

# Retail - General

## TERMS AND CONDITIONS

Licensees are responsible to comply with all general retail terms and conditions; terms and conditions specific to the type of licence held; and any terms and conditions specific to the premises.

### 1.0 Definitions

“**Act**” means *The Liquor and Gaming Control Act* and includes regulations made under the Act.

“**advertisement**” means anything prepared by or on behalf of a regulated person that is intended to promote liquor sales or participation in a lottery.

“**executive director**” means the executive director of the Liquor and Gaming Authority of Manitoba.

“**inspector**” means:

- a) an inspector appointed or designated under section 119 or 120 of the Act; and
- b) a member of a police service.

“**LGA**” means the Liquor and Gaming Authority of Manitoba.

“**licensee**” means a person, business entity or association of persons holding a licence issued by the LGA; in these terms and conditions it means the holder of a retail liquor licence.

“**liquor**” means beer, wine, spirits and any other product intended for human consumption that contains more than 1% alcohol by volume.

“**MLLC**” means the Manitoba Liquor and Lotteries Corporation.

“**person**” includes an organization, association, group or partnership, corporation or any other business model.

“**promotional agreement**” means an agreement between a liquor manufacturer, a liquor distributor, or any of their agents, employees or representatives, and the holder of a liquor service licence or retail liquor licence under which the holder agrees to sell a specific type, class or brand of liquor.

“**retail premises**” means the premises specified in a retail liquor licence where the retail sale of liquor is authorized.

“**sell**” includes to offer for sale or display for sale.

### 2.0 General

#### 2.1

A retail liquor licence authorizes the licensee to sell liquor on a retail basis from the retail premises.

#### 2.2

The licensee must ensure that liquor is sold in the retail premises in accordance with the Act and that the retail premises are operated in accordance with the Act.

#### 2.3

The licensee may only sell liquor purchased from MLLC.

#### 2.4

A separate retail liquor licence is required for each location where a person operates retail premises.

#### 2.5

A licensee may operate from a location other than the retail premises for a specified period of time with the prior written authorization of the executive director.

#### 2.6

No proprietary rights accrue with a licence.

#### 2.7

The executive director may, by written notice, require the licensee to post public service notices provided by the LGA on topics such as responsible liquor consumption, the dangers of drinking and driving or information on human trafficking, domestic violence or other matters of public concern.

#### 2.8

All promotional agreements must be in writing.

#### 2.9

The licensee must, on request, provide the LGA with a copy of any promotional agreement that the licensee has entered into with another person.

#### 2.10

Every advertisement prepared by or on behalf of a licensee must comply with the Canadian Code of Advertising Standards established by Advertising Standards Canada.



### 2.11

Unless exempted by the executive director, every advertisement prepared by or on behalf of a licensee must contain a social responsibility message approved by the executive director.

### 2.12

The executive director may, at any time, add, vary, repeal or substitute terms and conditions of a licence.

### 2.13

The licensee must continue to comply with any terms and conditions or requirements under which the premises was licensed unless otherwise authorized by the LGA.

## 3.0 Operations

### 3.1

The licensee is responsible for the conduct of all employees involved in the sale of liquor.

### 3.2

If a person who appears to be a minor attempts to purchase liquor from retail premises, the licensee must require that person to produce one of the following types of identification that belongs to the person:

- a) a valid passport;
- b) a valid driver's licence;
- c) an identification card issued by Manitoba Public Insurance;
- d) a Secure Certificate of Indian Status issued by the Government of Canada;
- e) two valid pieces of government-issued identification, with at least one piece of identification containing a photograph of the person.

### 3.3

If the person is unable to produce the required identification, the licensee must not sell any liquor to that person and must request that person to leave the retail premises.

### 3.4

Except as permitted by 3.5, 3.6 and 3.7, a licensee must not allow a person to consume liquor in retail premises.

### 3.5

An adult agent, employee or representative of a liquor manufacturer or liquor distributor or an employee of the licensee may provide a complimentary sample of liquor to adults in retail premises.

### 3.6

A liquor manufacturer or liquor distributor or an adult agent, employee or representative of a liquor manufacturer or liquor distributor may provide a licensee with a complimentary sample of liquor for consumption by the licensee and its adult employees for informational and training purposes.

### 3.7

A complimentary sample of liquor must not exceed the following serving sizes:

- a) 15 ml of spirits (0.5 oz.);
- b) 60 ml of wine (2.1 oz.);
- c) 120 ml of beer, cider or coolers (4.2 oz.)

### 3.8

A minor is prohibited from selling or providing a complimentary sample of liquor.

### 3.9

The licensee must ensure that any person who is involved in the sale of liquor has successfully completed a training course specified by the executive director.

### 3.10

The licensee must keep the licence for the retail premises posted in a conspicuous place in the retail premises.

### 3.11

Unless authorized by the LGA, all liquor sold in retail premises must be sold in the bottle, container, or package in which it was contained when it was received from MLLC.

### 3.12

The licensee must post signage indicating the type and brand of liquor, the package size and the price for each package size available at the retail premises.

