Red Tape Commissioner

Review of the Liquor Control Reform Act:

Submission

January 2017
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**Introduction**

The Red Tape Commissioner’s role is to liaise with Victoria’s business community and the Government to help cut red tape and improve regulation. In particular, this includes identifying:

- cuts in red tape that contribute to the Government’s 25 per cent red tape reduction target;
- improvements to regulators’ dealing with business including compliance and enforcement;
- regulatory overlaps and duplicated reporting requirements;
- ‘hotspots’ where regulatory reform efforts can be focused to unlock economic activity; and
- improvements in how regulators administer the regulations for which they are responsible.

The role also includes making practical suggestions for cutting red tape.

Almost all regulation has its basis as the protection of a public interest. For the purposes of the work of the Red Tape Commissioner, red tape is the unnecessary burden imposed on businesses and not for profit organisations (NFP) by the rules, regulations laws and mandated requirements of the Victorian Government and local governments. Red tape usually arises where measures to protect the public interest unnecessarily reduce the efficiency of business through poorly designed regulation, poor understanding of the impact on business, inefficient process and inefficient administration. It also occurs when regulatory regimes have been overtaken by changes in consumer tastes and the proliferation of new choices for consumers. The practical impact of red tape on business is wasted time and unnecessary costs caused by rework, duplicated information requirements, a structure of approvals that prevents innovation, and uncoordinated and inconsistent approval processes and decision-making. These inefficiencies can be substantial and disproportionate, especially for small businesses.

More than 200 individual businesses, business associations and other stakeholders have identified approximately 350 individual red tape issues through submissions, discussions with individuals and roundtable discussions since October 2015.

This total includes 40 matters relating to the regulation of liquor, most of which have been referred to the Office of Liquor and Gaming Regulation and the Victorian Commission for Gambling and Liquor Regulation. These liquor-related issues touch on many aspects of the regulatory architecture for liquor in Victoria, including the design of the Act and its Regulations, the roles of relevant regulators including the VCGLR, Victorian Police and local councils, approval processes and other aspects relating to the practical implementation of the Act.

The Terms of Reference focus the review on identifying ways to reduce red tape and reduce regulatory burden and assessing the effectiveness of the Act’s harm minimisation measures. This submission is confined to red tape matters and provides stakeholder information in summary form together with, where relevant, practical suggestions for improvement that draw on the views of business stakeholders. The submission is organised around key themes experienced by stakeholders.

**Liquor regulation – relevant regulations, laws and regulators**

The LCRA regulates the supply of liquor in Victoria. The LCRA is focused on the supply of liquor and the licensing of persons who supply liquor.
The LCRA is administered by the Victorian Commission for Gambling and Liquor Regulation (VCGLR), established under the Victorian Commission for Gambling and Liquor Regulation Act 2011. The functions of the VCGLR are to perform the regulatory, investigative and disciplinary functions relating to liquor regulation and other regulation.

The LCRA establishes the process of applying for a licence from the VCGLR. Part 2, Division 5 provides for anybody to object to a licence on amenity grounds, objection by Chief Commissioner of Police, objection by licensing inspector/local police, objection by local council, which are considered by the Commission (Clause 42). The LCRA also provides for inspections by the VCGLR and police.

Ministerial directions and guidelines are issued by the relevant Minister in the Government Gazette. The guidelines set the direction for gambling and liquor licensing in Victoria, and are taken into account by the VCGLR in licensing decisions. Two guidelines are: cumulative impact decision-making guidelines; and restrictions on applications for late night licences decision-making guidelines.

The Liquor Control Reform Regulations 2009 provide for a range of specific matters in relation to licensing and the regulation of liquor, including prescribing licence fees and application requirements.

Businesses that intend to supply liquor often do so as part of other activities such as supplying food and/or other products and services. The interactions between liquor regulation and regulatory regimes governing these related activities – such as providing food – has been the cause of complaint by a number of stakeholders. While such interactions are not specifically included in the terms of reference, any proposed amendments to liquor regulation should have regard to their implications for red tape in conjunction with related areas of regulation.

Red tape matters raised by stakeholders

A summary of the 40 issues that impose red tape burdens on businesses in both metropolitan and regional Victoria is set out at Attachment Two. Each summary provides:

- a description of the red tape issue;
- the relevant part of the LCRA;
- the impact on the stakeholder’s business; and
- practical solutions to the problem suggested by stakeholders.

Taken as a whole, while the issues point to a number of areas in the LCRA for reducing red tape, they do not amount to a need for a major reconsideration of the structure of the Act. The issues contain some clear themes:

- the current licence structure in the LCRA does not accommodate some contemporary trends in alcohol consumption;
- applying for a licence can be an inefficient and time consuming process;
- conditions placed on liquor licences can be unnecessarily onerous;
- variations and transfers are unnecessarily cumbersome and costly;
- licence costs are prohibitive for small businesses; and
- the quality and coverage of guidance material is inadequate.
These six themes are set out below in greater detail, with cross-references to Attachment 2.

_The current licence structure in the LCRA does not accommodate some contemporary trends in alcohol consumption_

The LCRA licensing structure contains a number of provisions that are anomalous in the context of changing patterns of, and tastes in, alcohol consumption. For example, there has been a rapid growth in demand for premium spirits which in turn has driven a sharp growth in craft Australian distilleries but the licensing structure does not reflect this shift.

