions at an outside location other than the licensed premises.

# Check your understanding – Restaurant and cafe licence conditions



*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.*

**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 40<sup>th</sup> 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:

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**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 cafe's restaurant and cafe licence conditions?

**Yes / No**

Explain your answer:

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**Q.3** 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:

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**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:

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

- a) 11pm
- b) 12:30am
- c) 1:00am
- d) the premises should not be playing music



Now check your answers on page 21.

# Conclusion

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



For information on liquor licences, application/variation forms, fact sheets or training, go to the Victorian Commission for Gambling and Liquor Regulation website at [www.vcqlr.vic.gov.au](http://www.vcqlr.vic.gov.au).

# Answers



## Check your understanding – About 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 alcohol for off-premises consumption. You would need to apply for and be granted a limited licence.*

**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 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 better for the venue.*

*Contact the VCGLR for further information if you are unsure whether you have or have applied for the right type of licence.*

- 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. One of the criteria for a restaurant and cafe licence is that the majority of people in your venue are there to eat or have eaten a meal.*
- 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.** *a) Apply to the Commission 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 40<sup>th</sup> 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.1** *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 cafe's restaurant and cafe licence conditions?
- A.2** *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.3** *Yes. Minors are allowed on the premises of a restaurant and cafe licence unaccompanied up until 11pm so long as they do not consume alcohol.*

**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.4** *Yes, as 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.** *a) 11pm*