

THE RISK BASED LICENSING FRAMEWORK

Introduction

Why has Government introduced a Risk Based Licensing (RBL) Framework?

The Risk Based Licensing (RBL) Framework is a key recommendation from the 2017 Alcohol Policies and Legislation Review Final Report (the Riley Review).

RBL is also an important part of alcohol reform and alcohol harm minimisation in the Territory.

Community expectations are that businesses that sell alcohol should pay an annual fee, like every other jurisdiction in Australia.

The RBL Framework is an incentive model: RBL rewards those that supply alcohol responsibly and financially penalises those that break the rules.

RBL is not the only compliance and enforcement lever Government has and should not be considered in isolation – it works alongside fines and temporary closures (for example, powers for Police to suspend liquor licences for up to 48hrs).

In November 2018, Government publicly released the Draft RBL Framework for consultation. The formal consultation period closed on 31 January 2019 and final submissions were received in early February 2019. The Alcohol Review Implementation Team received many submissions from industry and other relevant stakeholders to improve and simplify the RBL Framework.

Where can I find the relevant provisions in the draft Liquor Bill?

The draft exposure bill contains the following provisions for the Risk Based Licensing Framework:

Clause 62 (Fees for licences and authorities):

A licensee must pay the annual prescribed fees in respect of the licence and the authorities held by the licensee.

Clause 39 sets out all the authorities for liquor licences.

The Risk Based Licensing Framework will be set out in the Liquor Regulations.

How can I get an estimate of my fee?

For your benefit, Government has developed an online tool to help estimate what your fee might be. If you visit alcoholreform.nt.gov.au/calculator, you can explore how different factors, such as reduced hours and application of discounts, can greatly reduce your estimated fee.

Can I provide feedback on the RBL Framework?

Yes, you can incorporate any feedback that you have about the RBL Framework as part of the draft exposure Liquor Bill 2019 process. Submissions close on 26 April 2019.

How has the RBL Framework changed from the Draft RBL Framework?

The final RBL Framework has incorporated feedback received during the consultation period, whilst still retaining the basic elements of the Draft RBL Framework. Thanks to the feedback received from stakeholders between October 2018 and February 2019, the Final RBL Framework has been improved to make it clearer for industry.

Tier Model instead of a straight multiplier for Pure Alcohol Content (PAC) purchased

Moving to tiers rather than a straight multiplier provides certainty for business and for Licensing NT, as the regulatory agency to determine what multiplier will be used to calculate the annual fee. Tiers provide clear ranges that can generally be agreed to and allows licensees to get on with their business. The Australian Capital Territory also uses a tiered system.

Calculation of base fee

The base fee for a licence with multiple authorities will be the base fee for the authority attached to the licence with the highest-risk classification.

For example, a club with a bottleshop attached will have two authorities on its licence; 'club' authority (with a 'Moderate' risk classification and a base fee of \$500) and 'takeaway' authority (with a 'Very High' risk classification and a base fee of \$2000). The base fee for this licence will be \$2000.

Risk classification of authorities

The risk classification for the Casino authority has been changed from 'Moderate' to 'High'.

The risk classification for the Special Venture authority has been changed from 'Low' to 'Very Low'.

A new authority for Clubs

The Club authority is now split into two authorities; 'Club' and 'Community Club' in recognition that it would be inappropriate for a Club that has a gaming licence and sells a lot of alcohol to be classified the same (and thus, the same risk classification) as a micro social club that sells or supplies a minimal amount of alcohol to a small number of members.

A point of distinction between 'Club' and 'Community Club' will be whether the Club also has a gaming machine licence. Community Clubs do not have a gaming machine licences.

In addition, Clubs that have a drive-through bottleshop would be considered to also have a 'takeaway' authority, with a 'Very High' risk classification (and therefore the correlating base fee).

Discounts

Each individual type of discount set out below will apply a 5% reduction to the overall annual risk-based licensing fee.

Two additional discounts have been added:

1. the implementation of the 'Good Sports' or similar program
2. the installation and use of ID scanners

The minimum a Licensee will pay is 50% of the base fee for their authority regardless of what discounts and multipliers are applied.

