

## Delegate of the Director of Liquor Licensing

### Decision Notice

---

<b>MATTER:</b>	Complaint pursuant to section 160 of the <i>Liquor Act 2019</i>
<b>LICENSEE:</b>	J AN R Jenkins Pty Ltd
<b>PREMISES:</b>	Tennant Creek Hotel
<b>LEGISLATION:</b>	Part 7, Division 3 of the <i>Liquor Act 2019</i>
<b>DECISION OF:</b>	Delegate of the Director of Liquor Licensing
<b>DATE OF DECISION:</b>	14 October 2025

---

### DECISION

1. For the reasons set out below as a delegate of the Director of Liquor Licensing (the Director), I upheld a complaint against the licensee, J AN R Jenkins Pty Ltd (the licensee) for having breached the *Liquor Act 2019* (the Act) on 4 September 2025 when:
  - a. Contrary to section 137(1) of the Act, the licensee did not ensure that every employee whose responsibilities involve serving patrons liquor held an approved responsible service of alcohol certificate; and
  - b. Contrary to section 137(2) of the Act, had a new employee who did not hold the certificate, but whose responsibilities involved the serving of patrons within 7 days of their commencement.
2. Upon completion of the investigation into the complaint, I am satisfied that the following action should be taken:
  - a. Pursuant to section 163(1)(b) of the Act, issue the licensee a formal warning in relation to the complaint.

### REASONS

#### Background

3. J AN R Jenkins Pty Ltd is the holder of liquor licence 80102044 for the premises known as Tennant Creek Hotel, situated at 146 Paterson Street, Tennant Creek NT 0860. The nominee is Mr Jon Russell Jenkins.
4. Section 137(1) of the Act specifies a licensee must ensure that every employee whose responsibilities involve serving patrons or supervising the serving of patrons: holds a responsible service of alcohol (RSA) certificate issued by a body accredited by the Australian Skills Quality Authority or; approved by the Commission; and completes a refresher course on the responsible service of alcohol from a body approved by the Commission if the certificate is more than three years old.

5. Section 137(2) of the Act specifies in the case of a new employee who does not hold the certificate, but whose responsibilities involve serving patrons or supervising the serving of patrons, the licensee must ensure that the employee either obtains the certificate within seven days or is removed from those responsibilities.
6. On 4 September 2025, inspectors were attending the premises conducting routine inspections and requested the production of the licensee's RSA register and all employee's certificates. It was at this time it was discovered one staff member did not possess an RSA certificate.

## THE COMPLAINT

7. On 15 September 2025, a complaint was lodged with the Director pursuant to section 160 of the Act, the grounds for the complaint being pursuant to section 160(1)(b) of the Act in that:
  - (b) The licensee or the licensee's employee contravened another provision of this Act or the regulations, whether or not it constitutes an offence.
8. The complaint was in the approved form specifying the grounds for the complaint, was signed and lodged with the Director in compliance with the requirements of section 160(2) of the Act.
9. A delegate of the Director accepted the complaint on 16 September 2025, within the 14 day prescribed period and the licensee was given a notice of the substance of the complaint and invited to provide a response in compliance with section 162(1) of the Act.
10. On 29 September 2025, the licensee acknowledged and admitted the complaint as particularised, and provided a submission in mitigation of the breach.

## CONSIDERATION OF THE ISSUES

11. In admitting to the breach, Mr Jenkins has submitted he was unaware of the seven day period prescribed by subsection (2), being under the mistaken belief "...it was 4 weeks".
12. The provisions of section 137 of the Act were introduced in 2019 when the Act was commenced, imposing the seven day limitation whereas previously, the requirement previously imposed during the *Liquor Act 1978* operation was within 30 days.
13. This change to the obligation has been in place since 2019, with the industry being widely consulted. Furthermore, the provision is clearly contained on the department's website for all persons to see.
14. Although it is not disputed that Mr Jenkins is claiming a lack of awareness, it is widely accepted lack of knowledge of the law is not a defence.
15. It is also noted that the staff member, from Mr Jenkins' own admission had been in his employ for "4 weeks" which also triggers the first branch of the provision.
16. The submission in mitigation of this matter by Mr Jenkins provided a positive assessment of the staff member, who he advised resigned as a result of this incident.
17. There is no evidence that either the staff member or Mr Jenkins has intentionally breached the provisions, however, as admitted by Mr Jenkins they work "...in a harsh environment with a clientele that have little regards for licensing laws or hotel staff".
18. This is acknowledged by the Director and although this matter may seem at the lower level of administrative issues, the significant risk that exists at the premises strengthens the need for this type of harm minimisation requirement. That is, ensuring staff are suitably qualified to deal with the environment and legislative requirements of their premises.

