



DEPARTMENT OF RACING,  
GAMING AND LIQUOR

# RGL FORM



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licence fees due

SUMMER 2011  
EDITION

# RGL FORM

## Time almost up for approved managers to register

As widely reported in previous editions of RGL Form, the recent amendments to the Liquor Control Act 1988 introduced a new licensing system for approved managers.

This meant existing managers were required to activate their online account with the Department of Racing, Gaming and Liquor to allow the transition to the new system.

To date, a number of approved managers (under the previous system) have still not logged into their online account to apply for their new approved manager's identification card.

The licensing authority recently extended the registration deadline to December 31, 2011.

If you have not activated your account by this date, you will no longer be eligible to work as an approved manager.

To activate your account and become eligible to continue working as an approved manager after December 31, you must:

- Log in to your online account on the DRGL website and provide the information requested; and
- Attend a participating Australia Post outlet to have a photograph taken.

There will be no cost for you to have a photograph taken or for the issue of your ID Card.

The new manager's system includes two levels of approved manager; restricted and unrestricted.

The unrestricted category is required for managers at commercial licence venues such as taverns, liquor stores and so on.

The restricted category is required by managers at club and club restricted premises.

For more information call 9425 1888.



The licensing authority recently extended the approved manager registration deadline to December 31, 2011.

## Time running out to pay licence fees

By now, all liquor licensees should have received their annual licence fee invoice which should be paid by January 1, 2012.

When paying your fee, ensure all of your details are filled out correctly and in full.

For example, entering the wrong payment year when paying online via Bpay will result in a late payment penalty and, if that is not paid, could result in the suspension of a licence.

This year, the Department suspended around 40 licences for the non payment of fees.

Worse still, if this matter is not rectified the licence in question could be cancelled.

Naturally, failure to pay the fee by the due date will also result in a late payment fee.

As a licensee, it is your responsibility to pay the fee on time and with the proper information attached to your payment.

If you do not wish to pay online, then you can still pay by cash or cheque at the Department of Racing, Gaming and Liquor (87 Adelaide Terrace, East Perth).

All licensees should have received their invoices by now – if for some reason you haven't, please contact the Department immediately.

For more information contact the Department on 9425 1888



If you do not wish to pay your licence fee online, then you can still pay by cash or cheque at the Department of Racing, Gaming and Liquor.

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## Premises name must be consistent with that on the licence

Section 116 of the Liquor Control Act 1988 imposes certain obligations on licensees, including those relating to the trading name under which a business may be carried on.

The Act states: "A person shall not carry on business for which a licence is required under any name other than that of the licensee unless the Director has approved the use of the name."

This means a licensee cannot conduct business under a trading name that has not been approved by the Director of Liquor Licensing.

This includes the overall conduct and operation of the business and extends to any advertising and branding associated with that business.

Although it is possible that different parts of a licensed premises may be known by different names, only one business is being carried on under a licence attached to a premises – therefore, any advertising in respect of that premises must be consistent with the approved trading name.

The licensing authority will generally not approve a trading name that suggests a manner of trade that is not authorised under that particular licence, as this would give an expectation of a service not consistent with the prescribed purpose of that licence category.

For example, the holder of a restaurant licence is bound by the requirement that the primary purpose of the licence must be the regular supply of meals to customers seated at a table. Therefore, an application for a restaurant to include the word "bar" in its trading name would not accurately reflect the business conducted under that licence.

For more information on this issue, call the Department on 9425 1888.