Stakeholders mention examples where the current licence structure does not enable businesses to carry out the activities they wish to carry out (issues 1-6). Many businesses must submit multiple licence applications to sell liquor. For example:

1. butchers can sell beer and wine but not cider (issue 1) – note the regulation preventing this was amended in December 2016;
2. distilleries cannot obtain a cellar door licence (issue 2);
3. a cellar door licence does not allow businesses to serve liquor they produce with complementary ingredients (issue 3);
4. wine and beer producers that have a licence to sell alcohol, and wish to promote and sell their products at events, cannot sell liquor at events under their Cellar Door Licence;
5. businesses must apply for a Temporary Licence each time they go to an event to serve liquor (issues 4-5); and
6. businesses must apply for a Temporary Licence each time they run an event at their licensed premises in slightly expanded terms of size, patrons or hours, and reapply each year (issues 6, 8).

There are restrictions on licences – for example some businesses that have a licence to serve liquor at external events that continue until 11pm must stop serving people at 8pm (issue 7).

Businesses must gain the support of council if they wish to gain a late night licence in popular metropolitan areas. The requirement for support by councils means they understandably request detailed information. The effect is delays, an uncertain process and unanticipated costs that disproportionately affect small businesses (issue 10).

Against these red tape issues, other stakeholders have observed positive experiences of engaging with the VCGLR in identifying the best licence type currently available for the type of business they wish to operate.

_Applying for a licence can be an inefficient and time consuming process_

Stakeholders report instances of inconsistent interpretation of requirements, inconsistent assessment of licence applications and inconsistent decision making (issue 14).

Regulators seek detailed information in applications, and then contest judgements by businesses about the business they propose to pursue. For example, a business applied for a limited licence to run a restaurant and sell local packaged wine but was told to apply for a different licence that would not allow the business to pursue its business plan (issue 16).
Regulators can take different views on the appropriateness of licences for reasons that apparently have no obvious connection to the proposed business model or to an assessment of the risk of harm. For example:

1. police objected to the use of licences including the Limited Renewable Licence on the basis that too many licences have been issued, or “what if the licensee sells his or her business and somebody else accesses the licence?” (issue 17); and
2. There are instances of councils specifying the type of licence a business should apply for, rather than accepting the business’s view of the licence it needs for the business (issue 18).

Stakeholders operating small businesses found the application process is difficult, notwithstanding instances of the VCGLR facilitating applications (issue 15).

Stakeholders report police have sought to add conditions onto licences that duplicate conditions in the Act (issue 28).

A business that disagreed with the finding by the VCGLR and the police on its application stated it had no scope to dispute and resolve the matter in the absence of an Alternative Dispute Resolution process (issue 22).

**Conditions placed on liquor licences can be unnecessarily onerous**

Stakeholders have reported a number of red tape issues relating to conditions placed on licences.

There are licence conditions that prevent businesses from tailoring requirements to meet their needs. For example, the prescribed requirements for live music on a licence prevent businesses from putting on relaxed jazz music on a Sunday afternoon in a small country town (issue 24).

Low risk businesses must prepare paperwork specifically for the purpose of it being inspected including:

1. updated RSA certificates register in hard copy (issue 25), notwithstanding the capacity to provide such information in digital format; and
2. red line plans (issue 26).

The VCGLR has sought to apply conditions onto licences that disallow existing activities performed by a licensed business (issue 27).

**Variations and transfers are unnecessarily cumbersome and time consuming**

Stakeholders have cited several instances of the judgements by business about their intended business model being second guessed by regulators including councils and the VCGLR.

A number of business stakeholders and their industry association identified delays and potential disruption to business from requirement the planning application must be completed before applying for a liquor licence variation (issue 30) and businesses cannot continue trading (issue 31). Some stakeholders consider other regimes have better arrangements (see issue 31).

**Licence costs are high and prohibitive to providing a licensed place for trading in small markets**

A number of stakeholders gave feedback on licence fees. Whilst this is not strictly speaking a matter of red tape, the information is provided to the inquiry given it falls within the terms of reference. The information comprises:
1. the prescribed licence fees are disproportionately expensive for a small business in a regional town where the market is small (issue 32); 
2. the fees to receive a temporary licence are a lot of money for a charity/community organisation that is running an event to raise money for charity (issue 33); and 
3. businesses must reapply for events and pay fees for VCGLR to assess documentation that has already been assessed (issue 34).

**The quality and coverage of guidance material**

There has been a pattern among small businesses in particular about the difficulty of understanding the requirements for starting or changing a licensed business, notwithstanding generally positive feedback on advice and assistance provided by the VCGLR in particular. Two matters mentioned are:

1. there is limited information and guidance on starting a licensed premise (issues 38-39); and
2. there is limited information on how to make changes to a licence (issue 40).

**Practical suggestions from stakeholders to cut red tape**

The causes of the red tape described by businesses lie in one or more of:

1. elements of the Liquor Control Reform Act; 
2. implementation and interactions with other regulation; 
3. regulation that does not anticipate trends in alcohol consumption; and 
4. the quality of the available guidance for businesses.

The following section sets out the practical options identified by stakeholders for reducing red tape arising from these four aspects.

