



HURUNUI DISTRICT LICENSING AGENCY



Liquor Licensing Policy 2008

Sale of Liquor Act 1989

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HURUNUI DISTRICT LICENSING AGENCY POLICY

INTRODUCTION

This liquor policy has been developed to support the object of the Sale of Liquor Act 1989 which is “to establish a reasonable system of control over the sale and supply of liquor with the aim of contributing to the reduction of alcohol abuse as far as can be achieved by legislative means”.

The policy sets out a framework for consistent decision making in the local administration of the Act, gives some guidance to those who may be seeking to obtain a licence under the Act and also attempts to reflect the communities expectation with respect to liquor issues.

BACKGROUND

The Sale of Liquor Act 1989 provides that each territorial authority must establish a District Licensing Agency to administer the Council’s responsibilities under this Act.

In 1999 amendments to the Sale of Liquor Act gave even greater autonomy to District Licensing Agencies and at that time the Liquor Licensing Authority increasingly gave encouragement to the Agencies to develop local liquor licensing policies.

The Hurunui District Council has written and developed this policy, in conjunction with other District Licensing Agency Policy documents, to devise a consistent, uniform and transparent approach to enforcement and administration in the effective implementation of the Sale of Liquor Act 1989, and its amendments.

DUTIES AND FUNCTIONS

District Licensing Agency

The Sale of Liquor Act 1989 allocates the role of District Licensing Agency (DLA) to the Council.

The DLA is charged with the following functions:

- Assessing and determining unopposed applications for liquor licences and managers certificates;
- Assessing and determining applications for special licences and temporary authorities;
- Record keeping and maintenance of a register of licences and certificates.

Functions of the Inspector appointed by the Agency are:

- Opposing applications where this is considered warranted;
- Inspecting and monitoring licensed premises;
- Monitoring the management of licensed premises;

Liquor Licensing Authority

The Liquor Licensing Authority (LLA) is a tribunal administered by the Ministry of Justice. The LLA comprises a judge and one or two appointed members with particular relevant knowledge or experience:

The LLA is charged with the following functions:

- Determining opposed liquor licence applications and renewals;
- Determining opposed applications for managers certificates and renewals;
- Determining applications for variation, suspension or cancellation of licences or certificates;
- Redefinition of licensed areas;
- Determining appeals against DLA decisions;
- The issuing of statements and directions with respect to administration and enforcement of the Sale of Liquor Act aimed at achieving the object of the Act.

Reporting Authorities And Agencies Involved In Processing Liquor Licence Applications

The Sale of Liquor Act 1989 provides that, the DLA, in the processing of applications under the Act, shall obtain reports from the following authorities:

- Police - Concerned with the management of premises and the suitability of applicants to hold licences and certificates.
- Medical Officer of Health - Concerned with both specific and the wider impacts on public health associated with alcohol abuse within licensed premises and the community.
- Licensing Inspector - Concerned with taking both an administrative and enforcement overview of sale of liquor issues on behalf of the DLA. Powers include, if considered necessary, requesting the LLA to vary, suspend or cancel any licence or certificate.
- Council - Provides a certificate confirming that the proposed use of the premises meets the requirements of the Resource Management Act 1991 and meets, or when completed will meet, the requirements of the Building Code. This certificate must accompany any new application for an On, Off or Club licence.
- Community - This Policy and the Sale of Liquor Act 1989 encourages community input into liquor related issues. Society's standards and community expectations are constantly evolving and only by public input into the policy preparation process can the policies and requirements of the DLA reflect community expectations.

DEFINITIONS

“Entertainment” in relation to any licensed premises, means any activity, dance, performance, exhibition, amusement, sport, game or event carried out on a regular and ongoing basis which is calculated to attract and entertain members of the public.

“Licensed premises” means any premises, or part of any premises, on which liquor may be sold pursuant to a licence, and includes any conveyance, or part of any conveyance, in which liquor may be sold pursuant to a licence.

