

Christchurch Tri-Agency Newsletter

March 2013

This newsletter is jointly produced by the Christchurch City Council Liquor Licensing Team, the Police Alcohol Strategy and Enforcement Team, and Community and Public Health Liquor Licensing Officers.

Licensees

Please ensure this newsletter is circulated to all staff, especially Duty Managers.

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1. The Sale & Supply of Alcohol Act 2012

Everybody, including the liquor licensing staff are still digesting the ramifications of the new Act. The Act is actually in force having received Royal Assent on the 18 December 2012, but some sections are on hold until specified dates.

Rather than make specific comments at this stage I thought it was best that I refer you to the Justice Department information webpage which can be found at: www.justice.govt.nz/policy/sale-and-supply-of-alcohol. If you Google these key words it should be the first link you see: 'Justice Department information on Sale and Supply of Alcohol Act'.

If you have specific queries please feel free to call the Liquor Licensing Team on 941 8826 and we will try and answer your query.

The first change that will affect most of you will be on the 19 June 2013, as this is when applicants and liquor inspectors will have to consider an application under the new criteria for a licence. The significant change to be considered is a new provision that "amenity and good order" of location of the premises has to be considered. See section 105 (1) (h) of the Sale and Supply of Alcohol Act 2012. (A link to the new Act can be found below).

The inspectors will be expected to report on this provision and so will in turn expect the applicant to have included in their application a consideration on the affects of their business on the "amenity and good order" of the area. The term "amenity and good order" is also further defined in the Interpretation section of the Act.

At this point in time no definitive explanation can be given as how this provision will be interpreted, in practice suffice to say initially each case will be decided on it merits and it will only be when we get some case law from the Alcohol Regulatory Licensing Authority (ARLA) the new name for the Liquor Licensing Authority (LLA) will it become clear the extent to which new criteria has a bearing on the application.

Link to Act: www.legislation.govt.nz/act/public/2012/0120/latest/DLM3339333.html

Finally I would encourage all of you to submit in person or through your organisation on the proposed Local Alcohol Policy when it is put out for public submission later in the year.

Paul Rogers, Team Leader – Liquor Licensing

2. Recent Controlled Purchase Operations

Since the last newsletter in October 2012 two controlled purchase operations were conducted in Christchurch and Banks Peninsula testing On, Off and Club premises.

On the 22nd December 2012 25 licensed premises were visited and one Bottlestore sold liquor to the minors. On the 22nd February 2013 12 licensed premises were visited and a Grocery Store and Tavern sold liquor to the minors.

All sales will result in the breaches being referred to the District Court and/or the Alcohol Regulatory Licensing Authority.

Congratulations to those premises that were tested and passed. They have been notified in writing.

Please, take this opportunity to remind all staff, and ensure you have systems in place to prevent sales to minors and other unauthorised persons.

Please remember that the only approved forms of ID are:

- New Zealand Drivers Licence
- New Zealand or overseas passport
- Hanz 18+ Card

Police Alcohol Team

3. The Private Security Personnel and Private Investigators Act 2010

All crowd controllers (i.e. door staff) must now be licensed by holding a Certificate of Approval (COA).

For further information and to apply please go to www.pspla.govt.nz.

Monitoring agencies are now checking Crowd Controllers are licensed during monitoring visits.

Paul Spang, DLA Staff

4. Taverns and Hotels Trading on Sacrosanct Days

This year Good Friday falls on the 29th March, Easter Sunday on the 31st March and Anzac day on Thursday 25 April. As a reminder:

1. Off-licences are not permitted to sell liquor on Good Friday, Easter Sunday, or before 1.00 pm on Anzac Day.
2. Hotel or Tavern - No liquor is to be sold on Good Friday, Easter Sunday, or before 1.00 pm on Anzac Day to any person other than those who are:
For the time being living on the premises: or
Present on the premises for the purpose of dining.

If you are considering applying for a special licence for an event during this time please do so now. If an application for a special licence is not received by the District Licensing Agency with **at least 10 working days notice**, it is unlikely to be processed in time.

So what does for the purpose of dining mean?

Hotels and taverns can not operate business as usual, however they may remain open to sell meals and supply liquor with that meal. The intent of legislation was to restrict the sale of liquor on those days to liquor sold only as an accompaniment to a meal.

The Authority has clearly indicated this would normally mean a sit down meal with knives and forks. Background music is acceptable, however televised sport and other entertainment generally do not fit with dining. This includes allowing the use of the pokie machines.

Providing food and meals is not an excuse to remain open. The purpose of being open on these days is to provide meals to customers present for the sole purpose of dining.

Licensees and Duty Managers can incur a fine of up to \$20,000 and every person present can incur a fine of up to \$2000. A suspension or cancellation of the licence may also be sought.

