

POLICY ADOPTED BY COUNCIL ON 24<sup>TH</sup> JUNE 2003

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## **1.0 INTRODUCTION**

The object of the Sale of Liquor Act 1989 is

*“...to establish a reasonable system of control over the sale and supply of liquor to the public with the aim of contributing to the reduction of liquor abuse so far as that can be achieved by legislative means...”*

The object of the Sale of Liquor Act 1989 further requires that every District Licensing Agency

*“...shall exercise its jurisdiction, powers, and discretions under the Act in the manner that is most likely to promote the object of this Act.”*

The Liquor Licensing Authority in Wellington indicated that local authorities should adopt a Liquor policy to assist the District Licensing Agency in carrying out its functions.

### **1.1 PURPOSE AND INTENT OF THE POLICY**

The Sale of Liquor Act 1989 (the Act) sets out clear procedures for District Licensing Agencies to consider and determine unopposed applications for licences and managers certificates.

There are however areas where the District Licensing Agency can make discretionary judgements or decisions. The development of clear guidelines will help ensure consistency in administering the requirements of the Act, as well as providing a degree of certainty for applicants. The purpose and intent of this policy is to provide these guidelines.

It is not the intent of this policy to state matters that are already statutory requirements of the Act, but to address matters where the Act gives the District Licensing Agency some discretion. Applicants should be aware of their statutory obligations under the Act.

When an application to the District Licensing Agency is unopposed by reporting Authorities, but falls outside of this policy, the District Licensing Agency may consider the application at a public hearing.

This policy should be read in conjunction with any changes to the Sale of Liquor Act 1989.

### **1.2 SECTION 96 STATEMENTS AND CASE LAW**

The Liquor Licensing Authority may, from time to time, issue statements to District Licensing Agencies under section 96 of the Act setting out its views on the general administration of the Act, the policy to be followed in the administration of the Act, or any provisions of it, or any information obtained by the Authority from any enquiry held by it, or from any other source.

In the exercise of its functions under this Act, every District Licensing Agency must observe any statement issued under this section.

The District Licensing Agency will also give consideration to any relevant Liquor Licensing Authority decisions or case law when considering applications under the Act.

The District Licensing Agency will be referred to as “the Agency” from hereon.

## **2. APPLICATIONS**

- 2.1.1 The Agency will only process those applications that have been properly completed by the applicant or their agent to the satisfaction of the Liquor Licensing Inspector.
- 2.1.1 Applications must be filed within the statutory timeframes dictated by the Act.
- 2.1.2 All applications for special licences should be submitted at least 10 working days prior to the event, unless the application relates to a private social gathering. Applications received later than 10 days prior to the event will be accepted and processed only where, in the opinion of the District Licensing Agency Secretary (“the Secretary”), it is practicable to do so.
- 2.1.3 The Agency will require in the case of applications for on, off or club licences that notice of the application in the prescribed form be attached in a conspicuous place on or adjacent to the site to which the application relates. The notice shall be displayed for a minimum period of 10 working days after the date of the first public notice of the making of the application. This requirement may be exempted by the Agency Chairperson or the Secretary in those situations where it is impracticable or unreasonable to comply.
- 2.1.4 Applications must be accompanied by the correct fee as dictated by the Act and relevant regulations.

## **2.2 REFUNDS**

Application fees submitted with applications are not generally refundable. The Secretary may consider requests for refunds in exceptional circumstances. Such refunds will be of such an amount as to reflect the costs incurred by the Agency in consideration of the application, and will not exceed 50% of the original fee.

## **2.3 PUBLIC NOTICES**

- 2.3.1 Applications for on, off and club licences shall be advertised in accordance with the Act
- 2.3.2 The District Licensing Agency may require the public notification of special licences where it believes the matter is of public interest or for any matter it considers relevant in terms of the objective of the Act.

## 2.4 WAIVERS

The Agency or Chairperson may consider applications for waiver under section 111 of the Act where errors or omissions in the application, process or public notices are minor and will not, in the opinion of the Liquor Licensing Inspector have any undue effect on the application or the right of public and reporting agencies to comment. This authority may be delegated to the Secretary of the Agency.