“Restricted area”, in relation to any licensed premises, means any part of those premises so designated by the Licensing Authority or the District Agency to which persons under the age of eighteen years shall not be admitted.

“Supervised area”, in relation to any licensed premises, means any part of those premises so designated by the Licensing Authority or the District Licensing Agency to which a person under the age of eighteen years may not be admitted unless accompanied by the person's parent or legal guardian.

“Undesignated area”, in relation to any licensed premises means any part of the licensed premises which is not designated restricted or supervised and into which persons under the age of eighteen years may be admitted but in which areas they may not consume liquor unless accompanied by their parent or legal guardian. These areas normally include restaurants or clubs. A coach or team leader is not a legal guardian and cannot supply liquor to team members under the age of eighteen years.

“Club” means –

- (a) any chartered club; or
- (b) any club that has as its object, or as one of its objects, participating in or prompting any sport or other recreational activity, otherwise than for gain; or
- (c) any other voluntary association of persons (whether incorporated or not) combined for any purpose other than gain.

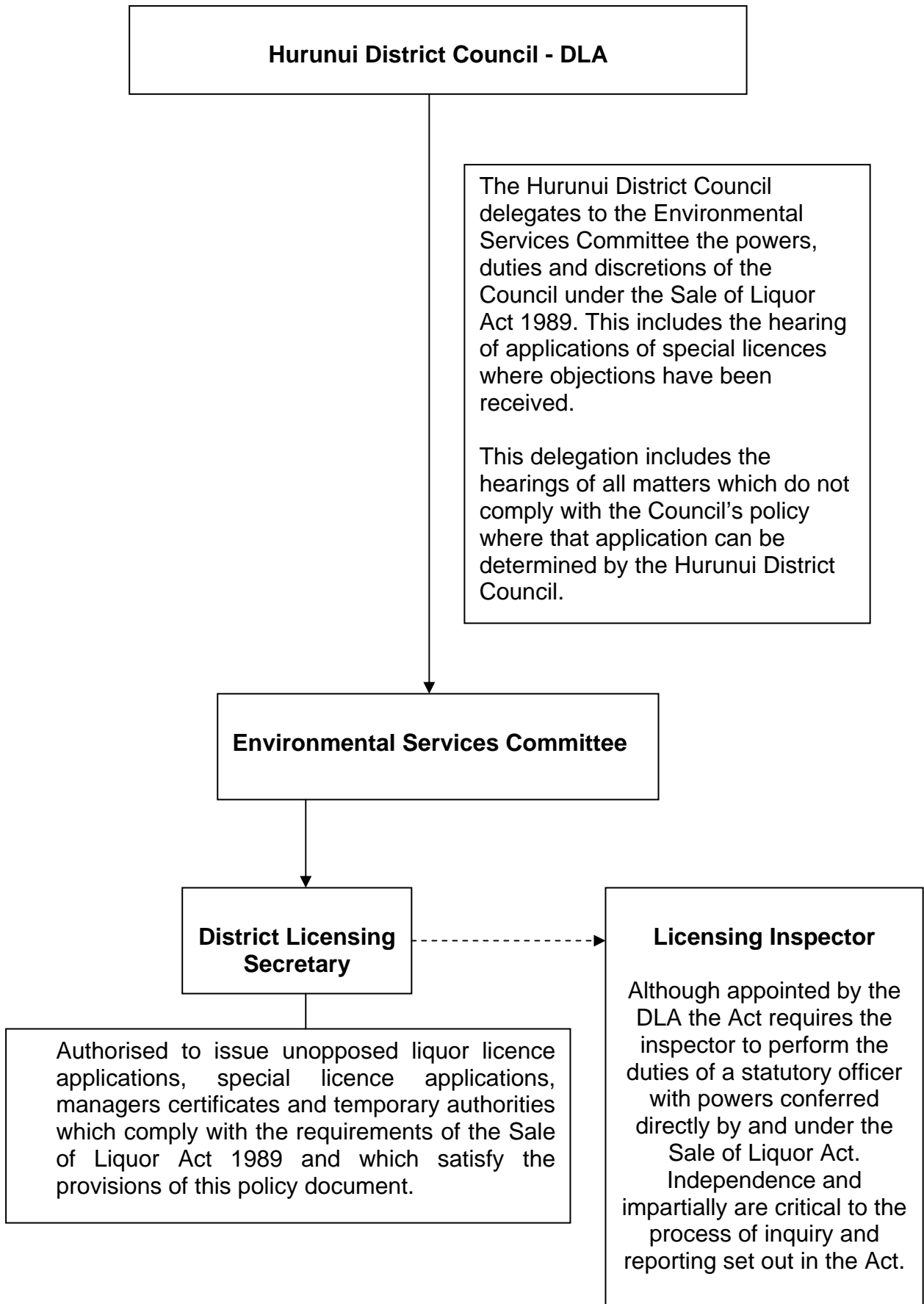
“Hotel” means any premises used or intended to be used in the course of business principally for the provision to the public or –

