

ภาคผนวก

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Liquor Act 2007 No 90

Section 114

Section 114. Sale of liquor through internet or by other communication media.

- (1) A licensee who sells liquor by taking orders over the telephone or by facsimile or by mail order must cause the licence number to be displayed in any advertisement or information published in writing or electronically in connection with such sales.
- Maximum penalty: 20 penalty units.
- (2) A licensee who sells liquor through an internet site must ensure that the licence number is prominently displayed on the site and in any advertisement or information published in writing or electronically in connection with such sales.
- Maximum penalty: 20 penalty units.
- (3) A licensee who sells liquor by taking orders over the telephone or by facsimile or by mail order, or who sells liquor through an internet site:
- (a) must, at the time at which an agreement for sale is made, require the prospective purchaser to supply the purchaser's date of birth so as to confirm that the prospective purchaser is of or above the age of 18 years, unless the prospective purchaser has previously supplied the purchaser's date of birth to the licensee, and
- (b) must give written instructions to the person responsible for delivery of the liquor, requiring that the liquor be delivered:
- (i) to the adult person who placed the order, or
- (ii) to another adult person at those premises who undertakes to accept it on behalf of the person who placed the order, or
- (iii) if the delivery is made on a day after the day the order is taken, or the sale made through an internet site, in accordance with the customer's instructions.
- Maximum penalty: 20 penalty units.
- (4) If delivery of any liquor sold in a manner described in this section is taken by a minor:
- (a) the delivery is taken to constitute a supply to which section 117 (2) applies, and
- (b) the licensee, and any person by whom the liquor was delivered on the licensee's behalf, are each taken to have supplied the liquor contrary to section 117 (2).

- (5) A licensee who, in accordance with subsection (4), is prosecuted for an offence under section 117 (2) has a defence under this subsection if it is proved that the licensee:
- (a) complied with the requirements of subsection (3) in relation to the supply concerned, and
 - (b) at the time of the alleged offence did not know, and could not reasonably be expected to have known, that the alleged offence was committed.
- (6) A person (not being a licensee) who, in accordance with subsection (4), is prosecuted for an offence under section 117 (2) has a defence under this subsection if it is proved that:
- (a) the person to whom the liquor was delivered was of or above the age of 14 years and, before the liquor was delivered, there was produced to the defendant an evidence of age document that may reasonably be accepted as applying to the person and as proving that the person was of or above the age of 18 years, and
 - (b) at the time of the alleged offence the defendant did not know, and could not reasonably be expected to have known, that the alleged offence was committed.
- (7) A minor must not take delivery of any liquor sold in a manner described in this section unless the minor was ordered or requested by his or her parent or guardian to take delivery of the liquor.
Maximum penalty: 20 penalty units.
- (8) A person must not order or request a minor to take delivery of liquor sold in a manner described in this section.
Maximum penalty: 30 penalty units.
- (9) This section does not apply to or in respect of the sale of liquor to persons authorised to sell liquor.

(Source: <https://www.legislation.nsw.gov.au/#/view/act/2007/90/part6/div1/sec114>)

ภาคผนวก ข.

National guidance on Remote sales of alcohol

National guidance on Remote sales of alcohol

The Sale and Supply of Alcohol Act 2012 has requirements that need to be met to sell alcohol remotely. Remote sellers use the internet, telephone, mail or other means to sell and deliver alcohol to a person who is not at the premises.

This guideline is intended to aid remote sellers' understanding of the types of remote sellers and the requirements of the Sale and Supply of Alcohol Act 2012 (the Act), including the acceptable promotion of alcohol. It is not a legal document. It was developed, in consultation with the regulatory agencies involved in alcohol licensing and industry groups, to provide a practical interpretation of the Act.

Types of remote sellers

Any holder of an alcohol off-licence can sell alcohol remotely. A remote seller uses the internet*, telephone, mail, or other means to sell and deliver to a person who is not at the remote seller's premises.

For the purpose of this guideline:

- **a section 40 remote seller** refers to an off-licence holder who sells remotely and who has applied for and had their licence endorsed under section 40 of the Act

- **general off-licence remote sellers** refers to all other off-licence holders who sell remotely, in addition to selling on the premises (eg, a winery, bottle store or supermarket).

The term 'remote seller' refers to both groups.

Differences between types

Section 40 remote sellers:

- must deliver the alcohol they sell to somewhere else
- must appoint a manager but do not have to have a manager on duty at all times
- are exempt from signage requirements for hours of business and the display of licences at the physical premises to which the licence is issued

- must not promote or advertise discounts on alcohol in a way that leads people, or is likely to lead people, to believe that the price is 25% or more below the price at which alcohol is ordinarily sold otherwise than in the catalogue* or similar price list*.

General off-licence remote sellers:

- must comply with all requirements of an off-licence holder including not promoting or advertising discounts on alcohol in a way that leads people, or is likely to lead people, to believe that the price is 25% or more below the price at which the alcohol is ordinarily sold otherwise than on their licensed premises.

If you are not sure what type of remote seller you are or you want to apply to be a remote seller, contact a licensing inspector at your local council.

Requirements relating to remote sales of alcohol

- Remote sales may be made at any time on any day.
- Delivery must not occur between 11pm and 6am or at any time on Good Friday or Christmas Day, or before 1pm on Anzac Day. However, you should check your licence conditions and the local alcohol policy in your area in case different delivery times are specified.

- Delivery must not occur on Easter Sunday unless it is grape wine or fruit or vegetable wine made on the premises or wine made from produce harvested from land on which the premises are situated (eg, cellar door sells).

