



# Policy

## Incident Register at Licensed Premises

### 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.

### Purpose

To provide licensees with guidance regarding their obligations in relation to recording incidents that occur on and in the vicinity of their licensed premises.

### Introduction

Under the *Liquor Control Act 1988* ("the Act"), licensees have an obligation to ensure that they manage their premises in a manner that is consistent with the objects of the Act, and that the safety, health or welfare of persons resorting to the licensed premises and its surroundings are not at risk. One management strategy that supports these obligations is to track and make a record of incidents at the premises. The maintenance of such a register is not only in the interests of a licensee, but also assists the police and the licensing authority in administering the Act.

Section 116A of the Act requires that the licensee must maintain a register of incidents that take place at the licensed premises (an approved manager may be permitted to maintain the register on behalf of the licensee). In this regard, sections 64, 65 and 117 extend responsibility to licensees to areas adjacent to, in the immediate proximity of and in the vicinity of licensed premises.

It should be noted that the Incident Register, which is required to be kept under section 116A of the Act, is in addition to the requirements of section 78(1)(a) of the *Security and Related Activities (Control) Act 1996* and regulation 39 and 40 of the *Security and Related Activities (Control) Regulations 1997* which prescribe the records that must be maintained by crowd control agents. However, if an entry has been made in the Incident Register required under section 116A of the Act, a further entry in the register required to be kept under the *Security and Related Activities (Control) Act 1996* is not necessary.

### Operational Application

In order to comply with the requirements of section 116A of the Act and regulation 18EB of the *Liquor Control Regulations 1989*, licensees must maintain a register of incidents containing the following information:

1. the name of the premises;
2. the address of the licensed premises;
3. details of the incident;
4. the date and time when the incident took place;
5. the location at the premises where the incident took place;
6. the full name of any approved manager who was on duty when the incident took place;
7. the full name of each crowd controller and employee of the licensee involved in the incident; and

8. details of any action taken by the licensee, an approved manager or an employee in response to the incident, including any action taken to notify the licensing authority or a member of the WA Police or any other person engaged in providing emergency services.

Further, if a crowd controller physically restrains, removes or prevents a person from entering the premises, the following information must be recorded:

1. a statement/explanation outlining the manner in which the person was physically restrained, removed or prevented from entering and the reasons for physical contact being used; and
2. the name, address and licence number in respect of each crowd controller who made physical contact.

Each crowd controller who used physical contact should verify the accuracy of the above information and the licensee/manager is to note in the register those crowd controllers who confirmed this and those who did not (if applicable).

If the crowd controller/s are employed by a crowd control agent, a copy of the incident report must be provided to the agent and the date and time this was provided is to be noted in the register.

This information must be recorded in respect of incidents of the following nature-

1. a person is refused entry because they are drunk;
2. a person is refused entry for behaving in an offensive manner including violent, quarrelsome, disorderly or indecent behaviour;
3. a person who has been refused entry to the premises continually attempts to gain entry or behaves in an offensive manner including violent, quarrelsome, disorderly or indecent behaviour ;
4. a person is required to leave or is removed from the premises;
5. a juvenile or suspected juvenile fails to produce evidence of age when required to do so;
6. a document produced by a juvenile or suspected juvenile as evidence of age is suspected to be forged, false or counterfeit;
7. a person engages in indecent behaviour;
8. a person is drunk;
9. a person (including a person employed or engaged in the business conducted under the licence) is injured;
10. a local resident or other person complains to the licensee, an approved manager or an employee about noise or any other matter related to the business conducted under the licence.

An example of an incident report form that is acceptable to the Director of Liquor Licensing is attached and can be downloaded [here](#) or from the Department's website at [www.rgl.wa.gov.au](http://www.rgl.wa.gov.au). Licensees who wish to use a form in any other format must ensure that it contains all of the prescribed information as detailed in this policy.

