

GREY DISTRICT LICENSING AGENCY (DLA)

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LIQUOR LICENSING NEWSLETTER

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AUTHORISED DUTY MANAGERS



A common belief is that a staff member can work the duty manager's shifts because they are booked into, or have completed a Duty Managers training course. This is incorrect.

An authorised Duty Manager is either the holder of a current Managers Certificate, or someone who has been correctly appointed as an acting or temporary duty manager. Unfortunately a few people are getting this wrong and in doing so commit serious offences under the Sale of Liquor Act.

Temporary Managers (Section 128 Sale of Liquor Act)

A temporary manager may be appointed by the **licensee** (the licence holder) if a Manager is ill, absent for any reason, dismissed, or resigns.

A temporary manager does not need to hold a Manager's Certificate at the time he/she is appointed, but must apply for a Certificate **within two working days** after the appointment.

If a certificate is not applied for within two working days, or if the appointment is refused by the Liquor Licensing Authority (LLA), then the licensee shall cease to employ the individual as a manager.

Acting Managers (Section 129 Sale of Liquor Act)

An Acting Manager may be appointed by the **licensee** (the licence holder):

- When the duty manager is unable to act because of illness or absence. The maximum length of such an appointment is three weeks.
- When the duty manager is on vacation or annual leave. The maximum length or appointment is an aggregate 6 weeks in each 12 month period.
- It is not necessary for an Acting Manager to apply for a Manager's Certificate.

The appointment of an **Acting or Temporary Manager** must be notified (pursuant to section 130), to the Liquor Licensing Authority (LLA), the District Licensing Agency (DLA), and the Police **unless** the appointment of a temporary or acting manager does not exceed a period of 48 hours. In both cases we recommend you have a copy of the appointment form available for inspection on the licensed premise. The acting or temporary manager's name must still be displayed. Forms are available from the DLA.

The most common mistakes:

- The temporary manager has not made application for a manager's certificate within two working days of their appointment.
- The acting manager has exceeded their maximum appointment time.
- The notice of appointment form has not been forwarded to the required agencies.
- The temporary or acting manager's name is not displayed.
- The temporary or acting manager was unaware of their appointment and responsibilities.

Where an acting or temporary manager's appointment is invalid, any liquor sales are unauthorised and could result in a fine not exceeding \$20,000 or the suspension of the licensee's licence for a period not exceeding seven days, or both.

It is recommended licensees and managers physically sight and keep copies of Managers Certificates, and check that all appointments of acting and temporary managers are valid.

RENEWAL OF GENERAL MANAGER'S CERTIFICATE & LICENCE CONTROLLER QUALIFICATION (LCQ)



Applications for renewal of a manager's certificate must be lodged with the DLA before the expiry date or they lapse. An expired manager's certificate cannot be renewed.

The DLA **cannot** issue or renew a General Managers Certificate unless the applicant holds the LCQ *and* the applicant has provided a copy of it to the DLA.

This Agency has received a large number of applications for renewal where the LCQ has not been provided. The LLA has recommended that two months is a suitable period of time for an agency to allow an applicant to obtain the LCQ.

If you have applied for a General Managers Certificate, or a renewal, and have been waiting for more than two months for it to be issued, it is possible we are waiting for a copy of your LCQ. If you are unsure please contact us.

When you change your address, it is important that you advise us of the change so any correspondence is sent to your correct and current address.

To make an application for a manager's certificate you must be able to answer YES to all the questions below:

1. I have attended a Polytech course on the Sale of Liquor Act 1989 and host responsibility,
2. I hold the Licence Controller Qualification,
3. I am currently employed in the industry,
4. I have had a least six months recent experience, and

5. I am employed in or live in the Agency's District.

ADVERTISING AND PROMOTION



Section 154(A) of the Sale of Liquor Act states;

"Promotion of Excessive Consumption of Alcohol

154A. Every person commits an offence and is liable to a fine not exceeding \$5,000 who, being a licensee or manager of licensed premises, does anything in the promotion of the business conducted on the premises, or in the promotion of any event or activity held or conducted on the premises, that is intended or likely to encourage persons on the licensed premises to consume alcohol to an excessive extent."

