

Producer/wholesaler licence for a wine producer



This fact sheet outlines the key trading entitlements of a producer/wholesaler licence for wine producers.

For the purposes of this fact sheet, a wine producer also means a producer of cider, perry or mead.

Overview

A producer/wholesaler licence enables a wine producer to:

- sell the 'licensee's product' to other licensees on the licensed premises,
- sell the 'licensee's product' to the public on the licensed premises,
- conduct tastings of the 'licensee's product' on the licensed premises, with or without charge,
- operate multiple premises under the one licence in the same wine region, or
- sell any liquor made from fruit grown on the licensee's premises or a related vineyard.

Wine producers can also obtain a drink-on-premises authorisation. See page 2 for further details

Wine producers can also sell their 'licensee's product' directly to the public at industry liquor shows, and producers' markets and fairs. This enables producers to conduct tastings and sell take-away liquor at these events.

How is 'licensee's product' defined?

In the case of wine, the 'licensee's product' is wine that is uniquely the licensee's (or a related corporation of the licensee's) own product, which contains at least the following percentage of wine:

- 50%-in the case of wine that has been produced by or under the direction of the licensee (or a related corporation of the licensee) on the wine producer's licensed premises or a vineyard related to the licensed premises, or
- 85%-in the case of wine that has been produced on the licensee's behalf, or under the direction of the licensee or a related corporation of the licensee, from fruit grown on the wine producer's licensed premises or a vineyard related to the licensed premises.

In the case of cider, perry or mead, the 'licensee's product' is liquor that is uniquely the licensee's (or a related corporation of the licensee's) own product, which has been produced:

- by or under the direction of the licensee (or a related corporation of the licensee) on the licensed premises, or
- on the licensee's behalf from fruit grown or honey produced by the licensee.

A vineyard is deemed to be related to the licensed premises if it is operated by the licensee (or a related corporation of the licensee) and is within 500 metres of the licensed premises.

How is a tasting defined?

Under the liquor laws, a tasting is a sampling of a small amount of a particular product usually for the first time or when deciding to purchase a larger quantity of the product. It does not include sampling to the extent that it is no longer ancillary to a (proposed) take-away purchase.

What is a related corporation of the licensee?

If the liquor licence is held by a corporation, a 'related corporation of a licensee' means a corporation that is a related body corporate within the meaning of the **Commonwealth Corporations Act 2001**.

If the liquor licence is held by an individual, a 'related corporation of a licensee' means a corporation that employs the licensee, or in respect of which the licensee occupies a position of authority.

Trading hours

A wine producer may sell their 'licensee's product' to other licensees and to employees of the licensee (or a related corporation of the licensee) at any time.

Tastings of their 'licensee's product' can be conducted at any time, except where a six hour closure period applies (see below for more details).

Retail take-away sales of their 'licensee's product' can be made to the public during the following hours:

- 5am to 10pm from Monday to Saturday, and
- 10am to 10pm on Sundays

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Application can be made to the Independent Liquor & Gaming Authority for an extended trading authorisation to allow take-away trading of the licensee's product to the public from 5am to 10am on a Sunday.

Daily 6-hour closure

A 6-hour closure period applies to all liquor licences granted from 30 October 2008 onwards, as well as existing licences that have had an extended trading authorisation granted from that date. The 6-hour closure period is determined by the Independent Liquor & Gaming Authority.

Annual fees for producer/wholesaler licensees

Every holder of a liquor licence is required to pay an annual liquor licence fee. The annual base fee for a producer/wholesaler licence is \$500.

Where the Secretary determines that the producer/wholesaler licensee's annual production of liquor does not exceed 100,000 litres, the licensee will be eligible to pay a reduced fee of \$200.

Additional risk based loadings may also apply, depending on the licensee's compliance history. Further information on the risk based licence fee scheme is available at www.olgr.nsw.gov.au/risk_based_licence_fee.asp

Drink on-premises authorisation

A drink on-premises authorisation allows a wine producer to sell liquor to the public for consumption on the producer's licensed premises. This allows producers to sell and supply liquor in a number of different settings, including:

- a bar,
- a restaurants café,
- a guests' accommodation or resort facility,
- at functions and conferences, or
- at concerts and events held at the premises.

A drink on-premises authorisation can be permanent or temporary, but only applies to the licensed premises as authorised by the Independent Liquor & Gaming Authority, which is not necessarily the whole premises.