## New policies and recent policy amendments

The following policies were recently introduced or changed – they can be found in full on the Department's website:

- Information to be included on internet websites – the policy has been amended to clarify that the requirement for information to be included on websites also extends to tavern/small bar licences.
- Entertainment conditions – this policy has been amended to clarify that no person is permitted to be immodestly dressed on licensed premises.
- Extended Trading Permits (hours and/or one off events) -- this policy has been amended to provide clarification in respect to the applications that may be considered in relation to extended hours and/or extended areas for one-off events.
- Juveniles working on licensed premises -- this policy provides guidance on the legislative provisions relating to juveniles working on licensed premises.
- ATMs at Burswood – restrictions apply to the placement and withdrawal limits from ATMs at Burswood Entertainment Complex.
- Small Bar licences – this policy was amended to reflect the recent amendments to the Act in respect of approved managers.
- Electronic Gaming Machines – this policy provides guidance to the Gaming and Wagering Commission in determining whether a game played by an EGM that is not a poker machine is authorised for use at the casino.
- Inspection of Records and Access to Documents – this policy provides guidance as to inspection and access to documents held by the licensing authority.
- Approved Managers – this policy has been amended to reflect the changes to the Act in relation to approved managers.



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## New policy for community poker



Poker has become increasingly popular in recent years.

Poker, in particular Texas Hold'em poker, has become increasingly popular in recent years with the game being played in various venues and in various forms, including tournament-style.

Poker can be played for free or for winnings in money or money's worth.

Free poker, that is, poker that is not played for money or money's worth, does not constitute gaming and is not subject to Western Australian gaming laws.

However, poker that is played for winnings in money or money's worth meets the definition of gaming, and can be played lawfully in Western Australia if it is played:

1. At a licensed casino;
2. In the form of social gambling as outlined under section 64 of the Gaming and Wagering Commission Act 1987( the Act); or
3. Under a gaming function permit issued by the Gaming and Wagering Commission (the Commission).

When played at the licensed casino (Burswood), poker must be played in accordance with the rules and procedures which have been approved by the Gaming and Wagering Commission.

Section 64 of the Act deals with social gambling and provides conditions under which social gambling may operate lawfully and without a permit.

These conditions include:

- The gambling must be spontaneous;
- The gambling must not be promoted or conducted for the private gain of any non competing player;
- No person may be defrauded or cheated;
- There can be no levy or charge (apart from the stakes or wagers placed) in respect of the gambling;
- All stakes and wagers must be distributed in winnings to participating players;
- The chances in the game must be equally favourable to all players; and
- The gambling cannot be in the form of two-up or any other game played at the casino, other than poker.

The Act allows for specific types of gaming to be conducted, including poker, under the authority of a permit, provided that gaming is not promoted or otherwise conducted for private gain or commercial undertaking.

The gaming activity must be conducted for the purposes of raising money for the active promotion, support or conduct of any sporting, social, political, literary, artistic, scientific, benevolent, charitable or other similar activity.

Section 51 of the Act prescribes eligibility requirements to hold a permit.

When played under a gaming function permit, poker can be played in either tournament form or in the more traditional manner. When played under a permit issued by the Commission, poker is subject to various conditions.

Only one permitted gaming function will be allowed at each approved premises in any seven-day period and the duration of any permit is six hours.

An organisation seeking the grant of a gaming function permit to allow for the playing of poker must apply in writing on a form supplied by the Commission, to the Department of Racing, Gaming and Liquor and the application must be accompanied by the prescribed fee.

Full details regarding poker and other forms of approved gaming that can be conducted under a gaming function permit can be obtained by downloading an application kit from the Department's website at [www.rgl.wa.gov.au](http://www.rgl.wa.gov.au) or by telephoning (08) 9425 1888.

In addition, due to the popularity of poker, the Commission has issued a Community Poker policy which provides detailed information about the manner in which poker can be lawfully played in Western Australia.

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## Department acts against producers who breach their licence conditions

The Department has recently take action against a number of producer's licensees who were found to be in breach of their licence conditions.

As reported in the last edition of *RGL Form*, the Department is concerned about an increasing trend for producers to sell their product in a manner contrary to that stipulated on their licence.

During a recent inspection in the State's southwest, a number of producers were found to be selling liquor from addresses other than those stipulated on their licence.