Incidents should be recorded in the register as soon as practicable after the incident occurs. What is practicable will depend on the individual circumstances of the premises, such as opening hours and the nature of the incident. A 24 hour timeframe may be reasonable for some premises whereas the next working day will be better suited to premises that do not trade on a daily basis. The incident register is to be retained for a period of four years.

The incident register may be kept in any way the licensee considers appropriate, including by electronic means, however all incident report forms should be stored together on the licensed premises and be readily accessible for inspection by an authorised officer (ie. an Inspector from the Department of Racing, Gaming and Liquor, a member of the WA Police or any other officer authorised by the Director of Liquor Licensing). In addition, a licensee, or the employee of the licensee, must allow an authorised officer to take copies of, or extracts from, any part of the register. Failure to do so is an offence under

the Act. The penalty for non-compliance is \$5000 for failing to maintain the register and \$5000 for failing to make the register available for inspection and/or to allow an authorised officer to make copies of the register.

### **Non-compliance**

If a licensee fails to comply with this condition of its licence, the licensing authority may decide to:

- 1) issue an infringement under section 167 to the licensee and approved manager;
- 2) require the licensee to show cause why more restrictive conditions should not be imposed on the licence; or
- 3) lodge a section 95 complaint for disciplinary action against the licensee. Under section 96 of the Act, if such a complaint was upheld by the Liquor Commission, a range of disciplinary action could be imposed including: a reprimand and a fine of up to a maximum of \$30,000. However, the penalty sought could also include the suspension of the licence for a specified period of time or the cancellation of the licence.

### **Crowd Controller Authorisation to Remove Person From Premises**

A copy of any authority given to a crowd controller under section 126C is to be kept with the incident register. An example of a written authorisation can be downloaded [here](#) or from the Department's website at [www.rgl.wa.gov.au](http://www.rgl.wa.gov.au).

**DIRECTOR OF LIQUOR LICENSING**

# INCIDENT REPORT

Name of licensed premises: \_\_\_\_\_

Address: \_\_\_\_\_

Date of incident: \_\_\_\_\_ Time: \_\_\_\_\_ am/pm

Location of incident: \_\_\_\_\_

Name of each employee/crowd controller involved in incident: \_\_\_\_\_

Name of approved manager on duty during incident: \_\_\_\_\_

## Type of Incident:

- |   |   |
|---|---|
| <input type="checkbox"/> Complaint – noise  | <input type="checkbox"/> Complaint – other                      |
| <input type="checkbox"/> Juvenile – no ID   | <input type="checkbox"/> Juvenile – forged/false/counterfeit ID |
| <input type="checkbox"/> Patron injured   | <input type="checkbox"/> Staff injured                          |
| <input type="checkbox"/> Patron drunk   | <input type="checkbox"/> Patron indecent behaviour              |
| <input type="checkbox"/> Patron asked to leave  | <input type="checkbox"/> Patron refused entry – drunk           |
| <input type="checkbox"/> Patron refused entry – offensive<br>behaviour (including violent, quarrelsome,<br>disorderly & indecent behaviour) |   |

If patron refused entry:

Did the patron repeatedly attempt to gain entry? Yes/No

Did the patron engage in offensive behaviour after being refused entry? Yes/No

Was the patron physically restrained/removed/refused entry by crowd controller/s? Yes/No

If so, state the name, address and licence number of the crowd controller/s who used physical contact:

**Details of the Incident:** (include reason physical contact was used by crowd controller/s, if applicable)

**Action taken:** (include manner in which patron was physically restrained/removed/prevented from entering by crowd controller/s, if applicable)

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**Authorities notified:** (if applicable)

WA Police

Emergency Services

Racing, Gaming and Liquor

Other

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**To be completed by manager or licensee if physical contact was used by crowd controller/s:**

I verify that each crowd controller named in this report has been requested to verify the accuracy of the report. If any crowd controller/s declined to verify the accuracy of the report, list name/s here: \_\_\_\_\_

Copy of this report provided to crowd control agent (if applicable) on \_\_\_\_\_(date) at \_\_\_\_\_(time).

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**Name** of manager/licensee completing this report: \_\_\_\_\_