19. The nature of this operation would in my opinion take the level of seriousness higher for this licensee than for a licensee of a small restaurant, where the risk of harm is minimal.
20. Mr Jenkins advised the staff member has had issues with being able to undertake the required course to achieve the qualification and submitted the Director should provide this training, or an ability to extend the time for the completion of the course.
21. Section 318 of the Act provides the Director with a discretion to extend time, which would also include in this circumstance, if a request had been made in an appropriate timeframe.
22. There is no record of any such request or approach having been made by the licensee to the Director, even at the "4 week" mark.
23. The licensee is conducting a lawful commercial enterprise and entitled to profit from that endeavour in compliance with the requirements imposed by the Act. Training of staff is therefore the remit of the licensee, not the Director as the regulator of the industry.
24. Mr Jenkins has suggested "...Licensing try to help licensee and not just try to find some minor infringement to Wack (sic) us with".
25. I understand his frustration; however, inspectors regularly liaise with licensees and their staff providing advice and guidance as required. It is also their role to ensure compliance with the Act and the conditions of licenses, taking action as appropriate.
26. It is therefore not accepted that this action is a targeting of a "minor infringement", and as an experienced licensee Mr Jenkins should be cognisant of this.
27. As written earlier, Mr Jenkins has admitted the breach in the first instance and therefore should be afforded the benefit of his candour.
28. Additionally, there are no adverse compliance history for this licensee also as submitted by Mr Jenkins, for which they should also be afforded the benefit of this otherwise good conduct.

## DISCIPLINARY ACTION

29. On completion of the investigation, as a delegate of the Director I may do any of the following:
  - Take no further action if satisfied that there are no grounds or evidence to justify taking further action, or the matter does not warrant taking further action;
  - Give the licensee a formal warning in relation to the complaint;
  - Mediate the complaint;
  - Issue an infringement notice in relation to the complaint;
  - Enter into an enforceable undertaking with the licensee; or
  - Refer the matter to the Commission for disciplinary action.
30. In determining an appropriate disposition in this matter, I am required to apply the principles of proportionality, parity and deterrence.
31. The disciplinary action must be proportionate to the seriousness of the contravention and the harm arising, or potential for harm as a result of these matters.
32. The licensee has, with a submission in mitigation, not disputed the allegations and accepted they had failed in their obligations in relation to this incident. I have accepted this and agree they are to be afforded the benefit of such a concession, which has strongly influenced the disposition taken.

33. For completeness, although the Act generally provides for an infringement notice as a disposition, section 137 is not a matter prescribed for which an infringement notice may be given<sup>1</sup>. Accordingly, that option is not open to the Director for this matter.
34. Within 14 days of making this decision the Act requires the complainant, licensee and the Commission to be given a copy of the notice.
35. Although these provisions are discretely different, to impose two separate penalties for a breach that arises from the same set of facts would be duplicitous. Accordingly, they are treated as one single matter.

## REVIEW OF DECISION

28. Section 27 (1) of the Act provides that an affected person for a delegate decision may apply to the Director for a review of the decision.
29. Section 27 (2) of the Act sets out the procedures for applying for a review of a delegate decision. Such application must be made within 28 days after written notice of the delegate decision is given to the affected person unless the Director extends the time allowed for making an application.
30. The affected persons in this matter is the licensee of J AN R Jenkins Pty Ltd and the relevant inspector.



**Mark Wood**

Delegate of the Director of Liquor Licensing  
14 October 2025

---

<sup>1</sup> *Liquor Regulations 2019*, Schedule 6.