## 3 CRITERIA FOR PREMISES LICENCES

**3.1** Sections 13, 35, 59 and 79 of the Act specify criteria for the Agency to have regard to when considering any application for any type of licence. Information to complete these assessments is obtained from reports on the application from the Agency's Liquor Licensing Inspector, the Police, and the Medical Officer of Health. The following specifies minimum criteria that must be satisfied before further consideration is given to any application.

### **3.2 SUITABILITY OF APPLICANT**

Refer to Section 9.0

### **3.3 TRADING HOURS**

**3.3.1** This part of the policy applies only to applications for new licences and/or for new tavern, hotel and club premises (other than sports clubs). The Act defines taverns, hotels etc. It does not apply to existing licences as applications for renewals of these licences can only be considered on the existing approved hours, unless a variation has been applied for and approved. The times prescribed in this policy include those imposed by the Act.

#### **New Licences – Existing Premises**

Liquor may be sold only on the following days and during the following hours:

- a) Monday to Saturday 7:00am to 2:00am the following day (except the days before Good Friday, Easter Sunday, Christmas Day and Anzac Day where 7.00am to 12.00 midnight shall apply) to any person who is present on the premises.
- b) Sundays (other than Easter Sunday) 9.00am to 10.00pm to any person who is present on the premises. [Note: This is from the Amendment Act and applies retrospectively to existing licences. It can but does not have to apply to new licences]
- c) Good Friday, Easter Sunday, Christmas Day and Anzac Day 7:00am to 10pm to any person who is present on the premises for the purpose of dining. [There is a general prohibition on the sale and supply of liquor to all other persons (except for after 1.00pm on Anzac Day)]

- d) The sale and supply of liquor on Anzac Day is prohibited to any person before 1.00pm, except for those present on the premises for the purpose of dining.
- e) In the case of hotels, liquor may be served at any time to any person currently lodging on the premises.

### 3.3.2 New Licences – New Premises

In the case of new Hotels or Taverns located more than 250 meters from a residential zoned area the criteria as for 3.3.1 shall apply.

In all other cases liquor may be sold only on the following days and during the following hours:

- a) Monday to Thursday 7:00am to 10:30pm to any person who is present on the premises
- b) Friday and Saturday 7.00am to 12.00 midnight to any person who is present on the premises
- c) Sundays (other than Easter Sunday) 9.00am to 10.00pm to any person who is present on the premises. [Note: This is from the Amendment Act and applies retrospectively to existing licences. It can but does not have to apply to new licences]
- d) Good Friday, Easter Sunday, Christmas Day and Anzac Day 7:00am to 10pm to any person who is present on the premises for the purpose of dining. There is a general prohibition on the sale and supply of liquor to all other persons (except for after 1.00pm on Anzac Day)
- e) The sale and supply of liquor on Anzac Day is prohibited to any person before 1.00pm, except for those present on the premises for the purpose of dining.
- f) In the case of Hotels, liquor may be served at any time to any person currently lodging on the premises.

### 3.3.3 CLUBS

- a) Maximum hours for sports clubs shall allow liquor to be sold only on the following days and during the following hours:  
  
Monday to Sunday 8.00am to 1.00am the following day
- b) The District Licensing Agency will have regard to the hours of operation and type of activities of the club, as well as to the proximity of the club premises to residential properties in setting the licence hours.

- c) Chartered Clubs – the criteria for hotels and taverns given in 3.3.2 shall apply. The restrictions of trading on certain public holidays will not apply.

### **3.4 RESTRICTED OR SUPERVISED AREAS**

- 3.4.1 All or part of every hotel or tavern premises must be designated as a restricted or supervised area;
- 3.4.2 Designations may be applied to other premises as may be recommended by the Licensing Inspector and determined by the Agency in consultation with the licensee.

### **3.5 HOST RESPONSIBILITY**

- 3.5.1 All applications for new licences shall be accompanied by a written host responsibility policy covering (but not limited to):
  - Signage
  - Provision of food
  - Provision of low and non-alcoholic drinks
  - Transport options
  - Prohibited persons
  - Cleanliness of footpaths and other public areas in the immediate vicinity of the premises

The Liquor Licensing Inspector will assess the host responsibility policy as part of the licence application.

