

Restaurant and Catering Licence guidance

Due to an increase in incompatible applications for this licence, please consider if this licence is most suitable for your needs. The guidance below, includes what trade is permitted and what trade is not.

What you can do under a Restaurant and Catering Licence:

- Sell liquor for consumption with or accompanying a meal
- Sell liquor for consumption on the licensed premises to a person:
 - attending a function at which food is provided; or
 - seated at a table.
- You can also apply to sell liquor for consumption at a site where you will be providing food at a function (catering).

A Restaurant and Catering Licence is a category of licence that is granted under section 35 of the *Liquor Licensing Act 1997* (**the Act**) and is subject to the condition that the supply meals is at all times the **primary** service provided to the public at the premises.

A "meal" is defined under the Act as *"a genuine meal eaten while seated at a table."*

If your business model will not (or does not) align with these requirements, we encourage you to review our [licence classes and categories](#) and select the appropriate class of licence for how you intend to trade.

What you cannot do under a Restaurant and Catering Licence:

- Sell Liquor Without Food: Liquor cannot be sold without being accompanied by a meal, except to a person seated at a table or attending a function where food is provided. A 'function' is where the restaurant (or part of the restaurant) has been booked in advance for an occasion.
- Operate Primarily as a Bar: The primary purpose of the premises must be to supply meals. Establishments cannot function primarily as bars or nightclubs.
- Sell Liquor Outside Licensed Areas: Liquor can only be sold and consumed within the areas outlined in the licence plan. Selling liquor outside these areas requires an extension of the trading area.
- Providing Entertainment contrary to Development Approval: Providing entertainment at the venue, such as live music or DJ performances, may require council consent. You should check whether such activities are permitted under the existing Development Approval for the premises. If unsure, contact your local council.

Examples

Scenario 1: Can you serve alcohol to patrons after a meal?

'Happy Charcoal Grill' holds a Restaurant and Catering Licence which authorises it to trade between 11am and 11pm, 7 days a week.

A customer who has finished their meal and is sitting at the table asks for another glass of wine. Is it legal to serve them after they've finished their meal?

(Yes, this is fine as the customer is seated at a table, consistent with the requirements of section 35 of the Act).

Scenario 2: Can you serve alcohol to patrons who are standing?

'Fred's Seafood Buffet' holds a Restaurant and Catering Licence which authorises it to trade between 11am and Midnight, 7 days a week.

The restaurant is hosting a 50th birthday party for 100 people. There are tables with buffet style food for the guests and finger food is circulating. Alcoholic drinks are being sold to customers who are standing up and mingling. Very few people are seated at tables.

Is the restaurant in breach of the legislation for serving customers who are standing up?

(No, the restaurant has not breached the legislation. Section 35 of the Act permits the sale of liquor to people attending a function where food is provided. The birthday party is clearly a function where food is being provided, and there is no requirement for the guests to be seated at a table).

Scenario 3: When would a restaurant be trading like a bar?

'Roxy's Grill and Vibes' holds a Restaurant and Catering Licence which authorises it to trade between 11am and 3am the following day, 7 days a week.

Customers must order from the restaurant menu by 10pm to be served a meal. After 10pm only Doritos and peanuts are available. Many customers attend Roxy's late at night and spend hours drinking cocktails and listening to music until it closes at 3am.

Is Roxy's Grill and Vibes operating in a way that is consistent with the requirements of section 35 of the Act?

(No, the Roxy's Grill and Vibes is operating in a way that is not consistent with the requirement in section 35 of the Act that the supply of meals is at all times the primary service to be provided to the public at the premises. Roxy's stops serving meals 5 hours before closing time and then operates like a bar with drinks and music and no meals available for purchase. Doritos and peanuts are clearly not "meals" as they are not genuine meals eaten at a table. This is an example of a venue that initially operates as a restaurant, and then morphs into a bar after 10pm, in breach of the requirements of the Act).

Scenario 4: What is a permitted 'function'?

'Joe's Diner' holds a Restaurant and Catering Licence which authorises it to trade between 11am and 2am the following day, 7 days a week. Joe's Diner advertises on its Facebook page for a Fancy Cocktails promotion on Saturday night, tickets \$25 at the door. Anyone

from the public can attend and the dining tables are rearranged on the night to make room for stand up drinking. Does Joe's Diner's liquor licence authorise this kind of trade?

(No. Joe's Diner would be in breach of its liquor licence as the Fancy Cocktails promotion would not meet the definition of 'function' under the Act:

“function means a gathering of people on any occasion at which liquor is to be sold, supplied or consumed and for which licensed premises, or a part of licensed premises, has been booked in advance”.

In addition, the Act requires that *“the licensee has been given notice of the function at least 24 hours before the function”*. This makes it clear that the functions contemplated by the Act are not functions organised by Restaurant and Catering Licensees themselves, but rather, are functions such as Christmas parties, birthday parties, etc organised by others who book the restaurant or catering company for an occasion so that liquor can be supplied to the people attending the function.

If Joe's Diner had been booked out for a 50th birthday party and food was also provided, then Joe's Diner could provide cocktails to persons attending the 50th birthday function, whether they were seated or not.)

Scenario 5: Can someone with a Restaurant and Catering Licence sell or supply liquor at functions away from their usual licensed premises?

'Desiree's Cooking School' (**Desiree's**) holds a Restaurant and Catering Licence and runs cooking classes at their city premises. Desiree's is also regularly hired for birthdays, weddings, engagements, and work functions such as Christmas parties. Is it legal for Desiree's to sell or supply alcohol at these functions, and if so, are there any legal requirements under the Act that Desiree's must adhere to?

(It depends on whether Desiree's Restaurant and Catering Licence has a condition authorising the licensee to cater at functions off site. For Desiree's to be able to sell or supply liquor at functions off site, the licence must contain the following condition authorising this type of trade:

“Sale of liquor for consumption at the site of a function off the licensed premises authorised”

If Desiree's Restaurant and Catering Licence does not contain the above condition/ authorisation, Desiree's cannot sell or supply liquor at functions off the licensed premises, and to do so would be in breach of the Act.

There are additional requirements if Desiree's is authorised to sell liquor at functions off-site:

- Food must be provided at the function
- Desiree's must have been given notice of the function at least 24 hours beforehand
- Desiree's must maintain records relating to the function.

It's important to note that the licensed premises include the site wherever a function is held, and for the duration of the function).

Types of Businesses in SA that hold Restaurant and Catering licences

- Restaurants
- Cafes
- Cooking schools
- Caterers

Restaurant and Catering licence obligations

Is your premises compliant with its obligations under the *Liquor Licensing Act 1997*?

CBS has prepared a checklist below for the most common areas of non-compliance regarding Restaurant and Catering licences.

Licensees are encouraged to read through this document to ensure their business is meeting their legal obligations.

See this [more comprehensive checklist](#) online.

Contact CBS

For any queries relating to liquor licensing, please contact CBS on 131 882 (option 5) or liquorandgaming@sa.gov.au