**The Liquor Control Reform Act (LCRA)**

Stakeholders have identified a number of practical improvements to the LCRA that would cut red tape (see Attachment 2). These improvements cover changes to the structure and content of licences and administrative flexibility.

The improvements to the licensing structure are summarised as:

1. extend eligibility for a cellar door licence to distilleries (issue 2); 
2. extend the cellar door licence to permit producers to offer complementary ingredients with their products (issue 3); 
3. permit producers that have a Cellar Door Licence to events at their venue and in the area surrounding their venue (issue 4); and 
4. cut the cost and rigidity of the Temporary Limited Licence and provide that repeated predictable events may be included on an existing licence (issues 4-5).

Other changes to enable administrative efficiency and cut red tape include:

1. provide for Alternative Dispute Resolution where applicants disagree with the findings and requirements of the VCGLR;
2. provide that a person who is already appointed as a director with the VCGLR is not required to submit an additional application for an additional venue unless relevant circumstances have changed;
3. vary restrictions on when packaged liquor can be delivered under either a Renewable Limited Licence or a Temporary Limited Licence to permit delivery before 9am to align with standard delivery times of other consumer goods; and
4. provide some flexibility to continue trading when a liquor licence is transferred, possibly along the lines of the relevant provisions in NSW.

Further improvements identified by stakeholders are contained in Attachment 2.

**Implementation and interaction with other regulation**

Stakeholders identified practical improvements in relation to selected operational requirements and in the interactions among regulatory functions of the VCGLR, Victorian Police and local councils.

The improvements to operational requirements include:

1. remove the requirement that a hard copy of a current Responsible Serving of Alcohol (RSA) register be available and that each employee’s current RSA refresher certificate be printed out for each night a venue is open;
2. provide greater flexibility for crowd control requirements for small venues, especially in regional Victoria;
3. provide flexibility to align licence conditions with the format and duration of events, especially in regional Victoria, to avoid instances where serving of patrons must cease many hours before the event finishes; and
4. exempt low-risk licensees from the requirement to have a current red line plan that is available to be inspected at any time.

The Act is administered by the VCGLR but also provides for objections from the local council, local police and head office police, any of whom interpret the Act differently. For example, the cumulative impact guidelines require the VCGLR to consider an application and situational context with regard to VCGLR views about “the number and types of other premises in the area” and VCGLRs views about “amenity”. Cumulative Impact is also considered under the Victorian Planning Provisions. This may also be considered by other agencies who can object to applications, such as the Victoria Police.

Different regulators may contest: the suitability of different licences; whether they support a business to have a licence; and the conditions they want to impose on a business. Stakeholders suggest that each regulator may have an effective veto: that is, if any regulator objects to the application, the business cannot proceed. This process of regulators performing a detailed assessment of a business, interpreting the Act, and contesting the views of other regulators delays the start of a business. Different interpretations by various regulators are symptomatic of the rules or requirements being insufficiently defined up-front in plain English that does not open itself to interpretation.

Stakeholders have suggested a number of practical improvements including:
1. review the practices of regulators to remove overlapping and duplicated authorities; and
2. clarify that the VCGLR is the decision-making licensing authority and that the other regulators have an advisory role.

**Regulation that does not anticipate trends in alcohol consumption**

A number of producers and service providers have found their proposed business models do not fit well within the current structure of liquor licences. This has meant unnecessary red tape for some innovative proposals, despite some guidance and assistance from the VCGLR. One of these areas is the emergence of businesses that make and sell premium batch distilled spirits, which has responded to changing tastes especially among 20-35 year old urban adults with high disposable incomes.

Some ongoing monitoring and assessment by the VCGLR and the Office of Liquor, Gaming and Racing in trends in alcohol consumption and the fitness for purpose of the licensing structure would help address this problem. This ongoing tune up of the regulatory framework for liquor would also contribute to Victoria’s visitor economy by strengthening the business framework for Victorian food offerings. Providing additional flexibility in the regulations to the LCRA to respond to such changes could also make this task easier.

**Quality of the available guidance for businesses**

A consistent theme from many stakeholders is the perceived complexity of the licensing system when they were deciding on the most appropriate licence for their business. This was particularly the case for small businesses, businesses for which supplying alcohol is an adjunct to related activities (e.g. food) and start-up businesses. (It should be noted that experienced businesses whose operations fitted well within the mainstream of supplying alcohol did not report these problems.)

It should also be noted the VCGLR publishes some guidance material in plain English about the requirements once a business is operating that they will need to meet as ongoing obligations. For example, there is information about the operating requirements for a licensed venue that require that staff must have RSAs, staff must serve customers responsibly, and there must not be any intoxicated persons on site, or else there are severe penalties. However, there is little guidance for business regarding these requirements and standards when starting up.

Accordingly, stakeholders suggested some practical improvements:

- the VCGLR provide information for potential new businesses on the specific liquor requirements that a business must satisfy to obtain a liquor licence, including:
  - any requirements to start up a licensed venue including building, site and licensee restrictions;
  - any requirements to operate the premises;
- the VCGLR provide this information as clear, plain English checklists; and
- the VCGLR in conjunction with Small Business Victoria publish information about the checklist and common pitfalls.
Conclusion

Businesses and industry associations raised 40 issues with the Red Tape Commissioner since October 2015 that impose unnecessary and unanticipated costs on businesses. These issues relate to the LCRA, the operations of regulators and the availability of relevant information. These issues and the views of stakeholders on how to address them have formed the basis of this submission to the Inquiry.

