

Summary of Major Changes – Sale and Supply of Alcohol Act 2012

On the 18th of December 2013 the full provisions of the Sale and Supply of Alcohol Act 2012 come into force, meaning major changes for those involved in the hospitality industry. This Act is the result of a raft of recommendations to Government from the Law Commissions review into the alcohol industry “Alcohol in our lives – curbing the harm” which was authored in 2010 and replaces the Sale of Liquor Act 1989. **The object of the Act is to reduce alcohol related harm.**

The new Act introduces a range of **new application forms**, so when applying for any licence, certificate or renewal after the new Act comes into force applicants will need to ensure they are using the correct form to avoid delays.

The forms also relate to the **new criteria** the Act specifies for each licence type, and details are required in order that the assessment can be made against that criteria. Section 105 of the Act details on, off and club licence criteria, section 142 special licences and section 22 for Managers certificates. The types and duration of licence (On, off, club, special) remain unchanged.

It is also the Governments intention that all costs incurred in the administration of the Act, including application processing, decision making, monitoring and enforcement be covered by licensing fees. As a result all applications will be subject to **new fees**, which in many cases will be an increase. For manager's certificates a set fee will still be applied, however applications for licenses including special license are subject to a risk-weighted fee structure. Council will endeavour to notify licensees what these fees are likely to be prior to their next renewal. It must also be noted that as well as an application fee at times new or renewal applications are made, that there is an **annual fee**.

Currently the application fee for a licence is \$793.24. From now as an example a “very low” risk premise will have an application fee of \$368.00 and an annual fee of \$161.00. A very high risk premises will be \$1,207.50 and \$1,437.50. Manager's fees go from \$134.96 to \$316.25.

From this date Territorial Authorities can adopt **Local Alcohol Polices** to govern the number, hours and location of premises within their Districts. Waitomo District Council has approved a provisional policy, which will be advertised for its final appeal period in the new year, and will be implemented as soon as possible after the completion of that process. Only people who submitted during the policy drafting have the right to lodge appeals.

National maximum trading hours will apply from 18 December 2013 for any area where a Local Alcohol Policy is not yet in force. These are 8am - 4am for on-licences and 7am – 11pm for off-licences.

Premises that currently open for longer hours will have to comply with the maximum trading hours from this date. **Premises with shorter hours will continue to operate to the hours of their licence until the Local Alcohol policy is approved.**

Hotels or taverns with off licence hours the same as their on-licence hours will need to comply with the new off licence hours.

The existing District Licensing Agencies (DLAs), are to be replaced by **District Licensing Committees** (DLCs) on 18 December 2013.

DLCs will decide all contested and uncontested applications for new or renewed licences and managers certificates. The committee is formed by elected councillors and people with skills and experience in licensing matters.

Waitomo District has appointed its DLC as follows:

SHARPE, Diane (Commissioner)
WHITAKER, Guy (Councillor – Deputy Chair)
JOHNSON, Roy
DAVIES, Patsi
McEWAN, Brett
CAMERON, Michael

Any **licence or managers certificate** application filed after 18 December 2013 will be subject to the new Act.

Under the new Act, a person must be 20 years or older to be a manager, and there is no longer a separate club managers certificate. All managers will have the same certificate, and will be required to hold the prescribed qualification. Those that have the LCQ will do a '**bridging course (yet to be finalised)**' to bring them up to date. Managers who hold a current certificate of any type remain managers until that certificate expires. A DLC can issue a one-year transitional certificate to allow a period for managers to gain the new qualification.

The ability to appoint acting and temporary managers remain, however licensees are required to **formally record** every appointment or termination of managers, acting managers and temporary managers. Licensees will be required to set up a "Managers Register" recording all certificated managers that they appoint and when an Acting or Temporary Manager is used.

On-licences will have to supply or make available water, low-alcohol beverages, food and information about safe transport. A range of other conditions can also be imposed by the district licensing committee.

The **purchase age** remains at 18 years. From 18 December 2013 a person can only supply alcohol to a person under the age of 18 years if:

- they are the **parent or guardian** of the minor; OR
- they have **express consent** from the parent or guardian; OR
- the young person is married, in a civil union or living with a de facto partner who is over 18 years of age.

Guardian is legal guardian. Anyone who supplies alcohol to a person under the age of 18 years as permitted above must do so **responsibly**, for example by supplying food and non-alcoholic drinks and arranging safe transport. The penalty for failing to do so is a fine of up to \$2,000.

Presenting a **fake ID**, using someone else's ID to buy alcohol and giving or lending an ID to an underage person knowing that they intend to use it to buy alcohol will be an offence.

The following types of **promotions** are offences under the new Act:

- promoting excessive drinking
- promoting alcohol in a way that has special appeal to minors
- advertising free alcohol or discounts of 25 percent or more
- offering free goods or services with the purchase of alcohol.

New rules about alcohol **displays and associated advertising** in supermarkets and grocery stores require that displays and promotions can only be in a single area of the store. The purpose of the new rule is to limit how much shoppers are exposed to them.

The new rules apply when supermarkets and grocery stores receive an off-licence for the first time or renew their existing off-licence. Licensing agencies may give businesses renewing their licence a limited period of time to reconfigure their premises.

As under the previous law, you **cannot serve intoxicated people** or allow them to remain on the premises however the new Act clearly defines "intoxicated". *This means someone who is affected by alcohol, drugs or other substances and who is displaying **two or more** of the following conditions:*

- *affected appearance*
- *impaired behaviour*
- *impaired co-ordination or*
- *impaired speech*

You should familiarise yourself with the new definition and make sure your staff know their responsibilities. The penalties for breaching intoxicated patrons offences include fines of up to \$10,000.

Licences and managers certificates can be cancelled for five years if the manager or licensee has committed any specified offences three times within three years. Section 288 of the new Act sets out the specified offences.

There are a range of **new offences**, including a manager being intoxicated on duty, and a number of offences are **infringement offences**, meaning a person can be fined for the offence without a court appearance.

Grocery stores that mainly sell food products may sell alcohol if they have an off-licence. The definition of "food products" does not include convenience foods (for example, confectionary, ready-to-eat takeaways and snack food). Detailed definitions are outlined in regulations. Dairies and convenience stores and service stations cannot hold licences.

If you're holding an event that requires a **special licence**, you must now apply at least 20 working days before the event is held (although exceptions can be made for unforeseen events, such as funerals).

It's important to note that a 'working day' does not include weekends, statutory holidays or any day between 20 December and 15 January (inclusive). As with the other types of licences, there are new criteria, particularly in regard to "Large events" and a variety of conditions can be added.

The District Licensing Committee can apply any **reasonable condition** to a licence where the condition is consistent with the Acts aim to reduce harm. The Act also applies compulsory conditions, such as the provisions around supplying food, water, low and non-alcoholic beverages.

The onus is on licensees, managers and applicants to ensure they are up to date with the requirements of the new Act. Summaries of the major changes can be found on the Ministry of Justice website at www.justice.govt.nz. The Act and its associated regulations can be seen at www.legislation.govt.nz or purchased from government approved bookshops.