What's not Acceptable

- Promoting alcohol in non-standard measures and/or giving them names such as laybacks, shooters, slammers, test tubes, blasters, so that it encourages irresponsible drinking.
- Promotions or drink cards that offer multiple free drinks or big discounts for limited periods, which customers can stockpile or transfer to others. A promotion or drink card must not create an incentive for customers to consume liquor more rapidly than they otherwise might.
- Giving promotions names that may encourage customers to drink irresponsibly or excessively.
- Refusing to serve single measures of spirits on request or provide reasonably-priced non-alcoholic drinks.
- Any promotion that encourages people to drink excessively (all you can drink offers; free drinks for women; two for one deals) and to drink it in an unreasonable time period.
- Bar tabs resulting from sport e.g. 1st try scorer.
- Any promotion that compromises customer safety.

What is Acceptable

- ❖ The traditional "happy hour" during or immediately following normal daytime working hours.
- ❖ A complimentary drink (as long as it's a standard measure) upon arrival.
- ❖ Promotions involving low alcohol beer where the advertising and posters etc. make it clear that low alcohol beer is involved.
- ❖ Advertising a special, flat price for a brand, providing it's over a specified period and the price is not so low that it will encourage excessive drinking.
- ❖ Providing incentives to purchase, such as prizes or special prices, so long as the incentives don't encourage people to drink more or faster than they normally would.

- ❖ Competitions or promotions involving food, meal deals, meal and drink combos and other offers that reflect responsible drinking practices.

ONSET OF INTOXICATION: TACKLING THE INTOXICATION ISSUE



The LLA have stated that allowing intoxication on licensed premises is one of the more serious offences committed under the Sale of Liquor Act 1989.

Where intoxicated persons are found on licensed premises there are monetary penalties which may be imposed, and the liquor licence can also be suspended. It is pointed out that the seriousness of the offence requires the police to report on the conviction to the Authority. This includes the reporting of the matters in section 132A(2) of the Sale of Liquor Act.

The Authority may cancel the licence or suspend the licence for up to six months. The Authority has said, in *Dayal Holdings Ltd* LLA Decision PH568/04, that:

"It seems to us that allowing a person to be or become intoxicated while on licensed premises is the most vivid form of liquor abuse."

Duty managers must be able to recognise the early signs of intoxication, high risk patrons, and intervene by either slowing or stopping service of liquor **before** a patron becomes intoxicated.

To keep it simple, and based on LLA decisions, it is considered that someone is intoxicated to the degree where they should not be on licensed premises if they are showing any three of these signs:

- loud or slurred speech
- vacant or glazed look on their face
- Hand eye co-ordination problems.
- Clumsy, slow or delayed reactions.
- Unsteady on their feet.
- Annoying overfriendly or inappropriate behaviour.

A popular misconception is that a strong cup of coffee or substantial meal will sober up an intoxicated person. That is incorrect. It takes time for the liver to remove the alcohol from the blood. Food can make a huge difference but must be eaten before or at least while liquor is being consumed. High fat high protein foods are considered best at slowing down alcohol absorption.

Your focus must be on preventing intoxication. However despite your best intentions if a patron does become intoxicated:

Can they remain on licensed premises?

No - with one exception.

If you believe that removing an intoxicated person from the licensed premises would endanger them,
and you have moved them to a place of safety on the premises,
and you have or are arranging safe transport,
and they are not consuming liquor,
and all bar staff are aware of the situation; **we would consider you a very responsible host.**

Keep in mind that a drink spiking victim may also exhibit the signs of intoxication.
BUT remember that, if the person in question became intoxicated on your premise an offence has been committed.