Authorities and Risk Classification

The Risk Based Licensing (RBL) Framework is based on the authorities that attach to a venue's licence. Each authority will have its own conditions (set out in the Liquor Regulations) and a risk classification. The risk classification on each authority forms the base fee in the RBL Framework. The below sets out the base fee for each risk classification:

RISK CLASSIFICATION	BASE FEE
Very High	\$2000
High	\$1000
Moderate	\$500
Low	\$350
Very Low	\$100

AUTHORITY AND LIQUOR BILL CLAUSE (CL)	BRIEF DESCRIPTION	RISK CLASSIFICATION AND BASE FEE
Adult Entertainment cl 39(1)(v)	The <i>'Adult Entertainment Authority'</i> in conjunction with a small or public bar authority, authorises the licensee to have employees who work dressed in sexualised clothing or topless.	Risk: Moderate Base fee: \$500
Adult Entertainment R-rated cl 39(1)(w)	The <i>'Adult Entertainment R-rated Authority'</i> which is an adult entertainment liquor authority that authorises the licensee to also provide strip shows, R-rated entertainment and full nudity on the licensed premises.	Risk: Moderate Base fee: \$500
Adult Entertainment Explicit cl 39(1)(x)	The <i>'Adult Entertainment Explicit Authority'</i> which is an adult entertainment liquor authority that authorises the licensee to also provide general and private strip shows, R-rated entertainment, fully nude staff or entertainers, non-sexual contact between entertainers and patrons and voluntary audience participation in the entertainment on the licensed premises.	Risk: Moderate Base fee: \$500
BYO cl 39(1)(d)	The <i>'BYO Authority'</i> authorises the licensee to serve liquor brought by a patron for consumption with food provided by the licensee on the licensed premises.	Risk: Very Low Base fee: \$100
Casino cl 39(1)(h)	The inclusion of a <i>'Casino Authority'</i> authorises the licensee to sell liquor to patrons in a casino for consumption on the licensed premises.	Risk: High Base fee: \$1000
Catering cl 39(1)(m)	The <i>'Catering Authority'</i> authorises the licensee to sell or supply liquor to patrons for consumption, in conjunction with food being catered by the licensee, on premises where the licensee has the consent of the owner or occupier of the premises.	Risk: Low Base fee: \$350
Club cl 39(1)(k)	The <i>'Club Authority'</i> authorises the licensee to sell liquor to members of a club operated by the licensee, guests of members and visitors to the club, for consumption on the licensed premises and which does authorise the licensee to hold a licence under the Gaming Control Act 1993.	Risk: Moderate Base fee: \$500
(New) Community Club cl 39(1)(l)	The <i>'Community Club Authority'</i> authorises the licensee to sell liquor to members of a club operated by the licensee, guests of members and visitors of the club, for consumption on the licensed premises but which does not authorise the licensee to hold a licence under the Gaming Control Act 1993.	Risk: Very Low Base fee: \$100



AUTHORITY AND LIQUOR BILL CLAUSE (CL)	BRIEF DESCRIPTION	RISK CLASSIFICATION AND BASE FEE
Community Event cl 39(1)(q)	The <i>'Community Event authority'</i> authorises the licensee to sell liquor to patrons at events organised by the licensee on a regular but infrequent basis for consumption on the licensed premises.	Risk: Very Low Base fee: \$100
Interstate Retailer Licence cl 36	As per the <i>Liquor Act</i> , the 'Interstate Retailer Licence' authorises interstate suppliers to sell liquor in the Northern Territory but ensures compliance with the floor price legislation. This is referred to as a 'licence', rather than an authority, as no other authorities are applicable to interstate suppliers.	RBL does not apply to the Interstate Retailer Licence as they have their own fees in their home jurisdiction.
Late Night cl 39(1)(t)(i-ii)	The <i>'Late Night Authority'</i> which in conjunction with a small or public bar authority, authorises the licensee to sell liquor to patrons for consumption on the licensed premises during the one of the following periods: (i) from 12:00 am to 2:00 am; (ii) from 12:00 am to 4:00 am;	Risk: Very High Base fee: \$2000
Live Entertainment cl 39(1)(u)	The <i>'Live Entertainment authority'</i> which in conjunction with a small or public bar authority, authorises the licensee to provide live entertainment to patrons on the licensed premises.	Risk: Very Low Base fee: \$100
Lodging cl 39(1)(f)	The <i>'Lodging Authority'</i> authorises the licensee to sell liquor to guests staying at the licensee's accommodations for consumption on or off the licensed premises, accommodations for consumption on or off the licensed premises.	Risk: Low Base fee: \$350
Major Events cl 39(1)(p)(i-iii)	The <i>'Major Event Authority'</i> which authorises the licensee to sell liquor, for consumption on licensed premises, to patrons attending a single event that is expected: (i) to have at least 1,500 attendees; or (ii) to have a significant effect on public transport or local amenities; or (iii) to require a more than usual amount of emergency services or police supervision.	Risk: High Base fee: \$1000
Producers cl 39(1)(j)	The <i>'Producers Authority'</i> authorises the licensee to sell prescribed amounts of the liquor produced by the licensee to patrons visiting the producer's manufacturing premises for consumption on or off the premises.	Risk: Low Base fee: \$350
Public Bar cl 39(1)(n)	The <i>'Public Bar Authority'</i> authorises the sale, authorises the licensee to sell liquor to patrons for consumption on the licensed premises.	Risk: High Base fee: \$1000



