



# REQUIREMENT TO LEAVE

A licensee, permittee, or an employee, can evict a person from licensed premises in exercise of the right to refuse to sell or supply liquor or in exercise of a power or duty under the liquor legislation. The person must not resist the licensee, permittee, employee or refuse to leave the premises when required to do so.

The specific requirements are different in each state/territory, but typically the following situations would require a person to leave the premises:

- They are underage
- The person committed an offence
- The person was intoxicated
- The person was acting offensively
- The person was violent or aggressive

## QUEENSLAND

Licensee or permittee or an employee of the licensee or permittee may require a person to leave the premises if—

- a. The person is unduly intoxicated; or
- b. The person is disorderly; or
- c. The person is creating a disturbance; or
- d. The person is a minor, other than an exempt minor; or
- e. The person has entered the premises despite being refused entry; or
- f. The person refuses to state particulars, or to produce evidence, as to age when required to do so

## NEW SOUTH WALES

A licensed venue may refuse entry or eject a patron if they are:

- intoxicated
- violent, argumentative, or disorderly
- smoking in a smoke-free area
- using, or possess, any substance suspected of being an illicit drug
- whose presence causes the licensee to become liable to a penalty under the liquor laws.

A person who has been refused entry or ejected from a licensed venue must:

- leave the venue
- not remain in the vicinity of the venue (i.e. not within 50 metres of the venue), without reasonable excuse
- not re-enter the vicinity of the venue for 6 hours, without reasonable excuse
- not attempt to re-enter or re-enter the venue for 24 hours.

A person has a reasonable excuse for remaining in, or re-entering, the vicinity of the venue if that person is obtaining transport, resides in the vicinity, or if they fear for their safety.

When ejecting a person, staff should inform the patron that:

- They are required by law to move more than 50 metres away from the venue

- They must not re-enter the 50 metre vicinity within 6 hours
- They cannot return to the venue for at least 24 hours
- If they fail to comply, they will commit an offence. A maximum fine of \$5,500 applies.

Managers should record the incident in the venue’s incident register as soon as possible.

For details of NSW requirement to leave provisions see Liquor & Gaming NSW, visit –

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/serving-alcohol-responsibly/ejecting-and-banning-patrons>

## AUSTRALIAN CAPITAL TERRITORY

For details of ACT requirement to leave provisions see the Access Canberra website.

<https://www.accesscanberra.act.gov.au/>

### 138 Offence—fail to leave premises when directed

A person commits an offence if—

- a) the person is at licensed premises; and
- b) 1 of the following people directs the person to leave the premises:
  - i. the licensee;
  - ii. an employee of the licensee;
  - iii. a crowd controller working as a crowd controller at the premises; and
- c) the person fails to comply with the direction.

Maximum penalty: 20 penalty units.

## VICTORIA

Licensees need to be aware of their responsibilities not to allow drunk, violent or quarrelsome persons to enter or remain on their licensed premises. The licensee also has the right to ask any person to leave their licensed premises, as long as the reason is not discriminatory.

For details of Victorian requirement to leave provisions see the Victorian Commission for Gambling and Liquor Regulation website.

<https://www.vgccc.vic.gov.au/liquor/sporting-and-community-club/understand-your-liquor-licence/barring-problem-customers>

## TASMANIA

**Section 62** of the Liquor Act imposes an obligation on a licensee or permit holder to require people under certain circumstances to leave licensed or permit premises. Where people continue to cause problems, Barring Orders which are enforceable by law can be issued under **section 81**.

