

# THE HOSPITALITY MESSENGER

Your Western Australian liquor licensing, hospitality, event and related industries news and information presented by Lavan

June 2017 17<sup>th</sup> edition

LAVAN

## Are you getting ready for crowd controller training requirements from 1 July 2018?

Under Liquor Control Regulations 1989, from 1 July 2018, a person employed or engaged as a crowd controller in respect of licensed premises (other than licensed premises under an occasional licence where the patron capacity is less than 300) is required to successfully complete liquor licensing training.

## Do you have authority to play music at your venue?



Illusion Bar & Nightclub in Victoria was recently ordered to pay \$114,113.28 in licence fees, interest, court costs and additional damages for infringement of the Commonwealth Copyright Act 1968 for performing controlled musical compositions without a licence. The judge found that the infringement “constitutes a serious breach of copyright” as well as “a complete and deliberate disregard of Australasian Performing Right Associated Limited rights” noting there is a “need to effect deterrence against similar infringements of copyright.” You can access the full decision [here](#).

## Consequences of convictions



Convictions of most varieties need to be disclosed to the licensing authority. These include those that are traffic related, even if only a fine, or no fine, was imposed.

People who fail to properly disclose convictions to the licensing authority, and who are required to do so, can be liable to action under the liquor legislation.

Whether or not convictions are properly disclosed, a person who has been convicted of certain offences can sometimes find it difficult to persuade the licensing authority that they are “fit and proper” to be involved with a liquor licence and some are refused approval.

Recently in New South Wales an individual convicted of cannabis offences was ruled not “fit and proper”. The same result could potentially occur in Western Australia.

However, the fact that someone has a conviction and may have even served prison time, does not necessarily mean that person will automatically be found not “fit and proper”. That person could still potentially be approved by the licensing authority. It will depend on various circumstances.

If a person who is found not “fit and proper” is the sole licensee, or sole director of a licensee company, or the main active director, the consequence of such a finding could potentially be very damaging and even fatal to the business.

A person who has been approved by the licensing authority and subsequently is convicted of any offence must notify the licensing authority within 14 days of being convicted, or a penalty of up to \$10,000 may potentially be imposed.

## Summary of published 2017 Director's Decisions as at 12 June 2017

Application / Outcome	Liquor Store	Tavern	Tavern Restricted	Small Bar	Extended trading permit	Variation of trading conditions
Approved	6	1	3	1	1	-
Refused	1	-	-	-	-	2
<b>Total</b>	<b>7</b>	<b>1</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>2</b>

## REMINDER: Have you renewed your approved manager card?

Do you know when your approved manager card expires and when cards held by your staff expire?



It is imperative that approved managers complete the required renewal process and take the necessary steps to update personal details associated with the registration prior to expiry.

Cardholders need to access their online account to complete the renewal process.

Cardholders should receive notice of the impending card expiry, but we recommend not relying on that. It is up to approved managers to know when their cards expire and to renew them. Failure to properly renew an approved manager card will mean that the person cannot lawfully continue to work as an approved manager in WA.

Whilst it is the obligation of approved managers to maintain the currency of their cards, it is the obligation of licensees to ensure that at least one approved manager is working at the premises during all trading hours. Therefore, licensees need to ensure that the people they employ as approved managers are in fact currently registered and compliant. A penalty of up to \$10,000 could potentially be imposed on licensees for failing to comply with the approved manager obligations.

## Fair Work Commission penalty rates transitional arrangements

Following the update in the 15<sup>th</sup> edition of The Hospitality Messenger concerning impending changes in penalty rates for employees covered by the Hospitality and Restaurant Awards, the Fair Work Commission has now issued its decision setting out the transitional arrangements that apply to the reduction in Sunday and Public Holiday penalty rates. Sunday penalty rates will be reduced over a three year period. The Commission has also confirmed that there will be no "red-circling" or "grandfathering" of existing employees. The table below sets out the way the Sunday penalty rate reduction will transition in relation to the Hospitality Industry Award 2010:

Category	Previous	1 July 2017	1 July 2018	1 July 2019
Permanent Sunday	175%	170%	160%	150%

The Commission has also confirmed that the reductions in public holiday penalty rates will commence in full from 1 July 2017. Those reductions are:

Award	Permanent penalty	Casual penalty old/new
Hospitality Industry Award 2010	250 225	275 250
Restaurant Industry Award 2010	250 225	250 (no change)

The Commission's decision is available [here](#).

## ETP crowd controller confusion cleared up

On June 2017 the Director of Liquor Licensing published a Notice in the Government Gazette relating to the interpretation of ETP conditions regarding crowd controllers.

The following now applies:

...each relevant extended trading permit with a crowd controller condition is subject to a condition that the licensee is not required to comply with the crowd controller condition in relation to a particular set of the extended hours that are specified in the permit if --

(a) the licensee does not intend to sell or supply liquor during that set of extended hours; and

(b) the licensee makes a written record of that intention before the 8pm occurring immediately before the beginning of that set of extended hours; and

(c) liquor is not sold or supplied on the licensed premises during that set of extended hours.

Lavan is proud to have been involved in obtaining approval for Perth's first licensed fromagerie.

Fromage Artisans is located in the basement level of 101 St Georges Terrace.



Image courtesy of Fromage Artisans

We are also pleased to have assisted in obtaining approval for extended trading hours past midnight for the Aloft Hotel in Rivervale.



## OUR TEAM

Your business is an important contributor to the Western Australian community and to WA's growing liquor, hospitality, events, tourism and related industries.

Are you getting the most out of your business? Are you fulfilling all of your ideas and enjoying business success?

If you have an idea for a new business, we would love to help you develop it.

We encourage you to obtain modern business solutions from us and receive the benefits of a life long working relationship to help maximise your business potential. Any expenditure with us is an investment in your business and its future.

We enjoy visiting our clients' businesses and will be happy to visit yours.



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