- 3.5.2 The policy shall be kept or displayed in a place where it can be easily accessed by staff
- 3.5.3 The Licensee may be required to demonstrate to the Liquor Licensing Inspector that staff receive regular training on the policy, including determining the state of intoxication of patrons.
- 3.5.4 The policy shall be made available to Police, Liquor Licensing Inspector, Medical Officer of Health and patrons on request.

## **4.0 CONDITIONS THAT MAY BE IMPOSED ON A LICENCE**

- 4.1 Under Sections 14, 37, 60 and 80 of the Act the Agency can impose conditions to the issue of any licence. Some conditions specified in the Act are mandatory for the type of licence being issued. Other matters are listed for which the Agency may impose conditions. This policy gives guidelines as to when any one of these matters may be imposed as a condition on the issue of a licence.

### **4.2 PROMOTION OF THE RESPONSIBLE CONSUMPTION OF LIQUOR**

- 4.2.1 The Agency will make conditions, where appropriate, to ensure the responsible consumption of liquor when granting applications for on-licences. This may include restrictions on the number of alcoholic drinks sold to any one individual. The Agency does not support the sale of alcohol from mobile vendors.
- 4.2.2 The Agency will not support any application where it feels the nature of the event, or any advertising associated with it, promotes excessive consumption of liquor.

### **4.3 CATERERS**

- 4.3.1 The Agency will require, as a condition or conditions attached to any endorsed off-licence issued, that catering operations will provide non-alcoholic refreshments and food as part of its range of products. A full range of non-alcoholic refreshments, including juices and water, is to be provided for patrons.
- 4.3.2 Food consisting of at least packaged and snack foods in the nature of pies, sandwiches, filled rolls, pizzas and the like must be available at all times, and the availability of those foodstuffs shall be notified to patrons by appropriate notices throughout the premises.

## **5.0 TEMPORARY AUTHORITIES**

- 5.1 Temporary authorities may be granted to permit the continuation of a business with a current on-licence or off-licence.
- 5.2 A temporary authority may be issued for a period of up to three months at one time, or until the expiry of the current on-licence or off-licence.
- 5.3 Any temporary authority will generally be issued and operated under the existing terms of the base licence, though the Agency will exercise its right to impose conditions as it sees fit as provided for in the Act.
- 5.4 The Agency will not issue more than one temporary Authority unless a full application for a substantive licence has been received prior to the expiry of that Temporary Authority, except in exceptional circumstances to be determined by the Secretary.

## **6.0 OFF LICENCES**

- 6.1 Where the off-licence is part of premises that also holds an on-licence or club licence, the hours of the off-licence shall not exceed, but may be less than, the hours of the other licence in force.
- 6.2 In any other case the maximum hours as given for taverns and hotels in 3.3 will apply

## **7.0 CRITERIA AND CONDITIONS FOR SPECIAL LICENCES**

- 7.1** A special licence can be issued pursuant to either Section 73 or 74 of the Act. An inspector and member of the Police report on applications. Sections 79 and 80 set the conditions and criteria that the Agency must have regard to when issuing special licences.
- 7.2** A special licence issued under Section 73 authorises the holder of the licence to sell and supply liquor on the premises or conveyance described in the licence to anyone attending any “occasion or event or series of occasions or events” described in the licence.
- 7.3** A special licence issued under Section 74 authorises the holder of an on-licence or a club licence to sell and supply liquor for consumption on the premises, at any time when the premises are required to be closed for the sale of liquor, to persons attending social gatherings of any kind specified in the licence.
- 7.4** The Agency will not issue a special licence in situations where it believes that an application should be made for a full on, off or club licence having regard to Section 7.8.

**7.5 DEFINITION OF “OCCASION OR EVENT OR A SERIES OF OCCASIONS OR EVENTS”**

- 7.5.1 An occasion or an event can be any identifiable event and should be outside the usual or regular activities of an on, off or club licensed premises. An event may run over more than one day and may be several consecutive days.
- 7.5.2 A series of occasions or events is defined as a series of related events or activities that have specified beginning and end points.