Producers are reminded that if their licensed premises are, for instance, located in Margaret River, then the point of sale for liquor produced under that licence must also be in Margaret River; that is, on the premises that is licensed.

The Department recently took action against three producers for selling liquor contrary to the conditions of their licence, and is investigating several more.

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

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 wine produced by the licensee.

If consumption on the premises is sought, conditions authorising tastings and/or consumption in a part of the premises, such as a café, will be also be imposed.

For more information, see the Director's Policy on Producers Licences at [http://www.rgl.wa.gov.au/ResourceFiles/Policies/Producers\\_Licence.pdf](http://www.rgl.wa.gov.au/ResourceFiles/Policies/Producers_Licence.pdf)



The Department has acted against a number of licensees who were found to be in breach of their licence conditions

## Young people say liquor stores easiest way to purchase alcohol



Liquor stores were considered to be an easy access route to alcohol for juveniles

A report published by the Commissioner for Children and Young People has found that some underage drinkers find it relatively easy to obtain alcohol from liquor stores.

The report, *Speaking Out About Reducing Alcohol-Related Harm on Children and Young People*, sought the views of around 300 young people aged 14-17.

Commissioner Michelle Scott said young people told her that underage drinkers purchased alcohol from some liquor stores reasonably easily because they knew that those stores did not make a habit of asking for proof of age.

"Further, they said it was quite common for underage drinkers to use adults, both people they know and complete strangers, to purchase alcohol for them," she said.

The Department of Racing, Gaming and Liquor reminds licensees that under the Liquor Control Act 1988 it is an offence for juveniles to purchase, consume or be supplied liquor on licensed premises.

If a juvenile is found to be purchasing/consuming liquor on licensed premises, not only will he/she be committing an offence, so too will the following:

- The licensee;
  - The approved manager;
  - Any other person who supplies/sells the liquor; and
  - Any person who permits the sale or supply of liquor.
- In the case of the licensee or manager, a \$10,000 penalty will apply.

A person who purchases liquor on behalf of a juvenile is also committing an offence and could incur a \$2000 penalty.

Ms Scott said the young people she spoke to supported stronger enforcement of laws to stop the sale of alcohol to juveniles.

"They saw this as a very effective way to reduce alcohol-related harm in young people," she said.

Ms Scott said it was important for all licensees to be aware of the issue and to respond to it accordingly.

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## Don't forget your RSA obligations this Christmas

Licensees are reminded of their Responsible Service of Alcohol (RSA) obligations, particularly during the Christmas period.

Section 64(3) of the Liquor Control Act 1988 empowers the licensing authority to impose conditions on a licence that are in the public interest and reflect local issues. Those conditions are primarily aimed at ensuring that liquor is sold and consumed in a responsible manner.

In view of these legislative requirements, there is a need for licensees to demonstrate a strong commitment to the way in which their premises are being managed.

Licensees need to be able to demonstrate to the licensing authority that:

- Liquor is being sold and consumed in a responsible manner; and
- Harm or ill health caused to people or any group of people, due to the use of liquor will be minimised.

A licensee must also keep and maintain the following documents on the premises:

- Incident register – this must contain details of all “incidents” that have taken place at the venue. This includes incidents such as the refusal by staff to serve intoxicated patrons;
- Training register – this document must contain all details pertaining to training undertaken by staff members; and
- Approved plan of the licensed premises that clearly shows the areas that are licensed to sell/supply/consume liquor.

Further, club licensees must maintain a register of all current members.

Licensees are also required to maintain, and make available on request by an authorised officer or patron, a copy of the premises' House Management Policy, Code of Conduct and Management Plan – these three documents can be paper-based or stored electronically.

It should be noted that some licences are conditioned to the effect that the above three documents are to be displayed in a prominent position on the licensed premises, but generally speaking the documents are to be kept on the premises and made available on request.

The Management Plan details how the House Management Policy and the Code of Conduct will be implemented.