The Red Tape Commissioner would be pleased to elaborate further where appropriate.

January 2017
Attachment one – Terms of Reference

Review of the Liquor Control Reform Act 1998

Terms of Reference

Background

The liquor and licensed hospitality industry makes a significant contribution to Victoria’s cultural life and economy.

Pubs, clubs, bars and licensed restaurants and cafés all contribute to our diverse and vibrant culture. Our unique small bars and our abundance of top quality restaurants and cafes, together with our great wineries and boutique breweries, are the envy of other states.

Melbourne is increasingly becoming a 24-hour city, with a growing night-time economy supported by late night and 24-hour public transport.

The liquor and licensed hospitality industry employs over 85,000 people and contributes to making Victoria a destination of choice for interstate and overseas visitors.

Given the important role licensed premises play in our cultural and economic life, it is vital that the Liquor Control Reform Act 1998 (Act), which governs the supply and consumption of liquor in Victoria, keep pace with industry trends and modern regulatory practice. The Act must minimise regulatory burden and not unnecessarily impede responsible growth and innovation.

While acknowledging the importance of the liquor and licensed hospitality industries, the government is aware of the harm arising from the misuse and abuse of alcohol.

In March 2016 the Royal Commission into Family Violence recommended that the Victorian Government ensure that the terms of reference for this review consider family violence and alcohol-related harms. The government has committed to implement all of the Royal Commission’s recommendations.

Focus of the review

The Victorian Government will undertake a review of the Act with the aim of identifying ways to reduce red tape and regulatory burden. The review will ensure that Victoria has the right laws to support our liquor and hospitality industries, including our attractive café, restaurant, pub, club, bar and night-life culture.

The review will also assess the effectiveness of the Act’s harm minimisation measures, including the degree to which they can play a part in minimising the incidence of family violence, as recommended by the Royal Commission into Family Violence. The review will not, however, consider or recommend introducing lock-outs for late-trading licensed premises.

Consultations

The review will consult with industry and consumer stakeholder groups, and people who have expertise in the inter-relationship between family violence and alcohol use.
## Attachment two – Red Tape Issues Identified by Businesses

### Structure of licences

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| 1.  | Butchers can sell beer and wine but not cider. | The LCRA The Liquor Control Reform Regulations | • Butchers that can supply liquor without needing to obtain a liquor licence cannot supply cider.  
• This is not consistent with trends in consumer preferences. | • The restriction should be removed. |
| 2.  | Spirit producers cannot access a wine and beer producer’s (cellar door) licence. | The LCRA | • Victorian producers of spirits other than brandy are not eligible for a cellar door licence. | • Enable spirits producers to supply their product from the cellar door and online. |
| 3.  | A cellar door licence does not allow some businesses to serve liquor they produce with complementary ingredients. | Section 13 – wine and beer producer’s licence. | • The current cellar door licence has limitations over what liquor can be brought in and served on-site.  
• The licence does not allow businesses to do certain things, such as serve their product with other products. | • Provide greater flexibility in the use of existing licences to more accurately reflect the experience that retailers want to provide, and customers are seeking. |
| 4.  | Businesses that hold a licence to sell alcohol, are not permitted to sell alcohol at events in different locations under their licence. They must apply for another licence. | Licences provided under Part 2 of the LCRA, including Section 13 – wine and beer producer’s licence. VCGLR guidance materials. | • Businesses that have a liquor licence, including cellar door licensees, are not permitted to trade at events such as agricultural shows under their licence.  
• Businesses must submit documentation and fees for another special licence – a temporary licence. | • Amend licences including the cellar door licence to enable businesses to use the one licence to serve people at events in different locations. |
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<td>5.</td>
<td>Businesses that serve people at events must apply for a Temporary Limited Licence each time they travel to a different event, every year.</td>
<td>Part 2, Section 14 of the LCRA – limited licence. VCGLR.</td>
<td>• Some businesses wish to serve people at events, but they must submit a new application for a Temporary Liquor Licence each time they go to a different event, every year. This is unnecessary rework, and costly.</td>
<td>• Enable businesses to serve people at events under the one licence, such as a Renewable Limited Licence. • Businesses can advise the location of events two weeks in advance.</td>
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<td>6.</td>
<td>Businesses that hold a licence to serve liquor at a venue need to repeatedly apply for Temporary Limited Licences to run an event, every year.</td>
<td>Part 2, Section 14 of the LCRA – limited licence. VCGLR</td>
<td>• Businesses must apply for a Temporary Liquor Licence each time they wish to run events such as St Patrick’s Day, or televising a match, every year. • This makes it difficult to run and advertise events, and it creates rework. Businesses must submit the same documentation for events every year. • This creates a stress for businesses and VCGLR – there is a race to submit applications and make assessments against very tight deadlines, days before the event. • It costs around $3000 plus application fees for some events, and there are additional costs.</td>
<td>• Enable businesses to use their licence to run an event at their venue and in the area surrounding their venue. • Enable businesses to put repeat events on their existing licence – for example businesses that successfully run an event should be able to continue to run the event, unless there are large changes. Businesses could be authorised every year to run a St Patrick’s Day event.</td>
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**Restrictive conditions**

