



Liquor *matters*

Sale & Supply of Alcohol Act 2012

The Sale and Supply of Alcohol 2012 has been enacted and given Royal Assent. There will be a staged transition period over the next 12 months.



Immediate changes are:

- The Liquor Licensing Authority (LLA) will now be known as the Alcohol Regulatory Licensing Authority (ARLA); and
- Any new licences applied for and issued from 18 December 2012 will only be issued for 12 months with no right of renewal. This is to ensure that licences comply with the criteria set in the Local Alcohol Policy (if one has been put in place) in 2014.

The Council can begin preparing their policy now and have them ready for the Special Consultative Process that is required under the Local Government Act.

After six months from Royal Assent (so from 18 June 2013) the new licence criteria comes in to play and also the public can object to new licences using the new objection criteria. This includes an assessment on whether the granting, or not granting, of the licence would materially improve, or worsen, the amenity and good order of an area.

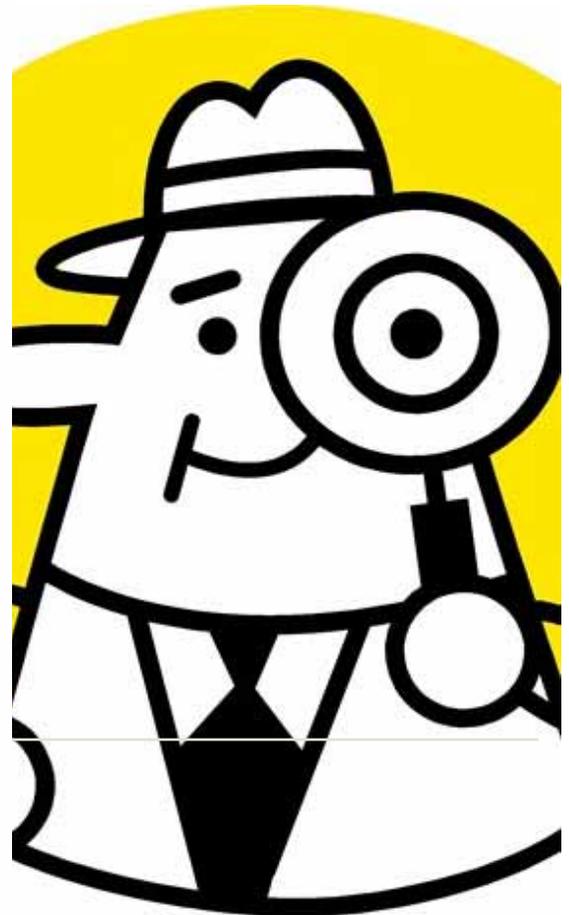
After 12 months from Royal Assent (from 18 December 2013) the remainder of the Act will become operative and a Local Alcohol Policy (LAP) can be approved and published.

The Ministry of Justice is now preparing the regulations that will give effect to the legislation. They have an active website that will be constantly updated at:

<http://www.justice.govt.nz/policy/sale-and-supply-of-alcohol>

Queries can be sent to: alcohol@justice.govt.nz

Proposed Changes include:



- The District Licensing Agency (DLA) will become the District Licensing Committee (DLC) and will determine ALL applications other than enforcement applications and appeals.
 - Default closing and opening times;
 - All licences that can trade beyond the 'default' closing time of 3am MUST immediately reduce their hours to 2am.
 - However, those with a 7am operating will revert to 8am for the sale and supply of alcohol.
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- A risk based fee structure will come in to force and is likely to see large, late night, 'high risk' taverns, highsales-volume supermarkets and bottles stores pay more than a daytime café or small bowling club. The Government proposes that there should be a moderate base application fee and 'compliance' fee derived from a risk matrix. Potentially low risk premises will pay the base fee and minimal compliance fees on an annual basis.
 - One of the most significant changes is that Council will be able to develop a Local Alcohol Policy with rules around licence types, hours of operation, density and the location of the premises. The public at large, the hospitality industry, Police, Medical Officer of Health and Inspectors must all be consulted on the proposed contents of the policy.
 - The offences for irresponsible promotions are to be expanded to cover promotions in off-licensed premises as well. It will be an offence to;
 1. Encourage, or do anything likely to encourage, people to consume alcohol to an excessive extent wither on licensed premises or elsewhere.
 2. Promote or advertise discounts over 25% unless done in-house and not within view of hearing from outside the premises.
 3. Promote or advertise free alcohol other than tastings in off-licensed premises, or in-house promotions within view or hearing from outside the premises.
 4. Offer prizes on the condition that alcohol is bought unless the promotion is advertised in-house only.
 5. Promote or advertise alcohol in a manner aimed at, or likely to have, special appeal to minors.