**7.6 DEFINITION OF SOCIAL GATHERING**

A social gathering must have the following characteristics:

- a) There must be a purpose for the function or gathering other than mere enjoyment of bar facilities;
- b) Liquor consumption must be ancillary to the true purpose;
- c) The attendees must be only the promoters, the participants, and the specially invited guests who are participators in or spectators to then principal activity;

**7.7 PRIVATE SOCIAL GATHERINGS ON LICENSED PREMISES**

If a private social gathering (e.g. a wedding or birthday party) is being held on a licensed premises outside the hours or conditions of the licence and the host of the function is giving the liquor to their guests and paying the licensee for the costs afterwards, the person selling the liquor (i.e. the licence holder) requires a special licence.

## **7.8 DURATION AND FREQUENCY**

- 7.8.1 A special licence can be used for any lawful activity that does not fall into the regular activity of any other category of licence specified in the Act. A special licence will not be issued where, in the opinion of the Agency, the extent or regularity of the activity is such that an on, off or club licence is required by the Act.
- 7.8.2 Special licences will not be granted beyond 1.00am (or 2.00am on New Year's Day) except at the discretion of the Chairperson and Secretary of the Agency.
- 7.8.3 The Agency will not issue a special licence for more than twelve (12) occasions, events or social gatherings on one licence.

## **7.9 SPECIAL LICENCE APPLICATIONS**

- 7.9.1 The party who receives the proceeds from the sale or supply of liquor shall be the applicant for a special licence.
- 7.9.2 All applications for special licences should be submitted in accordance with Section 2.1.3.

## **7.10 DISPLAY OF LICENCE**

The Agency will direct that the licence, together with the conditions imposed on the licence, be displayed in a conspicuous place, at the place described in the licence, except in the case of a private social gathering.

## **7.11 MANAGER TO BE IN ATTENDANCE**

- 7.11.1 The Agency may require any applicant who holds a special licence to appoint a certificated manager except where the Agency considers that the licensee, or some other person nominated by the licensee, will effectively manage the conduct of the sale of liquor pursuant to the licence.
- 7.11.2 The applicant, or nominated manager, may be subjected to the same criteria as specified for managers in the policy statement below.

## **8.0 CRITERIA FOR MANAGERS CERTIFICATES**

Section 121 of the Act specifies criteria for the Agency to have regard to when considering any application for manager's certificates. Information to assess against the criteria is obtained from reports on the application from the Agency's Liquor Licensing Inspector and the Police. The following specifies minimum criteria that must be satisfied before further consideration is given to any application.

### **8.2 RELEVANT EXPERIENCE**

- 8.2.1 This will be assessed in terms of the applicant's relevant experience in the

hospitality industry, their management ability as determined from their personal history, their character and reputation as determined by their presentation in an interview situation.

8.2.2 Written evidence of experience should accompany the application. Consideration may be given to personal references

8.2.3 Applicants will be required to display a satisfactory understanding of the Act.

### **8.3 RELEVANT TRAINING AND QUALIFICATIONS**

8.3.1 The Agency will require any applicant for a General Managers Certificate to hold the prescribed qualification once Section 117A of the Act is in force. Until this section takes effect, the Liquor Licensing Inspector will determine what constitutes an acceptable qualification.

8.3.2 Applicants for Club Manager's Certificates will need to demonstrate competence with the requirements of the role and an understanding of the provisions of the Act. The Agency may require applicants to complete an approved form of assessment.

### **8.4 SUITABILITY OF APPLICANT**

Refer to Section 9.0

### **8.5 MATTERS RELATING TO CLUB MANAGERS CERTIFICATES**

8.5.1 The applicant for a club managers certificate needs to demonstrate a significant commitment to the club by providing evidence of a significant involvement in the management and activities of the club itself

8.5.2 In the case of clubs commonly known as Chartered Clubs, including RSA's, Workingmen's Clubs and Cosmopolitan Clubs, applicants shall be encouraged to apply for a General Manager's Certificate.

### **8.6 OTHER MATTERS**

8.6.1 In addition to the above listed matters, the Agency will also have regard to any matters raised in any report from the Licensing Inspector, or the Police.