## Removal of persons from the premises (Section 62)

- You must not allow a person who is *“acting in a violent, quarrelsome or disorderly manner or who is using disgusting, profane or foul language”* to remain on the premises.
- Licensees and permit holders that breach this obligation can be fined up to 20 penalty units.
- (See also section 93 of the Liquor Act for powers of staff and licensee to restrict entry and section 94 for powers of police to require people to leave licensed premises.)
- **Sections 80 and 80A** of the Liquor Act says that an offence has been committed if a person remains on licensed or permit premises when required to leave by the licensee, permit holder or his/her staff, or police officer.
- Penalties of up to 50 penalty units can be imposed on the individual who has been asked to leave and they may be arrested without a warrant.
- It is also an offence for a person to re-enter the premises within 24 hours of being asked to leave or having been removed from the premises (fines of up to 50 penalty units may be payable by the offender).
- The offender must not, without reasonable excuse, remain in the vicinity of the premises for six hours or until the premises is closed for the day (whichever is longer). The vicinity is the:
  - radius of 50 metres from any entry or exist point to the licensed or permit premises; or
  - the distance from the premises or area around it that is specified by a Police Officer.
- Reasonable excuses include (but are not limited to) residing within the vicinity, obtaining transport and safety concerns. A fine up to 50 penalty units may be payable by an offender.

NOTE: The dollar value of a penalty unit is adjusted each year based on the consumer price index. The latest fee unit can be found on the Liquor and Gaming website at:

<https://www.treasury.tas.gov.au/liquor-and-gaming/liquor/resources-for-licence-holders/licensing-penalties>

1 penalty unit = \$202 (current as of 1 July 2024)

For details of the Tasmanian requirement to leave provisions see the Tasmanian Department of Treasury website.

<http://www.treasury.tas.gov.au>

## SOUTH AUSTRALIA

According to the **“Section 116 - Power to remove or refuse entry to minors”** of the Liquor Licensing Act 1997

- (1) An authorised person may, if necessary, use reasonable force to remove a person from, or prevent the entry of a person onto, licensed premises if—
  - (a) either –
    - (i) the person has failed to produce evidence; or

- (ii) the authorised person suspects on reasonable grounds that the person is under the age of 18 years; and
  - (b) the authorised person suspects on reasonable grounds that the person is entering the licensed premises for the purpose of consuming liquor in contravention of this Act.
- (2) A person who—
- (a) is removed from licensed premises, or refused entry to, or prevented from entering, licensed premises under this section; and
  - (b) enters or attempts to enter the licensed premises within the following 24 hours, is guilty of an offence.

According to the “**Section 124 - Power to refuse entry or remove intoxicated persons or persons guilty of offensive behaviour**” of the Liquor Licensing Act 1997

- (1) An authorised person may, if necessary, use reasonable force to remove a person from, or prevent the entry of a person onto, licensed premises if –
  - (a) the person is intoxicated; or
  - (b) the person is behaving in an offensive or disorderly manner.
- (2) An authorised person may, if necessary, use reasonable force to remove a person from licensed premises if the authorised person reasonably suspects that the person has supplied, or is about to supply, liquor to an intoxicated person on the licensed premises.
- (2a) If a licensee or a responsible person for licensed premises requests a police officer to exercise a power conferred by this section in relation to a person, the police officer must do so if satisfied that the power may be exercised in relation to the person under this section.
- (3) A person removed from licensed premises under this section who re-enters the licensed premises within 24 hours of being removed from them is guilty of an offence.
- (4) A person who—
  - (a) is removed from licensed premises, or refused entry to, or prevented from entering, licensed premises under this section; and
  - (b) enters or attempts to enter the licensed premises within the following 24 hours, is guilty of an offence.
- (5) A police officer may arrest, without warrant, any person who commits an offence against subsection (4).

According to the “**Section 137B - Procedures to be observed by authorised persons in prevention of persons from entering, and removal of persons from, licensed premises**” of the Liquor Licensing Act 1997

- (1) The regulations may prescribe procedures to be observed by authorised persons in or in connection with the prevention of persons from entering, or the removal of persons from, licensed premises or a part of licensed premises.