Remember the **National Protocol on Alcohol Promotions** still stands and in-house discounts should not be more than 50 per cent off normal prices and shots, shooters and slammer-type promotions are deemed 'Unacceptable Promotions.'

This Protocol has been signed off by Police, Local Government New Zealand, the Health Promotion Agency and Hospitality NZ.

DUTY MANAGERS

From 18 December 2013 new Managers must be 20 years of age and General Managers Certificates and Club Managers Certificates will become a Managers Certificate. There will be a transition process for Club Manager Certificate holders to convert to the new Managers Certificate.

But you will still be required to obtain the LCQ—Liquor Controller Qualification.

Assessment of Intoxication

There is a new definition of 'intoxication' in the Sale and Supply of Alcohol Act 2012 and Police, Hospitality NZ, Health Protection Agency (HPA) and the New Zealand Institute of Liquor Licensing Inspectors (NZILLI) have signed off a new tool that will be used to assess intoxication on licensed premises. Please discuss this tool with all staff, glassies, servers, Duty Managers and door staff and implement. This tool will be used by police and inspectors to assess intoxication in your premises. Licensees, managers and staff should also use it as well.



Intoxication Defined

INTOXICATED means observably affected by alcohol, other drugs, or other substances (or a combination of two or all of those things) to such a degree that two or more of the following are evident: (a) appearance is affected, (b) behaviour is impaired, (c) co-ordination is impaired, (d) speech is impaired.

When using this tool the phrases **slightly**, **moderately** or **extremely intoxicated** will no longer be used. Your patrons will be assessed as **sober** (monitor and serve responsibly), **affected by alcohol** (intervene with alternatives and/or stop service of alcohol) or **intoxicated** (deny further service and remove) with three very clear ways of managing each group.

Infringement Offences

There is going to be a range of infringement offences with penalties of up to \$1,000 available to Police and Inspectors for specified offences. The potential of an 'instant fine' will provide a very real incentive for managers and licensees to ensure that the premises are operating in a compliant fashion at all times. Inspectors will also be able to enter licensed premises discreetly to observe the operation of the business without having to signal their presence to the manager. This is a similar power to that the police currently have.

Infringements can be issued for:

- Minor purchasing alcohol.
- Minor found in Restricted or Supervised Area.
- Permitting a minor in Restricted or Supervised Area.
- **Manager Intoxicated on duty.**
- Employee intoxicated on duty.
- **Selling spirits in a vessel greater than 500ml in on-licensed premises.**
- Minor using false ID.
- **Licensee/manager fails to comply with conditions of licence (multiple options).**
- **Duty Manager name not displayed.**

Inspectors will be able to issue the infringements marked **red**.

INTOXICATION ASSESSMENT TOOL

| | Indicators for | Indicators for | Indicators for |
|--------------|--|--|---|
| SCAB | SOBER | AFFECTED BY ALCOHOL | INTOXICATED |
| SPEECH | SOBER Coherent, clear speech, normal tone/volume, may be talkative. | May be overly talkative, opinionated and interrupts. May stumble words, becoming loud. Inappropriate language, jokes, comments. | Slurring, difficulty forming words, loud, repetitive, loses train of thought, nonsensical, unintelligible. |
| COORDINATION | Coordinated, balanced, standing without help or support. | Slowed or delayed reactions Swagger or occasional staggers or sways. | Spills drinks, sways, staggers, stumbles, trips, weaves, walks into objects, unable to stand un-aided or sit straight. |
| APPEARANCE | Tidy, clear eyes, alert. | Vacant or blank expression, smell of alcohol on breath, may look untidy. | Bloodshot eyes, eyes glazed, inability to focus, tired, asleep, dishevelled. |
| BEHAVIOUR | Behaving sensibly but may be more relaxed. | Over-friendly or withdrawn, inappropriate or risky actions, annoying, fading attention, belligerent, increased consumption rate. | Seriously inappropriate actions or language, aggressive, rude, argumentative, obnoxious behavior affecting other customers. |
| They are: | SOBER (Monitor and serve responsibly) | AFFECTED (Intervene) | INTOXICATED (Deny and remove) |