Offences relating to intoxication:

- Section 165: Unauthorised sale or supply.
- Section 166: Sale of supply of liquor to intoxicated persons.
- Section 167: Allowing persons to become intoxicated.
- Section 168(a): Allows any intoxicated person to be **or** to remain on the licensed premise.

Your focus must be on preventing intoxication.

SMOKING LAWS / LIQUOR BAN IN THE CBD



This is a timely reminder to all licensees that there is a 24 hour liquor ban in place on all streets in the central business district Monday to Sunday. Any person who goes outside for a smoke (unless in a supervised smoking area) cannot take their drink with them. They must either leave their drink inside or finish their drink before they go outside. Patrons can be fined up to \$20,000 for drinking in liquor ban areas.

CLUB LICENSES - WHO CAN LIQUOR BE SOLD AND SUPPLIED TO?

A club licence authorises the sale and supply of liquor on the premises to:

- (a) Any member of the club; or
- (b) Any person who is a guest of, and is accompanied by, a member of the club; or
- (c) Any member of any other club with which the holder of the licence has an arrangement for reciprocal visiting rights for members of the clubs.

Put simply, an On Licence allows the sale and supply of liquor to the public, **a Club licence does not allow the sale and supply of liquor to the public** unless the club has been issued a special licence.

LLA Decision PH 891-892/07 included the following;

" The Act gives privileges to a club but expects scrupulous behaviour in return. The basic rule is that members of the public are not sold liquor at a club, unless there is a special

licence in force, or unless they are in the company of a member as a guest. Clubs are given certain advantages because the Act recognises that membership of the club can be withdrawn at any time for bad behaviour. There is an incentive for club members to keep to the club's code of conduct and behaviour. Managers of clubs have different manager's certificates."

The licensee or manager of any licensed premises that sells or supplies liquor when not authorised by the licence commits an offence under section 165 of the Sale of Liquor Act 1989 - Unauthorised sale or supply. The possible penalty in the case of the licensee is a fine not exceeding \$20,000 and/or the suspension of the licensee's licence for a period not exceeding seven days. In the case of a manager, a fine not exceeding \$20,000.

There are a number of Clubs that host weddings, funerals, birthdays etc and sell liquor where a special licence needs to be obtained. A special licence costs \$64.40 and this agency should receive the application at least 20 working days before the event. An application form and guide are available from the DLA or our website www.greycdc.govt.nz/council-services/liquor-licensing/forms.

The three monitoring agencies in the future will be ensuring all clubs are abiding by the law and any club found not doing so may find an application is filed with the LLA for the suspension/cancellation of their licence.

CONTROLLED PURCHASE OPERATIONS AND MINORS



Just a reminder that controlled purchase operations are ongoing and will be carried out at any time. On, Off, and Club licensed premises will be visited.

For those who aren't aware, controlled purchase operations involve a minor (person under 18 years of age), entering a licensed premise and attempting to purchase alcohol.

A sale to a minor will result in legal action through the LLA and/or the District Court.

Please take this opportunity to remind all staff, and ensure you have systems in place to ensure sales are not made to minors and other unauthorised persons.

Please remember - if they look under 25 years of age and have no suitable ID - then no service - NO EXCEPTIONS.

EVIDENCE OF AGE DOCUMENTS AND SELLING TO MINORS



The purchasing of liquor by minors (under 18) is one of the major issues agencies are trying to reduce with the help of bar managers and staff.

A question often asked by bar staff - "why have we been instructed by our employer to only accept a New Zealand drivers licence, a New Zealand or Overseas passport, or HANZ 18+ card, as an evidence of age document, and not student identification or a firearms licence. They both have photographs on them, and a firearms licence is hard to get?"

The answer is simple. The Sale of Liquor Act 1989 specifically defines an evidence of age document as being a New Zealand drivers licence, a New Zealand or overseas passport, or HANZ 18+ card. Furthermore the Sale of Liquor Act states that it is a defence to a charge of selling to a minor if the defendant proves that the seller sighted an **evidence of age document** before or at the time of the sale that indicated that that person was over the age of 18 years. So if the seller accepts another form of identification they will have no defence if the person turns out to be a minor.