<p>| 7.  | Businesses must stop serving people at events at 8pm. | Conditions determined by the Commission and specified in the licence under S.14. | • People attend events that have gained approvals on the weekend until 11pm, or later. • However the supply of liquor at an external licence is limited until 8pm. Businesses must stop serving people at 8pm. | • Provide greater flexibility. |</p>
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| 8.  | There are restrictions on Temporary Licences that impose unnecessary costs on businesses | Conditions determined by the Commission and specified in the licence under S.14. VCGLR administrative processes, and those of police and council. VCGLR guidance material. | • A business can only have six one-off events at a venue over a 12-month period.  
• Businesses can only apply for three event dates per application.  
• There is a seasonal limit of six months.  
• Applications should be lodged at least 8 weeks in advance but not more 9 months in advance.  
• An application for a Temporary Limited Liquor Licence to trade past 1.00 am needs a minimum of 50 days to be processed.  
• An applicant for a Temporary Licence to trade past 1.00 am must display a public notice at the venue for 28 days and Victoria Police and the local council may review the application.  
• Late-night ministerial decision-making guidelines make it more difficult to gain a Temporary Licence and host an event in popular metropolitan areas. | • Provide greater flexibility.  
• Enable businesses to access a Renewable Limited Licence (with any requirements and conditions). |
| 9.  | There are restrictions on when packaged liquor can be delivered under either a renewable limited licence or a temporary limited liquor licence. | Conditions determined by the Commission and specified in the licence under S.14 of the LCRA. | • The limited renewable licence has a condition that liquor cannot be delivered before 9am.  
• It is not possible for liquor licensees to predict when Australia Post and courier companies make deliveries. This may create technical breaches contrary to the licensees intention.  
• The Act was not designed in a way that could anticipate future trends. | • Make an application to vary or change this requirement in regulation. |
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| 10. | It is difficult for a business to change its trading hours to serve people coming into popular metropolitan areas. | Section 11A of the LCRA. Councils. Restrictions on applications for late night licences decision-making guidelines | • Also, under a Temporary Limited Liquor Licence, applicants that wish to supply internet or mail-order hampers can only hold a licence for a maximum period of 6 weeks.                                                                 | • A normal planning application is referred to council for comment, and if there is no objection – it can proceed.  
• If there is no objection from the council this should satisfy the requirement.  
• Provide information to businesses on what the criteria is and how guidelines will be applied. |

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| 11. | Licences are set up in an unnecessarily complex way | Part 2 of the LCRA. Section 11A. | • There are excessively complex licensing arrangements which are difficult for people starting up a business to understand.  
• Now there are general, on premises and packaged liquor licences, and ‘late night’ general, ‘late night’ on-premises and ‘late night’ packaged liquor licences. The creation of new licences is intended to provide information on how many businesses trade past 1am.  
• It is possible to set up a database to collect information on trading hours. | • Simplify excessively complex licensing arrangements.  
• To understand the hours that businesses trade, collect this in the least-cost way, and record this in an excel spreadsheet. |
| 12. | The design of the Act is complex and this makes it more difficult for businesses to understand the requirements. | The LCRA. The use of S.58 of the Act. | • The design of the Act is excessively complex. There has been an additional 200 pages added to the Act in the last ten years. All businesses must read and understand and meet the requirements.  
• It is unclear if there is any value of this complexity in the Act, compared with using powers under S.58 of the Act to apply conditions and amend the licence of a business if it offends. | • If there are clauses in the Act that don’t serve a core function, consult with industry to remove them.  
• Consider using powers under S.58 of the Act – the power for the variation of a licence at the initiative of the Commission to make targeted changes. |
| 13. | Unnecessarily complex process for barring somebody. | Part 7A – Barring orders. | • Businesses advise that there is a tendency to add powers in legislation rather than the regulator making full use of existing powers.  
• There is now a long form and process to bar somebody from entering their premises that is described under the Act, that is not used.  
• Businesses advise it is simpler to go back to using the common law to bar people. | • Revert to common law to bar people from licensed premises. |
### Applying for a licence