- (a) lodging; and
- (b) liquor, meals, and refreshments for consumption on the premises.

“Restaurant” means any premises in which meals are regularly supplied on sale to the public for consumption on the premises.

“Tavern” means any premises used or intended to be used in the course of business principally for the provision to the public of liquor and other refreshments.

HURUNUI DISTRICT LICENSING AGENCY STRUCTURE



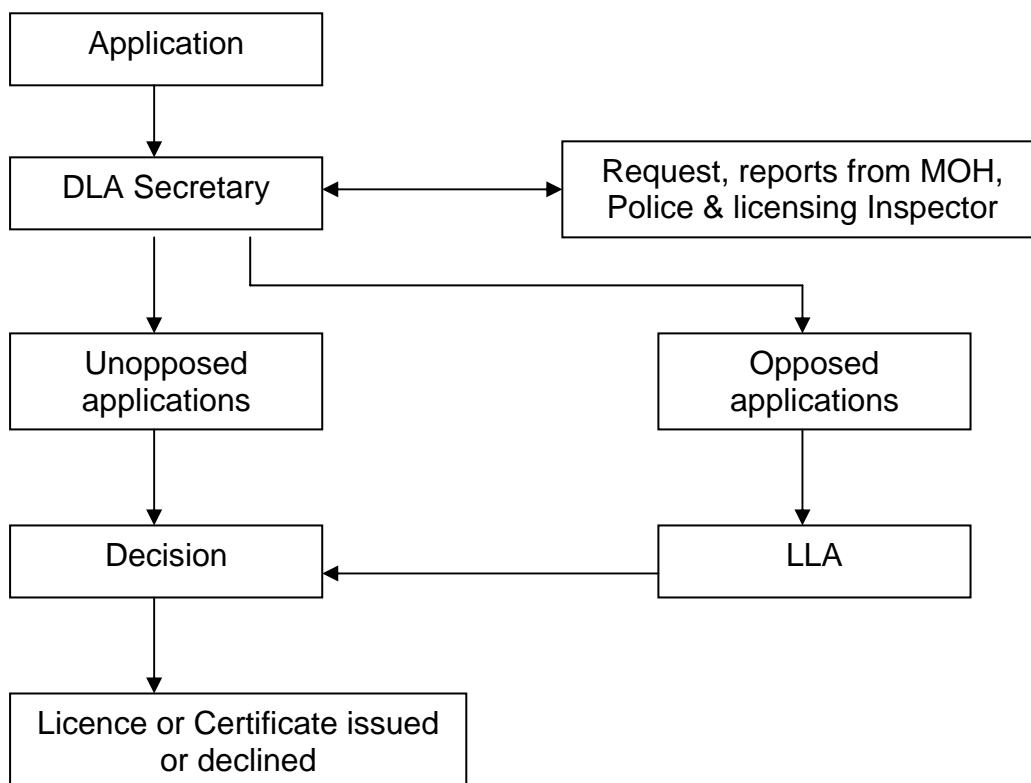
POLICY PRINCIPLES

The following policy principles are intended to promote fairness, consistency, transparency and to give applicants for liquor licences and the community, some certainty with respect to the administration of the Sale of Liquor Act within the Hurunui District.