8.6.2 In certain circumstances, on a recommendation in any such reports, the Agency may be prepared to modify, add to or waive some of the criteria stated above.

## **9.0 SUITABILITY OF APPLICANT**

9.1 This policy applies to applicants for premises licences, special licences, and managers certificates.

9.2 The suitability of an applicant will include consideration of their experience in the hospitality industry, their management ability as determined from their personal history, their character and reputation as determined by their presentation in an

interview situation.

- 9.3** In determining suitability an assessment is made of the likelihood of a potential licensee or manager upholding the law in light of the evidence provided. Due consideration is given to reports from the Police and the Licensing Inspector. If either of these agencies raise any matters in opposition then the application is referred to the Liquor Licensing Authority. Matters in opposition can include evidence relating to the applicants past management of a licensed premises in such a manner that caused annoyance to neighbours, particularly in residential areas, and particularly in relation to the emission of noise.
- 9.4** In considering the effect of individual convictions on the suitability of an applicant for an on-licence in terms of Section 13(1)(a) of the Act, the Agency may give less weight to convictions:
- i)* Considered historic provided there has been no offending of any kind since that time;
  - ii)* Relating to minor traffic or parking offences not involving liquor.
- 9.5** The Agency may give added weight to any conviction:
- i)* For any offence occurring on or involving or arising from conduct on licensed premises;
  - ii)* Relating to or involving the use or abuse of drugs or liquor, including drink-driving;
  - iii)* Relating to repeat offending or a pattern of offending
  - iv)* For assault or violence offences against any person or property.
- 9.5** The Agency may place a greater weight on any conviction of any type that the applicant fails to disclose on the application.

## **10.0 DISPLAY OF LICENCE RENEWAL NOTICE**

Applicants shall ensure that the notice of renewal is displayed alongside or adjacent to the original licence, at the principal entrance or in a conspicuous or prominent place, whichever applies.

## **11.0 LIQUOR LICENSING AUTHORITY**

The Agency reserves the right to refer any application to the Liquor Licensing Authority for a determination, where the granting of that application could, or would, have a significant effect outside of the Agency's district, fails to comply with this policy, or is opposed by reporting Agencies.

## **12.0 FIRE SAFETY AND THE NZ FIRE SERVICE**

- 12.1 Applicants will need to ensure that, in the case of premises licences, the premises comply with the fire safety requirements of the Building Act 1991, the Fire Service Act 1975 and any regulations that may apply.
- 12.2 The required evidence of this must accompany applications for renewal.
- 12.3 The Agency or the Liquor Licensing Inspector may consult with the Fire Service where it believes that issues relating to fire safety may exist with regard to an application.
- 12.4 Members of the Fire Service shall be encouraged to exercise their powers of inspection with regard to licensed premises.
- 12.5 The Agency shall convene a hearing under section 134 of the Act where the Fire Service applies for suspension or cancellation of a licence.

### **13.0 INSPECTIONS AND ENFORCEMENT**

- 13.1 All licensed premises will be subject to random inspections at the discretion of the Liquor Licensing Inspector in accordance with the Act.
- 13.2 The Liquor Licensing Inspector may at any reasonable time inspect any premises that are the subject of a special licence.
- 13.3 The Liquor Licensing Inspector and Police will take necessary action where breaches of the Act are identified.
- 13.4 The Agency will view seriously any offence under the Act and will consider suitable enforcement action appropriate to the degree of the offence to ensure continued compliance with the Act.

### **14.0 PUBLIC CONSULTATION AND PARTICIPATION**

- 14.1 The Agency will encourage public participation and consultation in liquor issues with a particular emphasis on awareness of the Agency and its role, and the public's role in ensuring a responsible approach to liquor consumption.
- 14.2 The Agency shall convene liquor liaison group meetings on a regular basis, comprising representatives of reporting agencies and other interested parties.

### **15.0 EDUCATION**

- 15.1 The Agency will maintain a public awareness and communication role targeting specific groups with the aim of promoting the need for moderation in alcohol consumption and a high level of compliance with legislative requirements.
- 15.2 The Agency shall encourage those in the industry to complete relevant training.
- 15.2 The Agency shall convene regular meeting with licensees and those in the industry.