‘HOLDINGS’ THAT WILL RESULT IN CANCELLATION OF LICENCES AND MANAGERS CERTIFICATES

Certain breaches of the Sale and Supply of Alcohol Act 2012 will result in a ‘holding’ against the licence or manager. A *holding* is a District Court conviction or an ‘adverse finding’ in an ARLA hearing. If there are three such *holdings* within three years then the licence or certificate can be cancelled and a mandatory five year disqualification period follows.

Offences and breaches of the Act that will generate a *holding* are as follows:

- Irresponsible promotion of alcohol.
- Sale or supply of alcohol to a minor.
- Allow the on-supply of alcohol to a minor.
- Unauthorised sales i.e. after hours, no manager on duty, club selling to member of the public.
- Sale or supply to intoxicated person.

All *holdings* will be held electronically in a central repository managed by the ARLA and accessible by Police and Inspectors. Licensees and managers, and the public, will have access to certain parts of the database.

Junior and Temporary Duty Managers

It is expected that licensees will put their more experienced staff on during high risk times however please remember to take care of your younger or less experienced staff as an incident can take place at any time.

Recently Police were called to a case of extreme intoxication that was simply not dealt with by the staff due to the manager’s inexperience and lack of confidence.

Licensees and senior staff must be involved and be more vigilant with junior staff. Please ensure that your premises have procedures in place and immediate contacts are available if staff feel out of their depth and need assistance

Immigration status of prospective managers

Check that the immigration details employees have given are correct by insisting on sighting their passport and visa.

Police have processed manager applications where the applicant has gained work experience in particular premises and the premises have then helped the employee submit a manager’s application.

When we run the checks on them it is often found that the applicant should never have been working in New Zealand. This can be a breach of the Immigration Act and potentially puts your suitability at risk by offering them employment unlawfully.

Convictions

If you are helping a staff member make an application for a manager’s certificate ensure they are honest about their criminal history by having a written disclosure section in your employment application form. Require them to provide evidence of their criminal and traffic history (or lack of) by applying to the District Court for their history.

NOISE MANAGEMENT

It is important that operators of licensed premises are aware of, and carefully monitor, noise emissions from their premises. This includes not only band music but also DJ’s, background base levels **and** people noise.

Noise emissions should not cause nuisance noise levels within the boundary of any receiving site i.e. adjoining properties. There are set limits that apply under the District Plan noise standards which you are required to meet. If you are unsure of the noise standard that applies in your area please contact us on 06-3490001 for more information. Some practical steps to help you meet these noise standards include:

- Shutting doors and windows.
- Lowering base levels.
- Reducing the overall volume as the night goes on.
- Consider sound proofing, if required.
- Having a chat with patrons who are shouting or screaming at passers-by.

Letting patrons know that you are in a noise sensitive area and to not slam doors or rev cars upon leaving a suburban club for example.

Failure to control noise can affect your suitability to hold a licence so do make the effort and monitor and control noise emissions.

The Private Security Personnel and Private Investigators Act 2010

All crowd controllers (i.e. door staff) and other personnel **MUST now** be certified by holding a Certificate of Approval (COA) or have lodged an application with the PSP and PI Authority. For more information and to apply go to

Dress standard

Comments have been received from both visitors to the city and police staff about the sloppy standard of dress in some of our Licensed premises.. We realise its summer but tatty singlets, low slung pants, old skate shoes and caps appears suffice for many premises. If this is the standard of dress that you tolerate then it will also come with associated sloppy behaviour.

Generally if the girls can get in to premises the boys will ensure they can by tidying up their act. It has long been said that if premises attract the girls, the guys will arrive with the money, so if they find they are being refused because of their standard of dress an improvement will be seen.

You don’t need to be heavy handed, just work on it over time. If all premises are in agreement and work together, it shouldn’t be too much of a problem.



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