- (2) The regulations may prescribe procedures to be observed by authorised persons in or in connection with the removal of minors from licensed premises or a part of licensed premises.
- (3) An authorised person must comply with the procedures (if any) prescribed under this section.

## WESTERN AUSTRALIA

Section 115(4) of the Act provides authority for:

- an authorised person to refuse a person entry to the licensed premises or a part of the premises; or
- an authorised person to require a person to leave the licensed premises or a part of the premises; or
- if the requirement to leave the premises is not complied with — an authorised person, or any other person on the request of an authorised person, may remove the person from the licensed premises or a part of the premises using such force as may be reasonably necessary; or
- an authorised person to refuse to sell liquor to the person.

The reasons that an authorised person might refuse entry, remove a person from premises, or refuse to sell liquor to a person, are set out in section 115(4a) of the Act, and include:

- that the person is or appears to be drunk; or
- the person is behaving in an offensive manner; or
- the person is not dressed in conformity with the licensee's requirements for a standard of dress; or
- the person is someone who the authorised person has reasonable cause to believe:
  - cannot or will not pay; or
  - is, or is known to be, quarrelsome or disorderly; or
  - is seeking to obtain liquor by begging; or
- the person is or is known to be, or is an associate of, a reputed thief, prostitute, supplier of unlawful drugs; or
- the person is convicted of an offence involving unlawful drugs or violence that is punishable by a term of imprisonment exceeding 3 years; or
- is or appears to be a person whose presence, or to whom the provision of service, on the licensed premises will cause the licensee to commit an offence under this Act; or
- is a person seeking to enter or enters or remains on the licensed premises at a time when they are closed or are required under this Act to be closed; or
- is a person requesting service on a part of the premises where the licensee is not authorised to provide the service requested; or is set aside for the purposes of a private function.

## NORTHERN TERRITORY

A licensee or employee of the licensee must, or an inspector or police officer may, exclude or remove a person, not being a bona fide resident of the licensee's licensed premises, from the licensed premises if the person is drunk, violent, quarrelsome, disorderly or incapable of controlling his or her behaviour.

(1AA) A licensee or an employee of a licensee must not contravene subsection (1) in relation to the licensee's licensed premises.

Maximum penalty: 100 penalty units.

(1AB) An offence against subsection (1AA) is an offence of strict liability.

(1AC) It is a defence to a prosecution for an offence against subsection (1AA) if the defendant establishes a reasonable excuse.

(1A) A licensee, an employee of the licensee, an inspector or a police officer may exclude or remove from the licensee's licensed premises:

- (a) a bona fide resident of the premises, if that resident is drunk, violent, quarrelsome, disorderly or incapable of controlling his or her behaviour; or
- (b) subject to any other law in force in the Territory, any person (including a bona fide resident), if the presence or continued presence of the person on or at the premises would or might:
  - i. render the licensee liable to a penalty under this Act or any other law in force in the Territory; or
  - ii. in the opinion of the licensee or employee, disrupt the business of the licensee or unreasonably interfere with the wellbeing of other persons lawfully on the premises; or
- (c) for or during a period not exceeding 12 months from the time a person was found guilty of an offence relating to the possession or supply of a drug on licensed premises, that person.

(2) A person to whom subsection (1) or (1A) is applicable must immediately leave licensed premises on being requested to do so by the licensee, an employee of the licensee, an inspector or a police officer.

Maximum penalty: 20 penalty units.

(2A) An offence against subsection (2) is an offence of strict liability.

(3) A police officer must, on the demand of the licensee, an employee of the licensee or an inspector remove or assist in removing from licensed premises a person who has been requested by the licensee, an employee of the licensee or an inspector in accordance with subsection (2), to leave the premises.

(4) A licensee, an employee of the licensee, an inspector or police officer exercising a power under this section may use such force as is reasonably necessary for the purpose.

(5) A person may be excluded or removed from licensed premises even if the person is a member of an incorporated association that is the licensee in respect of the licensed premises.