- All remote sellers must ensure that the licence holder's name, licence number and licence expiry date are displayed in a prominent place on any internet site or catalogue and on any receipt issued for a remote sale.

- A legible image of the remote seller's licence or a clearly identified link to such an image must be displayed on any internet site used to sell alcohol. This includes any additional website the licensee may be using to sell alcohol.

- All remote sellers must take reasonable steps to verify that both the buyer and the receiver of any alcohol sold are 18 years old or over. The regulations about verifying the buyer's age state that the actions outlined in the table below are reasonable procedures for complying with the Act.

Promotion of alcohol requirements

Remote sellers, like all alcohol licence holders, must not:

- encourage excessive consumption of alcohol
- offer outside the licensed premises any goods or services, or the opportunity to obtain or win such goods or services, on the condition that alcohol is bought

- promote or advertise alcohol that is free of charge outside the licensed premises – except for complimentary tasting of alcohol in licensed premises (eg, wine tasting)

- promote alcohol in a way that is aimed at or is likely to have special appeal to minors.

Dictionary definitions¹

- Internet site - Any place on the internet, such as a website, social media page or on-line sales portal.

- Section 40 remote seller's catalogue - A complete, or largely complete, list of items for sale arranged in a systematic order.
- Section 40 remote seller's price list - A list of the current prices of all or most of the items on sale.

¹ Concise Oxford Dictionary, Seventh Edition

The tables on the following pages provide further information on the acceptability of different promotions.

Internet	Telephone	Mail order
Ask the buyer to tick an on screen box declaring that they are of 18 years of age or over when they first enter the internet site.	Ask the buyer to declare orally that they are of 18 years of age or over when the conversation begins	Ensure that the form requires the buyer to sign the form at a place or near its end.
AND	AND	AND
Ask the buyer to tick an on screen box declaring that they are of 18 years of age or over immediately before the sale of any alcohol is completed.	Ask the buyer to declare orally that they are of 18 years of age or over immediately before the conversation is completed.	Have two requests on the form (tick boxes), to declare that they are of 18 years of age or over, one at the beginning and one immediately before the buyer is required to sign.

SECTION 40 REMOTE SELLERS

GUIDANCE ON WHAT PROMOTIONS MAY BE CONSIDERED ACCEPTABLE OR UNACCEPTABLE

Acceptable	Unacceptable
Promotions of discounts of 25% or more in a catalogue or similar price list	Promotions not in a catalogue or price list which lead people, or is likely to lead people to believe that the price is 25% or more below the price at which alcohol is ordinarily sold eg, electronic direct mail (EDM), flyers, website specials lists or adverts.
Promotions of discounts less than 25% in any advertising.	
Promotions which use 'ordinary price' and show a 25% or more discount in the catalogue or pricelist.	Promotions not in a catalogue or similar price list which use 'ordinary price' and show a 25% or more discount eg, EDM, flyers, website specials lists or adverts.
Promotions which only describe the price at which alcohol is sold and do not specify a discount or \$ saving and which do not lead people to believe there is a discount of 25% or more.	
Offers stating that 'delivery is included'.	
Telephoning registered customers who have expressly agreed to be contacted about a section 40 remote seller's catalogue or price list to discuss that catalogue or price list's discounts of 25% or more	Telephoning the general public who have not expressly agreed to be contacted about catalogue or price list discounts with offers that lead them or is likely to lead them to believe that that the price is 25% of more below the price alcohol is ordinarily sold.

Acceptable	Unacceptable
Telephoning the public to offer discounts of less than 25%.	Telephoning the public with offers which lead people, or is likely to lead people, to believe that the price is 25% or more below the price at which the alcohol is ordinarily sold.
Telephoning the public to direct them to a specific website, providing there is no suggestion that the price is 25% or more below the price at which the alcohol is ordinarily sold.	Telephoning the public to direct them to a specific website in a way which leads people, or is likely to lead people, to believe that the price on the website is 25% or more below the price at which the alcohol is ordinarily sold.
Any remote sale where the purchaser has confirmed on two occasions that they are over 18 year of age.	Selling alcohol remotely without asking the purchaser on two occasions to confirm that they are over 18 years of age.

GENERAL OFF-LICENSED REMOTE SELLERS

(not section 40 endorsed eg, supermarkets and bottle stores)

GUIDANCE ON WHAT PROMOTIONS MAY BE CONSIDERED ACCEPTABLE OR UNACCEPTABLE

Acceptable	Unacceptable
Any promotions of discounts less than 25% in any advertising outside of the licensed premises.	Any promotion which leads people or is likely to lead people, to believe that the price is 25% or more below the price at which alcohol is ordinarily sold outside of the licensed premises.
Promotions which use 'ordinary price' and show a less than 25% discount in any advertising medium.	Promotions which use 'ordinary price' and show a 25% or more discount in any advertising outside of the licensed premises.
Offers stating that 'delivery is included	

Acceptable	Unacceptable
Promotions which only describe the price at which alcohol is sold and do not specify a discount or \$ saving and which do not lead people to believe there is a discount of 25% or more.	
Telephoning the public to offer discounts of less than 25%.	Telephoning the public with offers which lead people, or is likely to lead people, to believe that the price is 25% or more below the price at which the alcohol is ordinarily sold
Telephoning the public to direct them to a specific website providing there is no suggestion that the price is 25% or more below the price at which the alcohol is ordinarily sold.	Telephoning the public to direct them to a specific website in a way which leads people, or is likely to lead people, to believe that the price is 25% or more below the price at which the alcohol is ordinarily sold.
Any remote sale where the purchaser has confirmed on two occasions that they are over 18 years of age.	Selling alcohol remotely without asking the purchaser on two occasions to confirm that they are over 18 years of age