Please also be aware that there are a large number of false identifications circulating out there. Most are not counterfeit, they simply belong to someone else. So check them carefully and if in doubt ask for a second form of identification, or simply don't accept them

The following is recommended:

- Ask the patron to remove the identification from any holder or wallet. This allows you to inspect the identification properly, and removes the risk of you being accused of removing money from the wallet;
- Ensure you have good lighting so the identification can be thoroughly inspected;
- If you have security cameras, inspect the identification in view of a camera so the inspection is recorded in case you have to prove it at a later date;
- If in doubt don't accept it. Better safe than sorry.

Any seized identifications should be forwarded to the Police directly.

FOOD



All liquor licenses that allow for the consumption of liquor on the premise (On, Club and Special) carry a condition requiring that food is to be available at all times that liquor is available.

The Liquor Licensing Authority is now imposing suspensions on premises that fail to meet the licence condition requiring food to be available.

As the result of frequent complaints from the public regarding lack of food availability, the agencies are carrying out operations to test premises.

Failure to meet this condition means that any sale/supply of liquor is "unauthorised" (section 165). This offence carries a maximum penalty of \$20,000 for both the licensee and duty manager.

Please ensure that all staff members are aware of the importance of complying with all licence conditions, including this one.

A licensed premise must have available at all times liquor is being sold or supplied, food for consumption as per the conditions of an On Licence as follows:

"At all times when the premises are authorised to be open for the sale of liquor, food of a range and style similar to that shown on any menu submitted or a range of snack foods in the nature of pies, sandwiches, filled rolls, pizzas and the like, shall be conveniently available for all patrons and the availability of those foodstuffs shall be notified to them by appropriate notices throughout the premises."

IS YOUR OUTDOOR AREA LICENSED?



An On Licence authorises the holder of the licence to sell liquor to anyone present on the premises for consumption **on that premise**. The area in which liquor may be consumed for each premise is specified on a plan provided by the applicant at the time the licence is first issued or a replacement plan is filed with the DLA due to renovations being carried out, these plans are held on the licensed premises file.

The licensee should also retain a copy of this plan.

Liquor purchased for consumption on any specific premises must be consumed on that premises. Unfortunately monitoring visits have identified premises where some outdoor areas are not identified as part of the licensed premises in accordance with the supplied plans. This is considered an unauthorised sale (section 165 of the Act) and if convicted of this offence the result could be a fine not exceeding \$20,000, or the suspension of the licence for a period not exceeding 7 days, or both.

Outdoor areas should be clearly defined so patrons and staff know where liquor can be consumed legally.

If you have any query regarding an outdoor area please contact our office.

SAFE TRANSPORT



All On and Club Licences will generally include a condition that the licensee provides assistance with or information about alternative forms of transport from the licensed premises for both staff and customers.

The provision and promotion of safe transport options are not designed to allow your customers to become intoxicated and then wheel them home. Once again, they are part of the overall service offered to valuable customers to ensure they enjoy a safe and relaxed experience at your establishment. Particularly, they are designed to minimize the risks of your customers drinking and driving.

There are a number of options available:

Taxis:

Offer to call a taxi

Have a free phone available for customer usage

Taxi signage

Courtesy Coach:

This can be used to pick up and drop off customers, providing a further service to promote your establishment.

Designated Driver:

Encourage groups to designate a sober driver and provide them with free non-alcoholic drinks.

WOULD YOU LIKE TO BE EMAILED NEWSLETTERS?

Simply email info@greydc.govt.nz with the appropriate email address for your premises and we'll add you to an email list for newsletters and other licensing information.

Newsletters are also available on our website www.greydc.govt.nz

**PLEASE CIRCULATE THIS TO ALL YOUR STAFF- ESPECIALLY DUTY MANAGERS
- AND/OR PLACE ON YOUR NOTICE BOARD**

Contacts

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