



# Policy

## Producer's Licence

### 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

Notwithstanding other statutory obligations under the *Liquor Control Act 1988* ("the Act"), sections 55, 56 and 57 of the Act and Regulation 10 of the *Liquor Control Regulations 1989* collectively set out the specific requirements relating to an application for a producer's licence.

This document provides guidance as to the intent of this licence and the legislative requirements associated with a producer's licence. It also provides guidance on the matters to which the licensing authority may have regard when considering applications for producers' licences.

## Producers

Producers are a significant part of the West Australian liquor industry. The industry is represented by large and small producers and enjoys an outstanding reputation locally, nationally and internationally.

The intent of the legislation is to encourage the participation of these small and large producers and this is made possible by the flexibility of the Act which allows producers to obtain a liquor licence on the basis of either productive vines or production facilities, or both.

## Legislative requirements

Producers are required, amongst other things, to have production facilities or to be the sole occupier of the vineyard, orchard or apiary, and have sufficient produce to enable the licensee to be regarded as a genuine producer of liquor.

Section 56 of the Act specifies that a person is taken to have produced liquor if:

- the wine made from grapes was fermented by or under the licensee's control or direction and if blended, the wine was fermented from produce grown or produced in Australia;
- the wine, where not made from grapes, was made from produce grown, produced or obtained by the licensee;
- the spirits were distilled by the licensee; or
- the beer was brewed by the licensee.

Regulation 10A requires at least 50 per cent of the wine produced by blending is fermented by or under the direction of the licensee.

Further to this evidence of production, when read as a whole, the provisions of the Act empower the licensing authority to only grant a producer's licence where the Director is satisfied that the applicant for a licence will harvest sufficient produce to be a genuine producer of liquor. To assist in assessing this, the following guidelines are considered to be the minimum requirements:

1. the applicant must be the sole occupier of the vineyard to which the application relates and this vineyard must yield sufficient produce, and continue to yield sufficient produce, to enable the applicant to be considered a genuine producer of liquor for the duration of the licence;
2. the minimum size of the vineyard should be no less than 1.5 hectares of vines in full bearing or it must be able to produce tonnage for approximately 5000 bottles of wine per year;
3. if there are no production facilities on the proposed licensed premises, the applicant must have access to such facilities; and
4. where the producer proposes to operate a cellar door, that cellar door facility must be on the vineyard or where the producer has appropriate liquor producing facilities, in reasonable proximity to the premises.

In addition, the producer may operate a cellar door away from the licensed premises either on their own or under a collective arrangement with other producers. In this regard, the cellar door operation must be located within the same wine region for wine producers or local government district for beer producers (see the Director's policy, [Extended Trading Permits – Producers Cellar Door Operations](#) for more information).

The ongoing validity of a producer's licence requires that the licensee continues to meet the above minimum requirements.

If it appears to the Director that the licensee has ceased to carry on the business of being a genuine producer, section 92(a) of the Act empowers the Director to suspend the operation of a licence.

## Lodging an Application

Applicants for a producer's 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](http://www.rgl.wa.gov.au). Further, Customer Service staff are available during office hours to assist applicants understand the legislative requirements relating to the lodgement of an application. The department can be contacted by telephone on (08) 9425 1888 or by emailing: [rgl@rgl.wa.gov.au](mailto:rgl@rgl.wa.gov.au).

## Public Interest Assessment ('PIA')

Matters which the licensing authority may take into account when considering a PIA include those provided in section 38(4) of the Act, and as outlined in the Director's Policy [Public Interest Assessments](#). Particular issues relevant to these matters will differ depending on the circumstances of the proposed producer's premises, therefore the nature of documentary evidence submitted in respect of these matters is likely to also differ in each case.

It is important that the PIA outlines the proposed nature of the producer's business and describes the interaction of the producer's facility with the community surrounding it.

## Conditions of Licence

To support the intended purpose, the Act and Regulations provide that a producer's licence is subject to certain conditions. The following will generally be considered as the standard conditions to be imposed:

### Trading Hours

The permitted trading hours in accordance with section 98G of the Act are as follows:

- (a) on a day other than Good Friday, Christmas Day or ANZAC Day – at any time;
- (b) on Good Friday or Christmas Day – from 12 noon to 10p.m. but only for liquor sold ancillary to a meal supplied by the licensee and only if the conditions of licence permit consumption of liquor on the premises;
- (c) on ANZAC Day – from 12 noon to midnight;
- (d) the consumption of beer on the premises is only authorised between 10 a.m. to 10 p.m. on any day other than Good Friday, Christmas Day and ANZAC Day.

### Trading Conditions

In accordance with section 55 of the Act the holder of a producer's licence is, during permitted hours, authorised to sell on or from the licensed premises liquor produced by the licensee. Liquor can also be sold from somewhere other than the licensed premises (such as an office) provided that the sale takes place by way of telephone or the internet and the liquor is delivered from the licensed premises or an off-site storage facility approved by the Director.

Liquor not produced by the licensee can only be sold if it is ancillary to a meal or for the purposes of comparative tastings.

A '*meal*' is defined by the Act as food:-

- (a) that is eaten by a person sitting at a table, or a fixed structure used as a table, with cutlery provided for the purpose of eating the food; and
- (b) that is of sufficient substance as to be ordinarily accepted as a meal; and
- (c) that may consist of one or more courses;  
but does not include any food prescribed by the *Liquor Control Regulations 1989* not to be a meal.

If consumption on the premises is sought, conditions authorising tastings and/or consumption in a designated part of the premises, such as a café, may also be imposed. On premises consumption is not permitted for producers of spirits.

## Other Legislative Obligations

### Approved Manager

Section 100(2a) of the Act requires that an approved manager must be present at the licensed premises at any time when business is conducted at those premises. In this regard, a licensee may chose to employ a number of approved managers.

For further information on the requirements relating to approved managers, please refer to the Director's policy titled [Approved Managers](#).

## **Mandatory Training**

The Act imposes mandatory training requirements on licensees, approved managers, supervisory/bar staff and crowd controllers<sup>1</sup> in relation to the management of licensed premises and the responsible service of alcohol. There is also a requirement for licensees to maintain a training register that records employee information and their training compliance.

For further information on the mandatory training requirements and the register, please refer to the Director's policy [Mandatory Training](#).

## **Incident Register**

The licensee is required to maintain a register of incidents, of the prescribed kind, that take place at the licensed premises.

For guidance on the minimum requirements in respect of this register, please refer to the Director's policy titled [Incident Registers](#).

## **Drinking Water**

Drinking water must be provided free of charge at all times when liquor is sold or supplied for consumption on the premises.

For guidance on the minimum requirements in respect of this condition, please refer to the Director's policy titled [Provision of Free Drinking Water](#).

## **Harm Minimisation Policy**

A House Management Policy, Code of Conduct and Management Plan are required for the licensed premises to comply with the Harm Minimisation Policy.

For guidance on the minimum requirements in respect of these reports, please refer to the Director's policy titled [Harm Minimisation](#).

**DIRECTOR OF LIQUOR LICENSING**

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<sup>1</sup> This requirement will apply to crowd controllers from 1 July 2018.  
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