

Removal of demerit points

MARCH 2016
CD/15/90097

This kit contains the form and related material required to apply for the removal of demerit points.

Items

1. Application form - removal of demerit points
2. 'Removal of demerit points' fact sheet

Need help?

For more information on how to apply for a liquor or gambling licence or permit:

- visit the Victorian Commission for Gambling and Liquor Regulation (VCGLR) website at vcglr.vic.gov.au
- telephone the VCGLR on 1300 182 457
- email the VCGLR at contact@vcglr.vic.gov.au



Application

Removal of demerit points

Liquor Control Reform Act 1998

OFFICE USE ONLY

03/16

Date Rec'd / /

File No. _____

Please note: Even if this application is granted, the venue's compliance history risk fee and star rating will not change.

Licence/permit details

Licence or permit number	ACN (if applicable)
<input type="text"/>	<input type="text"/>

Name of current licensee/permittee

Name of previous licensee/permittee

Date licence transfer granted

Number of demerit points seeking to have removed

Associates

The Commission may consider whether the new licensee or permittee has a business or family association with the previous licensee or permittee, the nominee of the previous licensee or permittee or associates of the previous licensee or permittee.

Before completing this application, ensure that you read and understand the explanation of what is meant by 'associate' on the last page of this form.

Licenseses and permittees are required by law to keep the Commission updated on their current associates. For bodies corporate, this includes associates of directors. If you need to update details of your associates with the Commission, please fill in the change of associates declaration below.

- The applicant has no associates
- The following are no longer the applicant's associates

Name	Date of birth
<input type="text"/>	<input type="text"/>

Address

Postcode

Name	Date of birth
<input type="text"/>	<input type="text"/>

Address

Postcode

the following are new associates of the applicant

Name	Date of birth
<input type="text"/>	<input type="text"/>

Address

Postcode

Name	Date of birth
<input type="text"/>	<input type="text"/>

Address

Postcode

Declaration of associates

- I declare/certify that I have no business or family association with:
- the previous licensee or permittee
 - the nominee of the previous licensee or permittee
 - associates of the previous licensee or permittee

or

- I have a business or family association with:
- the previous licensee or permittee
 - the nominee of the previous licensee or permittee
 - associates of the previous licensee or permittee

Please provide details of this association including the names of associates and the nature of the association.

Name	Date of birth
<input type="text"/>	<input type="text"/>

Nature of association

Name	Date of birth
<input type="text"/>	<input type="text"/>

Nature of association

Privacy – the Victorian Commission for Gambling and Liquor Regulation is committed to responsible and fair handling of personal information consistent with the *Privacy and Data Protection Act 2014* and its obligations under the *Liquor Control Reform Act 1998*. All information provided in this application is available for public viewing, except for the questionnaire form (if applicable) which is forwarded to and retained by Victoria Police.

Liquor Control Reform Act 1998 **– who is an associate?**

An associate of an applicant is:

- (a) a person who:
 - (i) holds or will hold any **relevant financial interest**, or is or will be entitled to exercise any **relevant power** (either in his or her own right or on behalf of another person) in any business of the applicant involving the sale of liquor, and
 - (ii) by virtue of that interest or power, is able or will be able to exercise a significant influence over or with respect to the management or operation of that business, or
- (b) a person who is or will be a director (either in his or her own right or on behalf of another person) of any business of the applicant involving the sale of liquor, or
- (c) if the applicant is a natural person, a **relative** of the applicant unless the relative:
 - (i) is not, and has never been, involved in any business of the applicant involving the sale of liquor, or
 - (ii) will not be involved in the business the applicant proposes to conduct as licensee.

Where:

'relative' in relation to the applicant means:

- (a) the spouse or domestic partner of the applicant, or
- (b) a parent, son, daughter, brother or sister of the applicant, or
- (c) a parent, son, daughter, brother or sister of the spouse or domestic partner of the applicant.

'relevant financial interest' in relation to the business involving the sale of liquor means:

- (a) any share in the capital of the business, or
- (b) any entitlement to receive any income derived from the business, or
- (c) any entitlement to receive any payment as a result of money advanced.

'relevant power' means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others:

- (a) to participate in any directorial, managerial or executive decision, or
- (b) to elect or appoint any person as a director.





Victorian Commission for Gambling and Liquor Regulation

Liquor Licensing Fact Sheet

Removal of demerit points by a new licensee/permittee

In some circumstances, it may be possible for a liquor licensee to apply to the Victorian Commission for Gambling and Liquor Regulation (the Commission) to remove demerit points from a licence.

Who can apply?

Under the *Liquor Control Reform Act 1998* (the Act) it is not possible for a current licensee, whose premises has incurred a demerit point(s), to apply to the Commission to have the demerit point(s) removed.

An application to remove any demerit points from a licence can only be made by a new licensee once the licence has been transferred. There is no fee for this application.

The process

Under the Act, the Commission must not remove any demerit points unless it is satisfied that the new licensee or permittee has taken sufficient measures to improve compliance in accordance with the requirements of the Act.

The licensee or permittee is required to submit an application to the Commission, providing adequate evidence to satisfy the Commission that sufficient actions have been taken to improve compliance at the premises.

Factors the Commission may consider, include, but are not limited to:

- written evidence that the new licensee or permittee has taken sufficient steps to improve compliance with liquor laws
- written evidence that the new licensee or permittee has no business or family association with:
 - the previous licensee or permittee
 - the nominee of the previous licensee or permittee
 - associates of the previous licensee or permittee.

In addition, the Commission may consider any other factors it deems relevant in determining the application.

The application

If you want to apply to have demerit points removed from your licence, you must complete the 'Removal of demerit points' application form. It is also suggested that you provide supporting materials.

The nature of the materials to be provided to the Commission is up to the applicant, however, it is suggested that the applicant consider providing:

- a current management plan and information about how the new licensee or permittee has improved management
- evidence of changes made to the premises to improve patron safety and improve compliance
- evidence of recent staff training (for example RSA training or new entrant training).

The decision

All applications will be assessed by a Commissioner. The Commissioner's decision and reasons will be provided to the applicant as well as being published at vcglr.vic.gov.au.

Please note: If a Commissioner approves the removal of a demerit point(s), it will not affect the star rating or compliance history risk fee for the venue.

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.