



Policy

Special Facility Licence - Online Wine Sales

Disclaimer

This Policy is designed to provide information in regard to the subject matter covered, and with the understanding that the Director of Liquor Licensing is not passing legal opinion or interpretation or other professional advice. The information is provided on the understanding that all persons undertake responsibility for assessing the relevance and accuracy of its contents.

Introduction

Pursuant to section 46 of the *Liquor Control Act 1988* (the Act), the licensing authority is empowered to grant a special facility licence for a number of prescribed purposes.

This document provides guidance as to the legislative requirements relating to special facility 'online wine sales' licences and the matters that may be taken into consideration when determining an application for such a licence.

Legislative Provisions and Application Criteria

The purposes for which a special facility licence may be granted are set out in regulation 9A of the *Liquor Control Regulations 1989* (the regulations). One of those prescribed purposes is 'online wine sales'.

In this regard, regulation 9A(24) states:

"A special facility licence may be granted for the purpose of allowing the online sale of wine from premises specified in the special facility licence in sealed containers for consumption off the licensed premises."

Regulation 9A(24) has several conditions attached, as outlined below.

Conditions of the Licence

This licence type enables the sale of wine produced by holders of a Western Australian producer's licence, via the internet only. The licensee may not invite or admit prospective purchasers of liquor to the licensed premises or to any premises or place at which liquor is stored for sale by the licensee.

Accepting Sales

The licensed premises is the place at which the licensee will process their online sales, such as a home office. The licensee must accept the order that has been placed through the website and communicate the acceptance of the order to the purchaser from the licensed premises only (i.e. using a mobile device to accept orders away from the licensed premises will constitute a breach of the licence).

Off-site Storage of Liquor

If the licensee intends to store liquor away from the licensed premises (for example at a warehouse), an application for approval of the off-site storage facility must be made. This approval can be sought on the same application form as the grant of the liquor licence. Further information can be obtained from the Director's policy, '*Off-Site Storage of Liquor*'.

This premises cannot form part of an existing licensed premises, as section 36 of the Act provides that two or more licences cannot be granted for the same part of any premises.

Trading Hours and Delivery

This licence type is authorised to trade 24 hours a day. However, despatch and delivery of liquor can only take place between the hours of 7am to 7pm (excluding Good Friday, Christmas Day and Anzac Day between midnight and 12 noon). No time restriction is placed on the collection of an order from a mail depot.

In addition, the following conditions are attached to the licence:

- liquor is not to be delivered to a premises that is unattended (including a parcel locker/box); and
- liquor must not be delivered to a juvenile.

It is the licensee's responsibility to ensure that the courier/company engaged to deliver the liquor complies with the above conditions.

Restricted Areas/Premises

Licensees should be aware that some areas of the state have been declared as restricted areas under section 175(1a) of the Act. It is therefore an offence to possess liquor in the restricted area and a fine of up to \$2,000 applies. A map is available on the department's website which shows the locations of all restricted areas. It can be accessed via the following link: <http://www.rgl.wa.gov.au/maps/section175.htm>

Additionally, section 152P of the Act allows the Director to declare a premises to be a liquor restricted premises. The possession of liquor on restricted premises is an offence and a fine of up to \$2,000 applies. Section 152S of the Act requires a notice to be placed in a conspicuous position on the premises, detailing that it is a restricted premises and with a diagram or description of the area that is subject to the declaration.

Other Considerations

Juveniles

In addition to ensuring that liquor is not delivered to a juvenile, it is the licensee's responsibility to ensure that liquor is not sold to a juvenile. The licensee must include a warning on their website to this effect and further details are available in the Director's policy, '*Website Information for Certain Licences*'.

Section 120 of the Act outlines the only circumstances when juveniles are permitted to be on licensed premises and in this regard, particularly in the case of a licensed home office, licensees should be aware of this. Further information is provided in the Director's policy, '*Juveniles Present on Licensed Premises for Reasons Other Than Work and Training*'.

Other Businesses

A non-liquor related business cannot be conducted on a licensed premises unless approved by the Licensing Authority. Profit sharing arrangements must also be approved. Further information on these matters is available in the Director's policy, '*Profit Sharing and Management Agreements*'.

Lodging an Application

Applicants for a special facility licence must lodge with the Department of Racing, Gaming and Liquor, certain statutory information prior to an application being considered.

To assist applicants in lodging their application, an application kit containing a lodgement guide, forms, and an information bulletin is available from the Department's website at www.rgl.wa.gov.au.

Further, customer service staff are available at any time during office hours to assist applicants understand the legislative requirements relating to the lodgement of an application.

In addition to information on the internet, contact can be made with the Department by telephone on (08) 6551 4888.

DIRECTOR OF LIQUOR LICENSING