AUTHORITY AND LIQUOR BILL CLAUSE (CL)	BRIEF DESCRIPTION	RISK CLASSIFICATION AND BASE FEE
Restaurant cl 39(1)(b)	The <i>'Restaurant Authority'</i> authorises the licensee to sell liquor to patrons for consumption on the licensed premises with the consumption of food.	Risk: Low Base fee: \$350
Restaurant Bar cl 39(1)(c)	The <i>'Restaurant Bar Authority'</i> authorises the licensee to sell liquor to patrons for consumption, without the consumption of food, in a small area of the premises licensed under a restaurant authority.	Risk: Moderate Base fee: \$500
Small Bar cl 39(1)(a)	The <i>'Small Bar Authority'</i> authorises the licensee to sell liquor for consumption on licensed premises with a maximum capacity of 100 patrons, with or without the consumption of food.	Risk: Moderate Base fee: \$500
Special Event cl 39(1)(s)	The <i>'Special Event Liquor Authority'</i> , which authorises the licensee to sell liquor, for consumption on licensed premises, to patrons attending a single event that is expected to have less than 1,500 attendees.	Risk: Very Low Base fee: \$100
Special Venture cl 39(1)(i)	The <i>'Special Venture Authority'</i> authorises the licensee to sell liquor to patrons as part of a tourism service provided to the patrons by the licensee.	Risk: Very Low Base fee: \$100
Store cl 39(1)(r)	The <i>'Store licence authority'</i> authorises the licensee to sell liquor products to customers for consumption away from the licensed premises, which are part of or attached to the licensee's primary business of selling groceries or other non-liquor products	Risk: Very High Base fee: \$2000
Takeaway cl 39(1)(e)	The <i>'Takeaway Authority'</i> authorises the licensee to sell liquor products to customers for consumption away from the licensed premises.	Risk: Very High Base fee: \$2000
Wayside Inn cl 39(1)(g)	<i>'Wayside Inn Liquor Authority'</i> authorises the licensee to sell liquor to guests staying at the licensee's accommodations and patrons who are not guests for consumption on the licensed premises	Risk: Moderate Base fee: \$500
Wholesale cl 39(1)(o)	The <i>'Wholesale Authority'</i> authorises the licensee with another authority to sell liquor to other licensees.	Risk: Very Low Base fee: \$100



The Risk Based Licensing Formula

The annual risk based licensing fee for a licence is calculated using the following formula:

$$\text{Licence fee} = [(\text{base fee} \times \text{tier volume multiplier} \times \text{hours multiplier}) - \text{discounts}] \times \text{breach loading}$$

The formula allows for the following:

- Instead of a straight volume multiplier, using a tiered approach instead (similar to that used in other jurisdictions)
- Increasing of an annual fee if the venue operates for longer than an authority's average hours, or a reduction in the annual fee if the venue operates for less than average hours for that authority
- Reduction of the annual fee if a venue implements one or more of the discounting measures
- Significant increases in an annual fee if a venue is found to have breached its liquor licence or to have committed an offence against the *Liquor Act* during the relevant period

Base fee

The base fee correlates to the risk classification of the authorities on the liquor licence. In the event a liquor licence has more than one authority, the authority with the highest risk classification is set as the base fee.

Example: A club with an attached bottleshop has a 'club' authority ('Moderate') and a 'takeaway' authority ('Very High'). The base fee will be \$2000, as that is the base fee for the takeaway authority which has a highest risk.

Tier multiplier

The tier multiplier relates to the amount of alcohol (Pure Alcohol Content – PAC) was purchased by the licensee in the previous year, using wholesale data. Licensing NT determines the licensee's PAC by analysing the wholesale data from the previous year.

If required, a common sense approach of rounding up or down to the appropriate tier is favoured in the event the PAC reading is in between tiers. Consideration should be given as to the authorities attached to the licence and their correlating risk classification.