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| 14. | There is inconsistent decision-making.        | Administrative practices of:                             | • Businesses advise that the response to a licence application depends on who is assessing an application on the day. Some officers are proactive, see an issue and make a phone call for further information, this enables an application to progress.  
• Other times officers refuse applications on minor technical issues. One application was refused because an officer thought the liquor freeze applied in an area, but it did not.  
• This delays businesses from opening for weeks. This is a significant unanticipated cost for small businesses that are borrowing money and leasing properties. | • OLGR and VCGLR simplify the design of the requirements to help achieve greater consistency in decision-making.  
• VCGLR to improve internal processes to achieve greater consistency in decision-making. |
| 15. | The liquor licensing process is difficult for small businesses that act for themselves | The LCRA and practices of:                               | • The licensing process is difficult to understand and follow for a small business acting for itself.  
• It is very difficult for small businesses to go to councils seeking letters of support, etc.  
• Some businesses have not understood what licence they need to get. Some businesses have held expensive licences that were not required for their business. | • Make it easier for small businesses by:  
  o simplifying the design of policies and practices  
  o providing guidance to an audience that is starting a business for the first time  
  o reviewing VCGLR processes |
| 16. | A business bought a property to sell liquor under a Renewable Limited Licence but was told to apply for a different category because too many licences had been issued. | The LCRA – Division 5. Cumulative impact decision-making guidelines. Administrative practices. | • A business purchased land and a building in country Victoria and applied for a renewable limited licence that enables it to run a restaurant and sell a bottle of local wine to people who have had a meal.  
• Police and the VCGLR have said that too | • Remove or reduce the scope for regulators to contest business judgements about the licence type that is appropriate for their business model.  
• To prevent unforeseen costs and |
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|     | Metropolitan police objected to a licence application in country Victoria because of concerns about a third party. | LCRA Section 39 – Objection by Chief Commissioner. Administrative practices. | - There is a conflict between licensing officers and police on the appropriateness of particular licences.  
- In one case, local inspectors approved a limited renewable licence for a venue, but metropolitan police objected to the licence and said it did not meet their test criteria. Metropolitan police said that they would not provide the licence because of concerns about possible actions of any future owners. The business was told to apply for a restaurant and café licence.  
- In another case, a delegate to the Chief Commissioner of Police objected to a Limited Renewable Licence for a food truck on the basis that the truck might be moved and there are events on dates that are not | - Clarify that the VCGLR is the decision-maker on licence applications and the limits on the role of other parties in making objections.  
- Make clear in a plain English checklist the requirements that a business must meet to serve liquor responsibly.  
- Examine ways to increase the consistency of regulator advice and decision-making. |
|     | many Renewable Limited Licences have been issued, but the business could submit another application for a different licence type – a restaurant and café licence.  
- This prevents the business from selling packaged local wine and following its business plan. This imposed unforeseen costs on the business.  
- There is no cap on the number of licences. However there are broad grounds in the Act for objections. Section 39 (1) states that the Chief Commissioner may object to the grant, variation or relocation of a licence on any grounds he or she thinks fit. | | requirements from being imposed on applicants, the VCGLR make known any public interest constraints applying to relevant licence types, such as any ceiling on the numbers of Renewable Limited Licences in a geographic area. |
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<th>Improvements suggested by businesses</th>
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</table>
| 18. | Councils specify what liquor licence they want a business to apply for. | Council administrative practices and misunderstanding of the LCRA. | • There have been multiple instances where council officers tell businesses to apply for a specific type of liquor licence.  
• One council requested that a business in country Victoria apply for a general licence. The business said the council was surprised it got the licence. | • Clarify that the VCGLR is the decision-maker on licence applications and the limits on the role of other parties in making objections.  
• Remove or reduce the scope for regulators to contest business judgements about the licence type appropriate for their business model. |
| 19. | A council said that it considers that a business is a Tavern/Function Centre under the Victorian Planning Provisions, and as such the business must gain a general licence. | The LCRA. Victoria Planning Provisions. Local council practices. | • A business applied for planning approval for its manufacturing operation and its cellar door in a manufacturing/industrial zone (C22). The business wants to relocate its business and maintain its cellar door licence.  
• However, the local council said that if the liquor manufacturing business is planning to run a function, it will need to change its land use classification to a Tavern or Function Centre and have a general licence.  
• There is not consistency in how councils interpret what is a cellar door, function centre or a tavern.  
• The previous local council did not interpret things this way.  
• This has delayed the start of the business and imposed unanticipated costs on the business. | • Clarify that the VCGLR is the decision-maker on licence applications and the limits on the role of other parties.  
• Remove or reduce the scope for regulators to contest business judgements about the licence type that is appropriate for their business model and land use zoning. |
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| 20  | There is an inconsistent approach to appoint directors in Victoria and do a police probity check compared with other states | Part Two, Division One, Section 18 of the LCRA.         | • The process to appoint directors in Victoria is different to other States.  
• In Victoria, directors must be approved before they are appointed as a director (a pre-approval arrangement). In other states, directors are approved before they are appointed.  
• This makes it difficult for companies to operate in different states and determine when to appoint directors.  
• Businesses also state that the requirement that the probity assessment is done in the last 3 months is too short, and makes it difficult to appoint overseas directors. | • Align Victoria with other states  
• Extend the timeframe for the assessment. |
| 21  | People who are already appointed as a director for a venue licensed with the VCGLR must submit a separate application for an additional venue. | Part Two, Division One, Section 18 of the LCRA.         | • Some individuals are approved for a number of premises.  
• If they wish to add another premises, they must submit an additional application for appointment as a director.  
• This is unnecessary. | • Unless circumstances have changed it is unnecessary to submit a new application. |
| 22  | There is no scope to contest a finding or objection of the police or VCGLR, and there is no recourse. | The LCRA.                                               | • A business disagrees with the application finding of the VCGLR and the police. However, it said that it has no scope to argue this and there is no recourse. | • Provide for Alternate Dispute Resolution. |
| 23  | There is no Alternate Dispute Resolution Process | The LCRA. Administrative practices.                     | • There is no provision for mediation or preliminary conferences with the VCGLR.  
• Other jurisdictions provide for Alternate Dispute Resolution.  
• ADR may help to resolve a matter. It helps parties to identify what the live issues are. | • Provide for Alternate Dispute Resolution. |
### Conditions placed on licensees