A change of boundary application may be required to extend the existing licensed premises to cover the areas in which it is proposed to offer alcohol for consumption.

The standard trading period that applies to the sale of liquor for consumption on a producer's licensed premises under a drink on-premises authorisation is (subject to the daily 6-hour closure period):

- 5am to midnight on Monday to Saturday, and
- 10am to 10pm on Sunday.

Extended trading authorisation

Where liquor is sold for consumption on the producer's premises under a drink on-premises authorisation, application can be made to the Authority for an extended trading authorisation.

The trading hours that may be permitted under an extended trading authorisation are (subject to the daily 6-hour closure period) from:

- Midnight to 5am on Monday to Sunday, and
- 5am to 10am and 10pm to midnight on Sunday.

A category B community impact statement must be prepared by the licensee when applying for an extended trading authorisation that allows trading between midnight and 5am. Notification requirements also apply to an application for an extended trading authorisation, including notification to the occupiers of neighbouring premises.

Further information about applying for an extended trading authorisation is available at www.olgr.nsw.gov.au

Operating multiple premises

A wine producer can apply to the Independent Liquor & Gaming Authority to sell their 'licensee's product' at more than one premises without the need to hold multiple licences, as long as the premises:

- are located in the same wine region (as defined in the *Australian Wine and Brandy Corporation Act 1980*), or
- are within 20kms of each other (if they are not in a wine region).

Multiple premises can include an additional winery or retail premises where the 'licensee's product' is sold to the public.

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Industry liquor shows and producers' markets/fairs

A wine producer can sell and supply their 'licensee's product' directly to the public at industry liquor shows and at a producers' market or fair.

The sale or supply of the 'licensee's product' at these events must be to customers for the purpose of tasting or take-away sales in sealed containers.

An industry liquor show is a wine, beer, spirits or other liquor show that is held by an industry association.

A producers' market or fair is a market or fair that is promoted for farmers or primary producers to display and sell their products directly to the public. The producers' market or fair must have a minimum of 10 stall holders displaying their produce or goods for direct sale to the public. The 10 stall holders need not all be farmers or primary producers.

The organiser of a show, market or fair must notify the local police, the local council and the Independent Liquor and Gaming Authority of the event at least 7 days before it is held. A notification is available from www.ilga.nsw.gov.au to allow an event organiser to provide notice of multiple events during a year.

Need more information?

Our website is regularly updated with new information about the liquor laws. Go to www.olgr.nsw.gov.au to access this information. Subscriptions to our e-news service are also available from this site.

Access to the liquor laws – the *Liquor Act 2007* and the *Liquor Regulation 2008* – is also available from www.olgr.nsw.gov.au

For more information, call our Customer Service Team on 02 9995 0894 or email info@olgr.nsw.gov.au

FAQs

Our winery is interested in leasing premises in town to sell wine to people who cannot travel to our property. Can this be done under our producer/wholesaler licence?

Yes. A wine producer can operate multiple premises:

- that are located in the same wine region (as defined by the *Australian Wine and Brandy Corporation Act 1980*) or are within 20kms of each other, and
- where each set of premises is operated by the licensee, and
- that have been approved by the Authority as part of a change of boundary of the licensed premises (to include any additional premises).

Multiple premises may include an additional winery, where tastings and take-away sales occur, or a dedicated retail outlet selling the licensee's product in a commercial area. In the case of a change of boundaries to include additional premises of a wine producer that are located in retail premises, the Authority may require a community impact statement to be prepared.

We operate a public restaurant at our winery and want to sell our wine, as well as beers and spirits to our patrons. Can we do this?

Yes, provided a drink-on-premises authorisation is obtained from the Authority. This authorisation, which requires a community impact statement to be prepared, allows alcohol to be sold for consumption in a range of settings, including as part of restaurant and accommodation facilities, operated by the licensee.

Is there a quantity limit on the amount of wine that can be sold to the public by a wine producer?

No. Limits that applied to the retail sale of wine under the former liquor laws have been abolished. Wine can be sold to people visiting the premises or through other means such as orders received over the internet or by facsimile or mail order.

We are interested in selling a product made from fruit that isn't wine. Can this be done by a wine producer under a producer/wholesaler licence?

Yes. Under the liquor laws, a licensee's product is defined to include products produced on the licensed premises and made from fruit grown on the licensed premises or vineyard.



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