Details should include issues such as:

- How the responsible service of alcohol is implemented;
- The way in which licensed crowd controllers undertake their duties;
- Procedures in place to respond to complaints about the amenity of the area;
- The practices adopted to control juveniles on the licensed premises; and
- The way in which intoxicated patrons are refused service.

Licensees are encouraged to display the Code of Conduct, the House Management Policy and the Management Plan on their websites to promote their commitment to harm minimisation and allow patrons easy access to this information.

For a full copy of the Director's Policy on Harm Minimisation, go to [http://www.rgl.wa.gov.au/ResourceFiles/Policies/Harm\\_Minimisation.pdf](http://www.rgl.wa.gov.au/ResourceFiles/Policies/Harm_Minimisation.pdf)



Licensees are reminded of their RSA commitment during the Christmas period

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*RGL Form regularly reports on significant issues that have come before the Liquor Commission. The following are a couple of the more recent "high profile" decisions to be issued by the Commission.*

## Commission quashes Director's decision regarding underage participant in wet T-shirt competition

The Liquor Commission recently overturned the Director's decision to cancel an amended entertainment condition attached to the licence of the Roebuck Bay Hotel in Broome.

In his decision (A219224), the Director referred to an incident that occurred in December 2010 whereby a 16-year-old female "not only entered and remained on the licensed premises in an 'out of bounds' area, but also competed in a wet T-shirt competition", which she went on to win.

This incident resulted in the issue of infringements by Police to the licensee, the licensed security firm and an 18-year-old female who supplied the juvenile with her driver's licence.

As a result, Police applied to the Director for the removal of the venue's amended entertainment condition and for the reinstatement of the full entertainment condition.

In his decision to reinstate the full entertainment condition, the Director said he did not accept that the venue's promotions manager, as part of her duties to assist in the enrolment of participants in the wet T-shirt competition, could abdicate responsibility for ensuring that no person under the age of 18 entered the competition.

He said he had given decisive weight to the fact that "the 16-year-old was able to participate in an event that involves female patron competitors exposing their breasts", and it was inappropriate that "a 16-year-old girl was able to participate in such an event on licensed premises".

In quashing the Director's decision, the Liquor Commission said it was not satisfied that the evidence before it established that "an employee or agent of the licensee was aware that the juvenile was under the age of 18, or acted in such a way as to permit or not care about allowing entry of that juvenile".

The Commission accepted the applicant's submission that the admittance of the juvenile was through mistaken identity, and that there had only been three reported incidents of juveniles in the part of the premises where the wet T-shirt competition was held.

In regard to those three incidents, the Commission stated that "action had been taken by the licensee to rectify the situation and prevent a reoccurrence".

The Commission imposed a number of conditions on the licence in relation to security and crowd control.

## Pier Hotel licensee fined



The Pier Hotel in Port Hedland was the subject of a recent section 95 complaint by Police. Picture courtesy of WA Newspapers.

The licensee of the Pier Hotel in Port Hedland was fined \$5000 and had a number of conditions placed on the venue's licence recently after a successful section 95 application from Police.

In his complaint, the Commissioner of Police alleged that there was proper cause for disciplinary action on the following grounds:

- The licensed premises was not properly managed in accordance with the Act;
- The safety, health and welfare of persons who resort to the premises was endangered by an act or neglect of the licensee;
- The licensee had been given an infringement notice under section 167 of the Act and the modified penalty had been paid in accordance with that section; and
- The licensee had contravened a requirement of the Act or a term or condition of the licence.

In making its decision, the Commission was satisfied on the balance of probabilities that all four grounds had been made out and there was proper cause for disciplinary action.

The Commission took into account the initiatives that had been taken by the licensee and that many of the incidents referred to in the complaint had occurred off the premises, however "the evidence of the Commissioner of Police is that the licensee needs to take further measures to improve its management".

*In making its decision, the Commission recognised*

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*that the licensed premises were difficult to manage  
Pier Hotel licensee fined. Continued.*

given the high number of fly-in, fly-out patrons, and the cultural issues associated with the local population.

