



# Department of Racing, Gaming and Liquor

## Media release

March 16, 2009

### Director of Liquor Licensing announces Kimberley liquor restrictions

The Director of Liquor Licensing Barry Sargeant has announced restrictions on the sale of takeaway liquor in containers of more than one litre in the Kimberley, under section 64 of the *Liquor Control Act 1988*.

The following restrictions will apply to liquor licences located in areas of the State north of 20° south (including the regional centres of Broome and Kununurra):

- The sale of takeaway liquor (with an alcohol content of more than six percent) in individual containers of more than one litre is prohibited except where the sale is to a liquor merchant or with the written permission of the Director of Liquor Licensing; and
- The sale of all takeaway beer in individual glass containers of more than 400 millilitres is prohibited.

Mr Sargeant said the restrictions were in the interest of public health given the level of alcohol-related harm that had occurred in the Kimberley region. The extent of this harm was highlighted by the State Coroner's reports into a number of alcohol-related deaths in the Kimberley.

In January, Kimberley licensees were asked to show cause why the restrictions should not be introduced.

"After considering the show cause submissions, and various other data presented to me, I decided that on the balance of probabilities it was in the best interest of the

community to have restrictions placed on the sale and supply of packaged liquor in the Kimberley,” Mr Sargeant said.

“Experience in other areas of the State has shown that by restricting the sale of packaged liquor, the incidence of alcohol-related harm is significantly reduced.”

The restrictions will come into effect on March 30, 2009.

Meanwhile, the Kimberley Hotel and Halls Creek Store licensees have been given an extension to make submissions to the Director of Liquor Licensing in relation to the liquor restrictions proposed for Halls Creek.

Mr Sargeant said in the interest of procedural fairness, it was imperative that as many factors as possible were taken into consideration before a decision was made.

The licensees have been given until March 31 to make further submissions on the matter.

- A copy of the Director’s decision on the Kimberley restrictions is available at [www.rgl.wa.gov.au](http://www.rgl.wa.gov.au)

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**DECISION OF DIRECTOR OF LIQUOR LICENSING**

**NATURE OF MATTER:            SECTION 64 "SHOW CAUSE" PROCEEDING**

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**LEGISLATIVE PROVISIONS**

Section 64 of the *Liquor Control Act 1988* ('the Act') provides that the licensing authority may, at its discretion and of its own motion, impose conditions in addition to the those specifically imposed by the Act, or in such a manner as to make more restrictive a condition specifically imposed by the Act.

Subsection (3) specifically identifies that, without derogating from the generality of the discretion conferred on the licensing authority, that it may among other things, impose conditions which it considers to be in the public interest or desirable in order to –

- ensure that the safety, health or welfare of persons who may resort to the licensed premises is not at risk;
- minimize harm or ill-health caused to people, or any group of people, due to the use of liquor;
- limit the kinds of liquor that may be sold; or
- limit the manner in which or the containers, or number or types of containers, in which liquor may be sold.

**SHOW CAUSE NOTICE**

On 13 January 2009, pursuant to section 64(2a) of the Act, I gave notice to all licensees in the area of the State north of 20<sup>o</sup> south that I was satisfied that the level of alcohol related harm occurring in the Kimberley region is such that it would be in the public interest to impose restrictive conditions on those licences. The information and evidence in support of that finding were detailed in the notice of 13 January 2009.

In giving that notice, licensees were required to show cause why the proposed conditions should not be imposed. The final date for making those submissions was 20 February 2009.

**DETERMINATION – SECTION 64**

Having considered the submissions from the parties to the proceedings and for the reasons outlined in the Section 64 Notice to the licensees, I consider on the balance of probabilities, that the level of alcohol related harm occurring in the Kimberley region is such that it is desirable to impose restrictive conditions on relevant licences in the area of the State north of 20° south, and on any relevant licences granted in the future.

Accordingly, under section 64 of the Act, the following conditions will be imposed on relevant licences and on any relevant licences granted in the future.

**Conditions applicable to licences for premises north of 20° south**

*As from and including 30 March 2009, each relevant licence that authorises the sale of packaged liquor is subject to a condition that the licence does not authorise the sale of packaged liquor -*

- a) in an individual container that contains more than one litre of relevant liquor; or*
- b) in an individual glass container that contains more than 400 millilitres of beer, except –*
- c) to a liquor merchant; or*
- d) with the written permission of the Director.*

For the purposes of (a), ‘relevant liquor’ means a substance intended for human consumption that at 20°C contains more than 6% ethanol by volume.

For the purposes of these conditions, ‘relevant licence’ means any licence granted before or after this decision for premises situated north of latitude 20° south.

If a term has a meaning in the Act, it has the same meaning in this decision, unless the contrary intention appears in this decision.

A condition that is applicable to a relevant licence and that is imposed by this decision is in addition to any other condition or requirement to which the licence is subject.

**DECISION OF THE DIRECTOR OF LIQUOR LICENSING**

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If there is an inconsistency between a condition that is applicable to a relevant licence and that is imposed by this decision and any other condition to which the licence is subject under the Act, the condition that is more onerous for the licensee prevails.

Pursuant to section 31(6) and (7) of the Act, a notice will be published in the *Gazette* prior to 30 March 2009, imposing these conditions on each relevant licence that authorises the sale of packaged liquor.

Amended licences will be issued in due course.

  
Barry A Sargeant

**DIRECTOR OF LIQUOR LICENSING**

13 March 2009