If any confusion remains discuss your plans with agency staff.

Martin Ferguson, DLA Staff.

5. Staff Training

Staff training is the key to operating a successful business, especially in overcoming the risks involved in a heavily regulated environment. The three regulatory agencies combine to provide a staff training package that covers the requirements of the Sale of Liquor Act 1989, licence conditions and the expectations of the agencies. These sessions are provided without charge.

Contact Peter Shaw, Community and Public Health to arrange training for your staff.
CPHLiquorLicences@cdhb.govt.nz.

Peter Shaw, CDHB

6. Changes to Club Managers Certificates and Notice of Management Change

Planning ahead – changes to Club Managers Certificates

From 18 December 2013 the Club Manager's Certificate will be deemed the same as a General Manager's Certificate. There will be a requirement to hold a prescribed qualification (probably still the LCQ). Club manager's certificate holders who do not hold the prescribed qualification and apply for a renewal of their certificate may be issued a limited renewal for 1 year on expiry of their certificate. If at the end of the 12 months Club Managers hold the prescribed qualification and apply for renewal of their certificate it can be renewed back on the 3 yearly cycle.

Notice of Management Change, Section 130 notification

A Duty Manager is required to be ON DUTY at all times when liquor is being sold or supplied to the public on any licensed premises and is responsible for:

The compliance with and enforcement of -

- The provisions of the Act AND;
- The conditions of the licence in force in respect of the premises AND;
- The conduct of the premises with the aim of contributing to the reduction of liquor abuse

If an authorised Duty manager is not present liquor can not be sold or consumed and a sign should be clearly displayed stating the following: Due to the absence of a Duty Manager liquor is not available at this time.

The licensee is required to give notice within 2 working days of the appointment of Temporary Managers, Acting Managers, new Certificate-holding Managers and terminations of the appointment of duty managers to the Alcohol Regulatory Licensing Authority, the District Licensing Authority and the Police Licensing Sergeant at the Police Station nearest the relevant licensed premises.

If you do not understand the types of manager appointments please ring and ask a member of Licensing Staff.

The **Section 130 notification** form covers all appointments/terminations and is found on our website under forms as 'notice of management change'.

Failure to notify changes carries a maximum penalty of a \$5,000 fine.

Commonly we find:

- Staff who have completed a Licence Controller Qualification course, but have not applied for a Manager's Certificate, or been appointed as a Temporary Manager, working as a duty manager.
- Temporary Managers (in post for more than 48 hours) who have not applied for a Manager's Certificate within 2 working days of their appointment
- Acting Managers have exceeded their maximum appointment time
- Notifications (pursuant to s.130) have not been made to the required Agencies
- The Temporary or Acting Managers 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 7 days, or both.

Licensees need to be developing good practice **now** surrounding appointments as from 18 December 2013 the SSAA 2012 will require records of appointments to be kept by licensees for at least 2 years. Additionally the SSAA 2012 will allow the issues of Infringement notices (\$1000) surrounding failing to appoint managers correctly.

Fiona Proudfoot, DLA Staff.

7. Smoking Areas

We are aware that some licensees have added plastic screens and the like to their previously compliant smoking areas. In many cases, these alterations have resulted in the area changing from being an 'open area' to an 'internal area'. The effect of this is that smoking is prohibited within the area. Licensees need to be aware that if they allow smoking within an 'internal area' of the premises, they will be liable to prosecution.

The Smoke-free Environments Act 1990, as amended in 2003, requires licensees of licensed premises to take 'all reasonably practicable steps' to ensure that people do not smoke in any area of the premises that is not an 'open area'. An 'open area' is any area that is not an 'internal area'. When considering whether an area is an 'internal area', the Act stipulates that any opening, capable of being closed, is to be treated as closed.

We are also aware that a number of licensees who, post-earthquakes, are converting or re-constructing. Please ensure that your architects/designers take account of the requirements of the Smoke-free Environments Act when looking at areas proposed to be used for smoking.

The following website provides a calculation tool as a guide to assessing whether an area is an 'open' or 'internal' area:

<http://www.health.govt.nz/our-work/regulation-health-and-disability-system/smokefree-law/open-areas-calculator-smoke-free-environments>

If licensees wish to discuss any issues regarding the Act, please contact:

Nicola Ogden. Smokefree Enforcement Officer. Canterbury District Health Board. 03) 378 6789, nicola.ogden@cdhb.health.nz

Peter Shaw, CDHB.