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| 24. | Crowd control requirements for live music discourage small venues from providing mellow, relaxed live music on a Sunday afternoon. | LCRA and VCGLR. Crowd control requirements are stipulated on the licence. | - A business wishes to provide acoustic/local jazz music in a small country town on a Sunday afternoon.  
  - However, crowd control requirements mandate that if there is any amplified live music there must be 1 security staff per 50 visitors. This has no provision for what type of event a licensee wants to hold.  
  - This makes it uneconomic to put on local jazz music or mellow world music on a Sunday afternoon.  
  - It is also difficult for businesses to gain an exemption to this requirement. | - Enable businesses to design requirements, including security to meet the needs for the events they hold.  
  - Remove prescribed security requirements.  
  - Provide general guidance on security needs for different types of crowds. |
| 25. | Businesses are required to prepare paperwork specifically for the purpose of it being inspected. | The LCRA. | - Businesses must have an up to date RSA register and everybody's latest RSA refresher certificate printed out for each night that they are open.  
  - Police and VCGLR inspectors arrive to inspect this paperwork late at night. If one staff member does not have their RSA refresher certificate on site, police tell the venue to close.  
  - Some businesses oversee multiple venues. Some staff may be sick or a venue may be busy, requiring businesses to move people around when they are short-staffed.  
  - The requirement to have a centralised RSA register adds unnecessary burden and administration to managing a bar. | - Enable staff to show their RSA certificate on their phone.  
  - Alternately, take peoples’ names and check a record of training in the daylight hours. |
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| 26. | Low-risk liquor licensees are required to have up-to-date red-line plans ready for inspection. | The LCRA. | • All businesses require an approved red line plan that is up-to-date and available to be inspected at all hours.  
• The objective is that inspectors wish to know what part of the premises is licensed. However, the way this has been implemented means that 22,000 premises in Victoria need a plan ready to be inspected, regardless of risk. For example:  
  o Cafes and restaurants need to have a plan available.  
  o Large 4 and 5 star hotels need to have complex red-line plans that are available and up-to-date.  
• Many premises change week to week.  
• Around 70-80% of infringement notices are issued for not having red line plan – often it is locked in an office, and staff do not have the key. This imposes unnecessary costs on business. | • Review how many infringement notices are issued to businesses for not having prescribed documentation, and opportunities to reduce unnecessary costs.  
• Remove the requirement to have physical documentation specifically for the purpose of inspection.  
• It is possible for the VCGLR to require that if a business is open after 1am – it has a plan. If you close before this, this is not required. |
| 27. | The VCGLR is adding conditions onto businesses’ licences to specify that their existing operations are disallowed. | Conditions determined by the Commission and specified in the licence under S.14 of the LCRA. | • Some caterers serve people food and liquor at cinemas when they’re watching a movie and at other events. This is often under a Renewable Limited Licence.  
• These events are not classed as ‘functions’, as the events are not pre-booked.  
• The VCGLR is adding conditions onto licences held by caterers to state that the licence is valid for pre-booked ‘functions’.  
• The VCGLR has indicated that businesses will now have to apply for another licence, a Temporary Limited Licence. | • Avoid adding further conditions to existing licences after the initial issue, especially where such new conditions compromise a business’s operations. |
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| 28. | The police have sought to add conditions onto licences that duplicate conditions outlined in the LCRA | The LCRA. Administrative practices of the police. | • The police have sought to put conditions on licences that duplicate conditions outlined in the LCRA.  
• The LCRA outlines that licensees are not allowed to have a drunken person on the premises, and outlines the punishment, and the process for applying punishment to a licensee.  
• However, the police have sought to apply a condition on the licence that there is not a drunken person on the premises.  
• This is unnecessary duplication. | • Review regulator practice and remove overlap:  
○ agencies will not add conditions onto licences that duplicate conditions in the Act.  
○ clarify that the VCGLR is the licensing authority.  
○ remove the scope for the police to object to or add conditions onto licences. |

**Variations and transfers**

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| 29. | Businesses pay to apply for a licence variation, which is refused because it changes “the scale and scope of the business”. | The LCRA – Division 5. Objections. Cumulative impact decision-making guidelines. Administrative practices. | • A small regional business currently has a liquor licence that allows it to sell some packaged liquor. The business wanted to change hours of operation, and paid the $220 application fee  
• The VCGLR objected on the basis that it changes “the scale and scope” of a business.  
• The business has been told to go into a different licence category and apply for a full restaurant and café licence. This would limit the business to 15 (liquor) products and the regional restaurant would not be able to sell a packaged bottle of local wine to somebody who has consumed a meal. | • A business that applies for a licence variation does so because it wishes to change its business to meet customer needs.  
• Refrain from contesting business judgements about business requirements.  
• Make it clear in plain English under what specific grounds an objection is possible. |
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| 30. | A planning application must be completed before applying for a liquor licence variation. | LCRA VCGLR | • The interaction between liquor licence variation requirements and the planning system leads to an inefficient process and delays.  
• When applying for a variation to an existing liquor licence it is a requirement to apply for a planning permit and run the planning application to completion prior to applying for a variation to the liquor licence.  
• However for new liquor licence applications a business can run both processes in parallel. | • Enable businesses to run the processes for a variation in parallel, as per an initial licence application and planning application. |
| 31. | There is no right to continuity of trading when transferring a liquor licence | LCRA VCGLR | • People have purchased an existing pub to run the pub. However, there is no right to continuity of trading for liquor.  
• The current process for applying for a liquor licence or varying a liquor licence can be very time consuming.  
• The declaration of right to occupy can only be signed after settlement.  
• There is a lag time between lodging documents, and getting new name on the licence.  
• This creates practical difficulties for businesses and unnecessarily delays them from keeping the bar open and keeping staff employed. | • There should be deemed approval for 7 to 14 days (as in NSW).  
• Consider options to reduce uncertainty faced by businesses that are buying venues and seeking to run a business. |
### Licence costs

