

Review of Liquor Control Reform Act

The *Liquor Control Reform Act 1998* ("Act"), came into operation on 17 February 1999. The Act is primarily designed to minimise the harm created by the abuse and misuse of alcohol within society. The reforms contained in the Act are also intended to provide a competitive environment, which will assist in the development and growth of the liquor industry and facilitate diversity in licensed premises.

Who can apply for a liquor licence?

The *Liquor Control Reform Act* takes a different approach in determining what type of business premises may be licensed than was taken under the now repealed *Liquor Control Act 1987*. Any business may now apply for a liquor licence or permit provided that the business has obtained appropriate planning approval. This provision is qualified by section 22(1) of the Act, which provides that the Director of Liquor Licensing must not grant a licence or permit for premises used as a drive-in cinema, petrol station or convenience store (unless approved by the Minister). The result of this reform is that businesses that were ineligible to be licensed under the old Act may now obtain a liquor licence.

Types of liquor licences

The number of categories of licences has been reduced from 17 to 9. The rationalisation of the types of licences will not affect the terms and conditions contained in existing licenses, except to the extent that some advantage may be obtained by the licensee.

On-premises (restaurant) licences

Under the previous *Liquor Control Act 1987* on-premises restaurant licensees were prohibited from selling liquor without meals other than in an authorised 25% of the licensed area. Now, those restaurants that are granted on-premises licenses under the Act are able to sell liquor to customers without the requirements that they are served a meal. However, such premises must continue to predominately operate as a restaurant and have tables and chairs (which includes stool seating) for at least 75% of the customers on the premises at any one time.

Objections

An objection to an application for a grant, variation or relocation of a liquor licence must be made on the basis that the grant, variation or relocation would detract from or be detrimental to the amenity of the area in which the proposed licensed premises is situated. Although any person may object to a liquor licence application, need or demand are not valid reasons on which to base an objection.

This can be contrasted to the previous position, whereby objections could be based on "community interest" grounds, including the need for a proposed licence.

An objection must be made to the Director of Liquor Licensing within thirty days of the date on which the applicant commenced to display a Notice of Application at the subject premises.

Under the Act, objections are assessed by a Liquor Licensing Panel with a recommendation to the Director of Liquor Licensing as to whether or not the application should be granted. Previously, objections were heard by the Liquor Licensing Commission, as it was then known.

Appeals against decisions of the Director of Liquor Licensing are now heard by the Victorian Civil and Administrative Tribunal (VCAT). Previously, initial appeals against decisions were heard by the Full Liquor Licensing Commission.

Transfer of licence

If a licensee has been legally evicted or has deserted a licensed premises, the owner or mortgagee of the licensed premises may apply to transfer the licence directly to a new proposed licensee. Previously, the landlord required a specific power of attorney in the lease to enable such a transfer. The abolition of the requirement for a power of attorney in a lease, together with the simplification of the licensing process, means that landlords of licensed premises can exercise their rights under the lease more effectively.

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