8. Have You Visited Our Liquor Licensing Web Site?

www.ccc.govt.nz/business/licencesconsents/liquorlicences/index.aspx

This website includes the following:

- Licensed Controller Qualification information.
- Liquor Licence application forms (including notice of management change forms for the Appointment of Temporary and Acting Managers).
- Christchurch District Licensing Agency newsletters.
- Licensed Premises Checklist
- New Restaurant Café/Bar Checklist
- Christchurch City Council Alcohol policy.
- Christchurch City Council Liquor Control Bylaw 2004 (liquor ban areas including maps).
- Frequently asked questions and answers.
- Justice Department FAQ's

Paul Spang, DLA Staff

9. Food Availability Requirements

The Liquor Licensing Authority considered food availability in the "Waipapakauri Hotel" decision PH371-271/2010. The following is an extract from that decision:

[7] The Authority considers that the expression "must be conveniently available" means that the food must be available upon request and within a very short period of time.

[8] For patrons to wait for 15 or 20 minutes for food does not achieve the object of the legislation as set out in s.4 of the Act. The purpose of requiring food to be available is so that persons can eat and therefore reduce alcohol abuse. If persons are required to wait for some 15 to 20 minutes the chances are that they will proceed to have another drink.

It is clear from this decision that in respect of on licence premises, other than restaurants, food must be available almost immediately. This would preclude premises from relying totally on outsourced food although that remains available as an additional option to the food that is immediately available.

The expectations of the monitoring agencies are:

- Food **must** be available and promoted throughout on licence and club licensed premises at all times that liquor is available. This is just as important at the end of business as the start.
- Unless the premises are set up and operate as a restaurant, menus (including price) should be large and clear rather than reliance of table top or bar top menus.

Controlled purchase operations to ensure compliance are being conducted. This will involve patrons requesting food. If it is revealed that food availability does not meet the required standard, an application for the suspension of both the on licence and general manager's certificate is the likely consequence.

Peter Shaw, CDHB

10. Health Licensing Team Update

Food Safety Training

How can I keep my customers happy or avoid getting food complaints?

One of your best protections is staff understanding food safety – Why do I have to clean? Why do I have to cook perishable food properly? Why do I have to wash my hands? Why can't I leave my food to cool on the bench? Can people get sick if I accidentally use the same knife or chopping board I use to cut raw meat then prepare salad?

Be proactive and get your food handling team members to attend food safety training.

We are strongly encouraging food businesses to attend training in food safety particularly in line with changes in food legislation. Currently we are working with training organisation to provide you with food safety training.

To get a greater understanding of what you want and the demand for training please contact Environmental Health Officer in the Health Licensing team at HealthLicensing@ccc.govt.nz or phone 941 8999.

Food Control Plans

The Food Control Plan (FCP) for the Food Service and Catering businesses are currently available for those wanting to implement a food safety programme in their food service business. At this stage we are able to provide some assistance and so businesses choosing to implement this FCP are able to take advantage of the support we can offer.

We advise keeping in touch with our Health Licensing team as legislation relating to food is expected to change and this is likely to affect food premises in the Food Service and Catering industry, particularly premises holding liquor licences.

For further information regarding this FCP, please contact Environmental Health Officer in the Health Licensing team at HealthLicensing@ccc.govt.nz or phone 941 8999.

Reminder to have a current Certificate and keep your details up-to-date

Remember that in order to operate you must have a current Certificate of Registration or Certificate of Exemption for holders of the Food Control Plan.

If your details have changed please notify us so that we can keep your records current so we may contact you. Also include email addresses so we have another means of contacting you, particularly as a means of getting information to you faster and more effectively.

For administration queries please contact our Health Admin team at HealthAdmin@ccc.govt.nz or phone 941 8999.

Rowena Yee, Food Act Officer, Health Licensing

11. Training Provider with Tri-Agency Input

Avonmore Tertiary Institute – Phone 0800-428-666
Christchurch Polytechnic Institute of Technology – Phone 940-8000

12. Contact Telephone Numbers

- Christchurch District Licensing Agency
 - Paul Rogers (Team Leader) – Phone 941 8909
 - Martin Ferguson (Senior Inspector) – Phone 941-8956
 - Paul Spang (Inspector) – Phone 941 8826
 - Fiona Proudfoot (Inspector) – Phone 941 5064
 - Jenn Davison (Inspector) – Phone 941 8828
 - Natasha Lafituanai – Phone 941 8827
 - Maria White – Phone 941 8821
 - Fax: 941-5033
 - Email: liquor.licensing@ccc.govt.nz
 - Website: www.ccc.govt.nz/business/licencesconsents/liquorlicences/index.aspx
 - Community and Public Health
 - Paul Tweed – Phone 378-6771
 - Peter Shaw – Phone 378-6812
 - New Zealand Police Liquor Licensing – Phone 372-5784
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Regards

Christchurch City Council Liquor Licensing Team, Police Alcohol Strategy and Enforcement Team and Community and Public Health Liquor Licensing

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