

RESTAURANT & CATERING AUSTRALIA UPDATED TAKEAWAY AND LIQUOR DELIVERY FACT SHEET 25 MARCH 2020

Background:

Following sustained advocacy from Restaurant and Catering Australia, state Government's across the country are implementing changes to liquor licensing regimes aimed at permitting restaurants, cafes and other takeaway businesses to sell limited quantities of packaged alcohol in certain circumstances. This is a fantastic opportunity for restaurants, cafes and other businesses to move stock that under new business restrictions is unsaleable under an on-premise only licence as well as helping these businesses increase cashflow, keep trading and ensure Australians stay in jobs.

At this stage, Victoria, Queensland and New South Wales have introduced changes that differ slightly state to state. Ensure you are complying with the regime in place in your state before proceeding to sell any liquor under these new arrangements. For SA, WA, TAS, ACT & NT businesses, R&CA has written to each state and territory Minister responsible for liquor regulation and will update you if further states adopt similar changes.

Important note re: Delivery Drivers:

Please note that where a business chooses to deliver alcohol themselves, the delivery driver does not need to hold an RSA to complete delivery of the product, however your duties as a licensee would apply to any customer you supply directly, whether in person via takeaway or during delivery.

If you are utilising a third-party delivery service (Menulog/UberEats/Deliveroo), you do not need to ensure that the driver holds an RSA before providing them with the alcohol to be delivered.

Delivery drivers should sight identification of persons receiving orders that include liquor to ensure they are not delivering to someone under the age of 18. There is no requirement to physically handle the identification produced.

Liquor licensees are also responsible for verifying the age of their customers for liquor supplied from their licensed premises, including in the case of delivery.

New South Wales:

In NSW, Liquor and Gaming has released a Statement of Regulatory Intent which sets out the enforcement approach that Liquor & Gaming NSW will take to compliance with certain specified requirements as set out under the Liquor Act 2007 and the Liquor Regulation 2018 in response to the COVID-19 pandemic.

This approach reflects the view from the NSW Government that exceptional circumstances require flexibility on the part of the regulator.

Not all licensed premises are authorised to sell alcohol for consumption off the premise, particularly licenced restaurants, cafes and small bars. Under this new operating Liquor & Gaming NSW will take a common-sense and pragmatic approach to enforcing the liquor and gaming laws.

In particular, it is recognised that the risk profile of certain venues has changed, and measures put in place to manage these risks are, in the current environment, largely redundant. **This includes where a licenced premises, such as a restaurant, café or small bar, does not have authorisation for the sale or supply of liquor for consumption away from the premises, but wishes to provide take-away or home delivery service of packaged liquor products.**

Liquor & Gaming NSW will generally take a supportive and educative approach to compliance with these requirements during this time except in cases of significant risks to patrons or the community and will also take into consideration genuine attempts to comply with licence conditions and other requirements.

It is important to note that compliance and enforcement activity will continue, but with a primary focus on matters that pose significant risk to public safety and community wellbeing, and in particular the sale or supply of alcohol to intoxicated persons or minors. All licenced premises making take-away sales or undertaking home deliveries should have a system of controls in place to ensure that liquor is not sold to minors or to intoxicated persons. These offences are considered to be some of the most serious under the Liquor Act 2007 and attract significant penalties, up to and including a term of imprisonment.

Given the lack of certainty around maximum limits of packaged alcohol that can be sold in NSW, R&CA recommends the following to help businesses adhere to the spirit of the statement of regulatory intent, including limiting packaged alcohol sales to:

- THREE bottles of wine; or
- THREE six packs of beer, cider or pre-mixed spirits; or
- TWO bottle of wine and TWO six pack of beer, cider or pre-mixed spirits.
- Ensuring compliance with current license and RSA duties regarding sale of alcohol to intoxicated persons and minors at all times.

Victoria:

If you hold a restaurant and cafe or on-premise liquor licence, and there are no conditions on your licence that already permit the supply of liquor for consumption off your licensed premises, you can apply for a temporary limited licence to supply a limited quantity of liquor for off-premises consumption.

Licensees who operate a restaurant and hold either an **on-premise or restaurant and cafe licence** may apply for a temporary limited licence that authorises the supply, for off premises consumption, of limited quantities of liquor to customers who are purchasing a meal.

This limit is:

- ONE bottle of wine; or
- ONE six pack of beer, cider or pre-mixed spirits.

Customers may purchase this liquor either when ordering a meal for delivery, or when picking up a meal to take away. Please note that liquor cannot be supplied if a meal is not also being purchased in the same transaction.

Licensees who hold an on-premises licence and **do not** operate a restaurant, may apply for a temporary limited licence that authorises the supply of limited quantities of liquor for delivery to customers. This limit is:

- TWO bottles of wine; or
- TWO six packs of beer, cider or pre-mixed spirits; or
- ONE bottle of wine and ONE six pack of beer, cider or pre-mixed spirits.

Licences that allow the supply of liquor for consumption off the licensed premises, can operate a delivery service and allow customers to purchase liquor to take away.

Queensland:

Licensed restaurants and cafes holding a current liquor licence that will supply takeaway food, can supply takeaway alcohol or delivery, subject to the following conditions:

- The takeaway alcohol can **only** be supplied in conjunction with a takeaway food order
- The takeaway alcohol can **only** consist of bottled or canned beer, wine, cider and ready to drink beverages, such as premixed spirits
- A maximum limit of 2.25 litres of alcohol applies and can only be sold in conjunction with a takeaway food order (that is up to 2.25 litres per food order).

South Australia:

From Thursday 26 March, businesses impacted by the coronavirus outbreak will be able to sell takeaway liquor under temporary arrangements announced today by the South Australian Government.

Existing Liquor licence holders operating a small bar, cafe or restaurant will be able to apply for a free short-term and temporary licence enabling them to sell a small amount of liquor along with any takeaway meals ordered. Purchases are limited to:

- Two bottles of wine; or
- One bottle of wine and a six-pack of beer, cider or pre-mixed spirits with any sale.