The tiers are classified as follows:

TIER	RANGE	MULTIPLIER
0	Under 500L PAC	0.50
1	Between 501L – 7,500L PAC	0.75
2	Between 7,501L – 25,000L PAC	1.00
3	Between 25,001L – 50,000L PAC	2.00
4	Between 50,001L – 90,000L PAC	3.00
5	Over 90,000L PAC	4.00

In the event of a new licence, the RBL fee for that licence will be set as the base fee (as they will not have any wholesale data until after a year of operation).

Hours multiplier

The Hours multiplier is set against the authority average, not the authority standard. Average hours for each authority can be defined by looking at existing licences averages.

Noting that where there is more than one authority for a licence, an average of similar businesses is used to determine average hours.

Example: The hours multiplier for a venue with a public bar authority and a late night authority will be determined by calculating the average hours of other public bars with late night authorities.

Discounts

It is proposed that each individual type of discount set out below will apply a 5% reduction to the overall annual risk-based licensing fee:

- Live original local music/entertainment (provided in accordance with Music NT's policy)
- CCTV (additional to requirements imposed as a condition of their liquor licence and made available to liquor inspectors and Police)
- Security (additional security by way of crowd controllers, in addition to anything imposed or required as a condition of their liquor licence)
- The installation and use of an ID scanning system at entry point
- Membership to a suitable liquor industry group that has a code of conduct for its members
- Membership to any liquor accords in the licensees area
- Implementation of the Good Sports program or similar program
- Good compliance record.

A venue that implements all of these discounts could attract up to a 40% discount.

The minimum a Licensee will pay is 50% of the base fee for their authority regardless of what discounts and multipliers are applied.

Breach loading

For the purpose of RBL fee calculation, a breach includes an offence (by the licensee) under the *Liquor Act*, a finding of breach of a licence condition by the Liquor Commission and also an infringement notice under the *Liquor Act* issued against the licensee.

It is proposed that the following loadings be applied for breaches:

BREACH NO	PERCENTAGE LOADING
First breach	10%
Second breach	25%
Third breach	50%
Fourth breach	100%
Fifth breach	200%

For the purposes of RBL, a breach is counted for a two year period from the date of the finding of guilt by a Court or on the date on which a licensee is issued an infringement notice under the *Liquor Act*.

It should be noted that, for RBL fee calculation purposes, breaches are considered to be against the licence and therefore the transfer or sale of licence does not reset the loading for the RBL fee calculation. That is, the previous breaches for a particular licensee in relation to a specific premises will be calculated for the RBL fee for that specific premises regardless if the licence transfers to another licensee.

Illustrative Examples

Example 1 – Store Authorities

Supermarket X

Base fee (authority and risk classification): Supermarket X has a store authority with a Very High risk classification. They begin with a base fee of **\$2,000**.

Tier multiplier: Licensing NT, through wholesale figure returns, determines that Supermarket X sold 7,000L of PAC in the previous year. This would put the Supermarket X in Tier 1 which is a multiplier of 0.75 [2000 x 0.75] putting the fee at **\$1,500**.

Hours multiplier: Supermarket X decides to reduce its liquor trading hours to 12noon to 7pm weeknights and 9am to 9pm Saturdays or 47 hours a week. The current store licence average across the NT is 65 hours a week. This gives Supermarket X an hour's multiplier of 0.723. This further reduces the fee [0.723(1500)] to **\$1084.50**.

Discounts: Supermarket X is a member of an Accord, has Peak Body membership, quality CCTV and a good compliance (4 discounts) record attracting a further 20% discount reducing the fee to \$867.60.

Discount Cap: As the total discounts and multipliers take the final amount below the maximum 50% threshold the new and final fee is rounded up to **\$1,000**.

Supermarket Y

Base fee (authority and risk classification): Supermarket Y has a store license. They also begin with a base fee of **\$2,000**.

Tier multiplier: Licensing NT, through wholesale figure returns, determines that Supermarket Y purchased 53,000L of PAC in the previous year. This would put the Supermarket Y in Tier 4 which is a multiplier of 3 [2000 x 3] putting the fee at **\$6,000**.

Hours multiplier: Supermarket Y decides to use its maximum liquor trading hours to 10am to 10pm weeknights and 9am to 10pm Saturdays or 73 hours a week. The current store licence average across the NT is 65 hours a week. This gives Supermarket Y an hour's multiplier of 1.123. This further increases the fee [1.123(6000)] to **\$6,738**.

Discounts: Supermarket X does not participate in the local Accord, refuses to join a Peak Body, denies Police access to their CCTV footage and does not have a good compliance – it attracts no discounts.

Breach loading: Furthermore they have breached the Liquor Act twice in past two years and have an additional weighting of 25% on their fee, this puts their final fee at **\$8,422.50**.