## 4.0 Inspection

### 4.1

For the purposes of determining compliance with the Act, an inspector may at any reasonable time, without a warrant, enter:

- a) any business premises of a licensee; and
- b) any other premises other than a dwelling where the inspector has reasonable grounds to believe that records or things relevant to the administration or enforcement of the Act are kept.

### 4.2

The licensee or person in charge of the retail premises being inspected or having custody or control of the relevant records or things must:

- a) produce or make available to the inspector all records and things that the inspector requires for the inspection;
- b) provide any assistance or additional information, including personal information that the inspector reasonably requires to perform the inspection; and
- c) answer questions related to the purpose of the inspection that are asked of them by the inspector.

### 4.3

A licensee must not obstruct or hinder, or make a false or misleading statement to, an inspector who is exercising powers or performing duties under the Act.

## 5.0 Offences and Compliance

### 5.1

It is an offence to sell liquor without holding a valid licence issued by LGA.

### 5.2

It is an offence to contravene a provision of the Act or these terms and conditions.

### 5.3

A licensee must not possess liquor in contravention of a regulation made under *The Manitoba Liquor and Lotteries Corporation Act*.

### 5.4

A licensee must not give, sell or otherwise supply liquor to another person who is not authorized to sell liquor if he or she knows that the other person intends to sell the liquor in contravention of the Act.

### 5.5

A licensee must not give, sell or otherwise supply liquor to a person who is or who appears to be intoxicated.

### 5.6

A licensee must not give, sell or otherwise supply liquor to a minor.

### 5.7

The licensee must not make a gift of liquor to any person except as permitted in 8.6; or provide a sample of liquor to a person except as permitted in 3.5, 3.6 and 3.7.

### 5.8

The licensee must not accept a gift or item at a discount if the provision of the gift or item would contravene the Act.

### 5.9

Except as authorized under the Act or another Act or by the Lieutenant Governor in Council, a licensee must not:

- conduct, manage or operate a lottery scheme; or
- advertise, promote or hold himself or herself out as someone authorized to conduct, manage or operate a lottery scheme.

### 5.10

A licensee who is the subject of a compliance order must comply with the order.

### 5.11

Unless the compliance order is appealed, a licensee who is ordered to pay an administrative penalty must pay the

amount of the penalty to the LGA within the time specified in the order.

### 5.12

The executive director can suspend or cancel the licence if the licensee fails to comply with an order.

### 5.13

A licensee is guilty of an offence under this Act who:

- contravenes a provision of this Act; or
- knowingly makes a false statement in an application for or renewal of a licence, permit or approval or in any record, return or report required under this Act.

### 5.14

A licensee who is guilty of an offence under this Act is liable on summary conviction:

- in the case of an individual, to a fine of not more than \$50,000, imprisonment for up to six months, or both; and
- in the case of a corporation, to a fine of not more than \$250,000.

### 5.15

If a corporation commits an offence under this Act, a director or officer of the corporation who authorized, permitted or acquiesced in the commission of the offence is also guilty of an offence and is liable on summary conviction to the applicable penalties set out in 5.14(a), whether or not the corporation has been prosecuted or convicted.

## 6.0 Change in Control and Notification Obligations

### 6.1

A transfer or assignment of a licence is not valid without the written consent of the executive director.

### 6.2

A licence ceases to be valid if there is a prescribed change in control of the licensee, unless the executive director approves the proposed change in accordance with the regulations.

### 6.3

Unless approved by the executive director, a licence ceases to be valid if:

- the licensee sells, assigns or transfers its assets through which it carries out the activities authorized by the licence;
- 10% or more of the shares, or any class of share, of the following are sold, assigned or transferred:
  - a licensee that is a corporation; or
  - a corporation that effectively controls the business of a corporation that is a licensee;
- a person becomes or ceases to be a partner of a licensee that is a partnership;



- d) a person becomes entitled to any of the profits from the licensed activity or becomes liable for any obligations incurred from the licensed activity; or
- e) a person loans or advances or causes to be loaned or advanced money or any thing of value, with or without security, to the licensee.

#### 6.4

To seek the executive director's approval of a change described in 6.3, the licensee must, at least 10 days before the proposed change is to occur:

- a) apply to the executive director in writing; and
- b) provide any information requested by the executive director.

#### 6.5

The licensee shall notify the executive director in writing prior to reducing or enlarging the retail premises.

#### 6.6

If a licensee contracts with a person to manage the premises where the person is receiving profits from the sale of liquor, the LGA must approve the person and the licensee must provide the LGA a copy of the management agreement upon request.

## 7.0 Recordkeeping / Reporting

### 7.1

The licensee must immediately notify the LGA in writing of:

- a) any change in the principals of the licensee, or change to the authorized signatory of the licensee responsible for the agreement;
- b) any change of the licensee's name;
- c) any change of the licensee's permanent address;
- d) any change of the licensee's address for service.

### 7.2

The licensee must notify the LGA of any matter which the licensee can reasonably assume to be of consequence to the LGA.

### 7.3

The licensee must provide such further information as required by the LGA.