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<tr>
<td>32.</td>
<td>The fee structure imposes significant costs on people who wish to provide a small, licensed, regulated premises in a small town.</td>
<td>LCRA Section 180 (4). Liquor Control (Reform) Regulations 2009.</td>
<td>• Businesses in country towns have said that the structure of fees disproportionately impacts a business in a regional area that has access to smaller markets. • The fees charged to regional business for a restaurant and café licence, or a packaged liquor licence in a small country town with population 100 is the same as what is charged to businesses in the city that have more customers. • The fees discourage some regional businesses from selling local produce and providing a licensed place where locals can interact.</td>
<td>• Proportionate fees</td>
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<td>33.</td>
<td>Not-for-profits must pay large fees to VCGLR for it to assess the same documentation for the same event every year.</td>
<td>The LCRA. Liquor Control (Reform) Regulations 2009.</td>
<td>• Not-for-profits, charities and community organisations must constantly re-apply for yearly events at a cost of $900 each time • This is even in cases where the nature of the event has not changed and the operator has established a good track record.</td>
<td>• Enable businesses and NFPs to run events using existing documentation, unless there are material changes. • Businesses could notify the VCGLR that they are running events using the same agreed plans and conditions.</td>
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<td>34.</td>
<td>It costs the same to relocate an existing licence as it costs to submit a brand new application.</td>
<td>Liquor Control (Reform) Regulations 2009.</td>
<td>• It costs the same for a licence relocation as a brand new licence application. • This affects businesses that wish to move, and also change the address listed on their licence.</td>
<td>• Make the requirements clear up front. • Enable business to move if they meet these requirements, and notify the VCGLR. • Review practices of assessing detailed information and the fee structure.</td>
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<td>35.</td>
<td>Application fees are non-refundable.</td>
<td>The LCRA. Liquor Control (Reform) Regulations 2009. Administrative practices.</td>
<td>• The liquor licensing process is very costly if it must restart or be redirected.</td>
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<td>• If a licence is objected to, the business loses its original application fee, and it also must pay a new application fee for another licence.</td>
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**Dealing with offences**

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<td>36.</td>
<td>Disproportionate penalties for infringements.</td>
<td>The LCRA. Liquor Control (Reform) Regulations 2009.</td>
<td>• There are around 40-50 ways to offend the legislation that are well articulated and well known.</td>
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<td>• Cumulative penalties for a single offence can be very large. E.G., an underage person is on the premises leads to:</td>
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<td>o a fine of $12,000 for each offence and a Magistrate’s Court appearance;</td>
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<td>o an additional penalty on the licence fee;</td>
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<td>o a deduction through the star rating scheme;</td>
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<td>o the business is liable for extra prosecution through VCAT.</td>
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<td>• There should not be minors on premises and businesses put in place systems to avoid this. However, sometimes there is a system error.</td>
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<td>• The view is that losing star ratings is “performance based”. But the penalty is performance-based already.</td>
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<td>Review penalty structure.</td>
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## Quality of guidance material

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<td>37.</td>
<td>Lack of information on the choice of licence</td>
<td>VCGLR guidance. The LCRA.</td>
<td>• Some craft distilleries found out that they were in an expensive licence category unnecessarily.</td>
<td>• Provide information in plain English on licence types and requirements.</td>
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<td>38.</td>
<td>Lack of information and guidance on starting a liquor business.</td>
<td>VCGLR guidance. Small Business Victoria guidance.</td>
<td>• It took a long time for a business to start up and it had many costs that it could not factor into its business plan and that caused difficulties. • There are old guidance documents on the VCGLR website that lead to confusion.</td>
<td>• Requirements should be outlined clearly in plain English and they should be well targeted.</td>
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<td>39.</td>
<td>Lack of information on how difficult it is to make changes to a licence</td>
<td>Licence conditions. VCGLR guidance. Small Business Victoria guidance.</td>
<td>• A business wanted to increase the patron numbers on their licence. • However the business did not realise that it would need to go through the whole application process again – incurring additional costs. • If this was known upfront, the business would have applied for higher patron numbers at the start.</td>
<td>• Make it easier up front and enable businesses to make better up front decisions. • The VCGLR has started to provide some information in plain English on patron numbers and simplified the process for changing patron numbers.</td>
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<td>40.</td>
<td>Guidance on ‘minors on premises’</td>
<td>LCRA Section 120 and VCGLR (Underage patrons on licensed premises) VCGLR</td>
<td>• Guidance for business relating to ‘minors on premises’ is too complex and ambiguous. It causes some uncertainty for businesses.</td>
<td>• Provide clear guidance on minors on licensed premises.</td>
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