However, the Commission did not see this as “an excuse for poor practices” and stated that the responsibility was always with the licensee to manage the premises properly.

It also found that the responsibility to provide the requisite number of crowd controllers rested with the licensee, and the licence was conditioned to that effect.

In closing, the Commission stated that proper management of the premises would require the licensee and the Commissioner of Police to work together and involve others such as the local government authority and the Taxi Control Board where issues were “beyond the power of the Police and licensee”.

For a full copy of this decision and others made by the Liquor Commission, go to <http://www.liquorcommission.wa.gov.au>

## Checklists provide valuable pointers for licensees

The Department has devised a number of Self Assessment Checklists (SACs) for liquor licensees to ensure their premises are compliant with liquor laws and the conditions of their licence.

The checklists, which relate to the various licence categories, provide valuable tips to licensees and approved managers, and as such should be used as a management tool for the lawful running of licensed premises.

They cover such issues as legislative requirements, signage and documents, supervision and training, and the responsible service of alcohol.

As well as the SACs, the Department offers a range of resource materials for licensees and managers – for more information visit our website or call 9425 1888.

## Department recruits Regional Community Engagement Officer

The Department recently appointed a Regional Community Engagement Officer as part of its licensing team.

The new RCEO, Merv Wright, will be active in many of the State's regional communities where he will liaise and engage the Department's various stakeholders in the areas of liquor control and gambling.

Merv will initiate and support the development of projects and initiatives at a regional level in alignment with Department objectives.

As part of his community engagement role, Merv will plan, develop and evaluate the implementation of programs and projects to facilitate a statewide community engagement model and operational plan to assist regional and remote communities in accordance with the Department's identified priorities.

He will also act as a key liaison point in the community, and will work collaboratively with regional communities to develop productive relationships between those communities and the Department.

Merv will also organise and conduct training for community groups and others to increase their capacity to support the regulation of liquor, gambling and other areas of the Department's portfolio.

Essentially, the RCEO will represent the Department across the State and will provide a valuable conduit between DRGL and its many regional stakeholders.



The Regional Community Engagement Officer will travel to all parts of Western Australia to engage remote and regional communities.



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## Seminars explain raffles rules

The Department of Racing, Gaming and Liquor runs free seminars for those people wishing to know more about the Gaming and Wagering Commission Act 1987.

These seminars are perfect for representatives from charitable groups, community-based organisations or sporting groups who want to raise money through a raffle.

The seminars, conducted every month, are designed to provide an understanding of the community gaming laws that exist in Western Australia.

They cover issues such as:

- What is gaming and who is eligible to conduct a “permitted lottery” (raffle);
- Circumstances when a permit from the Department is not required;
- How the money that is raised can be used;
- Statutory requirements and processes involved when a permit is required; and
- Obligations and responsibilities of the permit holder.

To register for the next seminar, go to our website or call the Department on 9425 1888.



These seminars are perfect for representatives from charitable groups, community-based organisations or sporting groups who are looking to raise money through a raffle.

## Keep up to date with Facebook

Have you logged onto the Department’s Facebook page yet?

If not, why not? The Department encourages all stakeholders to check out our Facebook page; better still, click the “I like” button and become a friend.

The Department’s account, which went live earlier in the year, allows convenient two-way communication between us and our many stakeholders.

Already, the number of people clicking the “I like” button is climbing at a significant rate.

Not only does our Facebook account allow communication between the Department and our stakeholders, it also allows us to get information into the public arena quicker than was possible with more traditional means.

A process that may have previously taken a few days to reach the public by the traditional “snail mail” approach, can now happen within seconds.

By joining the social media phenomenon, the Department is offering just one more way our stakeholders can keep up to date with the issues in the racing, gaming and liquor industries that affect them.

We would encourage all stakeholders to regularly check our Facebook account and to keep up to date with all the issues.

