



Policy

Special Facility Licences - Catering

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"), and subject to section 46(2), the licensing authority is empowered to grant a special facility licence for a number of prescribed purposes. The purposes for which such a licence may be granted are set out in regulation 9A of the *Liquor Control Regulations 1989* ("the Regulations"). One of those prescribed purposes is that of "Catering".

In this regard, regulation 9A(13) of the Regulations states that:

"A special facility licence may be granted for the purpose of allowing at a function the sale, by a caterer, of liquor supplied at premises at which the caterer has agreed with the person organising the function to provide liquor (whether with or without food), for consumption by persons at that premises."

It is important to note that a 'caterer' means a person who –

- (a) carries on a food business as defined in the *Food Act 2008* section 10; and
- (b) handles or sells food for consumption at functions.

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

Legislative provisions

When determining whether or not a special facility licence should be granted to a caterer the licensing authority must give consideration to, amongst other matters, the provisions of section 33(7) of the Act. This section requires the licensing authority to consider whether premises are of a sufficient standard for the proper conduct of the business and sets out the issues that shall be taken to be relevant and amongst the matters to which the authority should have regard.

The issue of the suitability of premises is further addressed by section 37(1)(f), which provides that the licensing authority shall not grant an application for a licence unless it is satisfied that the premises to which the application relates are of a sufficient standard and suitable for the conduct of the business.

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 lodgment guide, forms, and an information bulletin, is available from the Department's website.

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.

The Department's website address is www.rql.wa.gov.au or on telephone (08) 6551 4888.

Additional application criteria

In addition to the general requirements of the licensing authority under the Act, the following criteria will be considered in determining whether or not the application for a special facility licence "catering" should be granted -

- The applicant must have a commercial kitchen that has been approved by the relevant local government authority's Environmental Health Officer (EHO). The applicant must provide a copy of the EHO's health inspection report which should detail the adequacy of refrigeration in relation to the number and size of functions to be catered for, and make reference to facilities for the transporting of food to offsite catered venues.
- Where the applicant does not have its own facilities, it must have access to the commercial kitchen of another establishment. In these cases, the applicant will be required to provide:
 - a copy of that establishment's EHO health inspection report, as described in the preceding paragraph; and
 - a letter from the occupier of that establishment to the effect that the commercial kitchen, or part thereof, at that location is available for the exclusive use of the applicant, during the preparation, cooking and heating of food supplied for functions, occasions or events.
- If the applicant makes use of more than one kitchen, then the addresses of all of these kitchens must be included, along with an accompanying health inspection report on each kitchen.
- Applicants are subject to the requirements of the Food Safety Standard 3.2.2, Clause 3(1) and must therefore, provide evidence that the applicant has a current FoodSafe® Food Handler Training Program Certificate (or equivalent training or program).

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 choose 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 [Managers at Licensed Premises](#).

Mandatory Training

The Act imposes mandatory training requirements on licensees, approved managers, supervisory staff and bar staff 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 titled [Mandatory Training](#).

Drinking Water

Water suitable for drinking must be provided free of charge at all times when liquor is sold 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](#).

Incident Register

As from August 2007, the licensee is required to maintain a register of the 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](#).

General Licence Conditions

While each application will be assessed on its merits, the applicant must satisfy the licensing authority that it is carrying on a food business for events that have been organised by a third party that is not a related entity to the catering business.

The following conditions will normally be imposed to maintain the integrity of the licence classification system in relation to the conduct of a catering business:

1. Where the licensee does not have its own facilities, details of the commercial kitchen the licensee will have access to (as detailed in the application) will be detailed on the licence;
2. A person who engages a licensee as a caterer to supply liquor at a function (as defined by section 3 of the Act), must not be in a related body corporate of the licensee;
3. Where a licensee is engaged as a caterer in the following circumstances, it is not required to seek a variation of its licence conditions if;
 - a) liquor is provided to guests throughout the event, free of charge, either with or without food, irrespective of the number of guests in attendance;
 - b) liquor is sold and supplied directly to guests throughout any stage of the event, either with or without food, where no more than 200 people are expected to attend;
4. Where a licensee is engaged as a caterer to sell and supply liquor directly to guests at a function where more than 200 people are expected to attend, the licensee is required to apply for variation of licence conditions in accordance with the following requirements:
 - a) if the anticipated number of persons is not greater than 500, the application must be lodged with the Director no less than 14 days prior to the event;
 - b) if the anticipated number of persons is greater than 500 but not greater than 5000, the application must be lodged with the Director no less than 30 days prior to the event;
 - c) if the anticipated number of persons is greater than 5000, the application must be lodged with the Director no less than 60 days prior to the event;
 - d) the application is required to be accompanied by the following:
 - a map of the venue or area from which liquor is to be sold, supplied and consumed to be outlined in red;
 - the date of the event, including start and finish times;

- a copy of the approval and any conditions imposed by the relevant local government authority*;
 - a copy of the security plan and risk management plan for the event*;
 - details of the person engaging the licensee and organising the event;
 - an application with fee (under s 104 of the Act) for any profit sharing arrangement between the licensee and another entity;
 - details of the manner in which liquor will be sold and supplied at the event; and
 - confirmation that consent is given by the owner or occupier of the premises where the liquor is to be supplied.
- e) the information contained within the application as prescribed above must:
- be provided in its entirety at one time (i.e. the information must be not submitted in parts, unless immediate and consecutive); and
 - be served on the Liquor Enforcement Unit of the Western Australian Police in the same manner mentioned above.

* *only required if the anticipated number of persons is greater than 1000.*

An application fee is not charged to vary the licence in these circumstances.

DIRECTOR OF LIQUOR LICENSING