Example 2 – Pubs and Restaurants

Nightclub X

Base fee (authority and risk classification): Nightclub X has a Public Bar authority and a Late Night authority. They begin with a base fee of **\$2,000** as a late night authority is classified as a higher risk (Very High) than the Public Bar authority (High).

Tier multiplier: Licensing NT, through wholesale figure returns, determines that Nightclub X sold 18,000L of PAC in the previous year. This would put the Nightclub X in Tier 2 which is a multiplier of 1 (2000 x 1) keeping the fee at **\$2,000**.

Hours multiplier: Nightclub X trades for 126 hours a week, the industry average is 110. This gives Nightclub X an hour's multiplier of 1.145 [1.145(2000)]. This increases the fee to **\$2,290**.

Discounts: Nightclub X is a member of an Accord, has Peak Body membership, quality CCTV, has live local music every weekend and has a good compliance record attracting a 25% discount reducing the fee to **\$1,717.50**.

Discount Cap: As the total discounts and multipliers keep the final amount above the maximum 50% threshold the final fee is **\$1,717.50**.

Restaurant Y

Base fee (authority and risk classification): Restaurant Y has a Restaurant Bar Authority (Moderate). They begin with a base fee of **\$500**.

Tier multiplier: Licensing NT, through wholesale figure returns, determines that Restaurant Y sold 2,000L of PAC in the previous year. This would put the Restaurant Y in Tier 1 which is a multiplier of 0.75 (500 x 0.75) putting the fee at **\$375**.

Hours multiplier: Restaurant Y trades for 87 hours a week and the industry average is 101. This gives Restaurant Y an hour's multiplier of 0.861 [0.861(375)]. This reduces the fee to **\$322.88**.

Discounts: Pub X is a member of an Accord, has Peak Body membership, quality CCTV, has live local music every weekend and has a good compliance record attracting a 25% discount reducing the fee to **\$242.16**.

Discount cap: As the total discounts and multipliers take the final amount below the maximum 50% threshold the new and final fee is rounded up to **\$250**.

Key dates for fee payment and transition period for the granting of new liquor licences

1 October 2020 (and every year thereafter on 1 October)

Licensees receive their notice of anticipated annual fee payable on 2 January. The anticipated fee may be subject to change if the licensee is found guilty of a breach between the date of notice and 31 December

2 January 2021 (and every year thereafter on 2 January)

RBL fee is due from the licensee. Failure to pay the RBL fee on this date results in the immediate suspension of licence until the fee is paid.

DATE	DETAIL
Late 2019 Anticipated commencement of the Liquor Act 2019 and the RBL framework.	<ul style="list-style-type: none"> - Licensing NT sends correspondence to all licensees notifying of the commencement of the RBL Framework, including the introduction of the liquor licence authorities. - The licensee is notified that any breaches imposed by the Liquor Commission or Licensing NT from the commencement of the Liquor Act will count as a loading towards the licensee's annual RBL fee in 2021.
Late 2019 – 1 April 2020 (6 months)	<ul style="list-style-type: none"> - All licensees must submit a proposal of the authorities that apply to their licence under the <i>Liquor Act 1978</i> for Licensing NT's assessment by 1 April 2020. - The Director of Licensing will issue a new licence, and any disputes can be contested with the NT Liquor Commission. - Licensees are encouraged to submit their proposal to be assessed well before the deadline to be granted their new liquor licence in a timely manner. - Note: Additional authorities proposed by the licensee that are outside of the business' scope under their licence granted under the <i>Liquor Act 1978</i> will have to lodge an application with the Liquor Commission.
1 April 2020 Deadline for licensees to submit their proposed authorities for the Director of Licensing's assessment.	<ul style="list-style-type: none"> - If no proposal comes through from the licensee, the Director of Licensing will make a determination of applicable authorities according to their licence granted under the <i>Liquor Act 1978</i>.
1 April 2020 – 1 August 2020 (5 months)	<ul style="list-style-type: none"> - Licensing NT to finalise any outstanding determinations and the Liquor Commission to make a determination about any outstanding disputes.
1 October 2020 (and every year thereafter)	<ul style="list-style-type: none"> - Licensing NT issues a notice of anticipated fee to be payable on or before 2 January 2021 (and every year thereafter), subject to change if the licensee is found guilty of a breach between the date of notice and 31 December 2020 (and every year thereafter).
2 January 2021 (and every year thereafter)	<ul style="list-style-type: none"> - RBL annual licence fee is due.
1 June 2021	<ul style="list-style-type: none"> - Applications for a BYO authority due for consideration.