POLICY 1 – Issue of Licenses

- That the **Secretary of the District Licensing Agency** be authorised to issue **unopposed liquor licence applications, special licence applications, managers certificates and temporary authorities** which comply with the requirements of the Sale of Liquor Act 1989 and which satisfy the provisions of this policy document.

Explanation: The detailed diagram below sets out the general process for the issue of licences and managers certificates under the provisions of the Sale of Liquor Act 1989. The DLA must either grant special or temporary authorities on the papers, or convene a public hearing.



POLICY 2 – Processing of Applications

- **That all applications are processed as soon as possible. When all required reports and all documents comprising “the complete file” are to hand any unopposed licence or certificate will be issued without delay.**

Explanation: Agency staff will advise and assist applicants as appropriate and will take all steps necessary to ensure that applications are not unnecessarily delayed.

POLICY 3 – Nominated Newspapers

- **That any one of the following newspapers, “Christchurch Press, Northern Outlook or North Canterbury News” be nominated as the newspaper in which the public notices, provided for within the Sale of Liquor Act 1989, are required to be published.**

POLICY 4 – Host Responsibility Policy

- **That all licensed premises are to have a written and operative Host Responsibility Policy which is to be observed at all times.**

Explanation: The policy is to be displayed in a public part of the licensed premises and an undated copy of the policy, specific to the licensed premises is to be submitted to the agency with all applications for liquor licences. A draft Host Responsibility Policy is attached as Appendix 1.

POLICY 5 – National Protocol on Alcohol Promotions

- **That the Hurunui District Licensing Agency endorses the national protocol on alcohol promotions as circulated by ALAC on 29 May 2000 and as may be amended from time to time (see Appendix 2 attached).**
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Explanation: It is an offence to promote any event or activity that is intended likely to encourage persons to consume alcohol to an excessive extent.

Licensees and managers are encouraged to obtain the approval of the reporting agencies for any promotions when on the face of it, could be seen to promote the excess consumption of liquor.

POLICY 6 - Hours of Operation

- **That there be a general policy in respect of tavern and hotel style on-licences permitting an opening time of 7.00am and requiring a closing time of 2.00am the following day.**

Applicants seeking an on-licence for hours outside of the hours mentioned above will be required to provide evidence of the need for such hours.

In particular the onus is on those requesting longer hours for late night entertainment to convince the agency that the entertainment, as defined, will be greater than might be expected in tavern style premises. The provision of large screen television, pool tables or video machines is not considered to warrant extended late night hours.

The agency would expect that premises operating under this provision would exhibit most of the following characteristics:

1. The main source of revenue would not be the sale of liquor.
 2. Facilities for the sale of liquor would not dominate the licensed area.
 3. Live entertainment would be provided on a regular, frequent and ongoing basis.
 4. A stage, dance floor or similar facility would be available for entertainers and/or patrons use.
 5. A cover charge would regularly apply.
 6. Extensive provision would be made for the supply of substantial food, tea, coffee and other non-alcoholic drinks.
- That there be a general policy in respect of restaurant style on-licences permitting an opening time of 7.00am and requiring a closing time of 1.00am the following day.
 - That there be a general policy in respect of stand alone off-licences and bottle stores associated with hotels and taverns, permitting an opening time of 9.00am and closing time of 11.00pm.
 - That there be a general policy in respect of off-licences associated with supermarkets authorising sales during the normal operating hours of the supermarket but not later than 11.00pm on any day when the premises are authorised to sell liquor.
 - That off-licence sales for hotels and taverns, across the bar, be granted for the same hours as authorised by the on-licence.
 - That there be a general policy in respect of mail order only off-licences authorising sales 24 hours. This applies to premises where the public are not permitted to be on site.
 - That there be a general policy in respect of club licences that the hours of operation reflect the hours of operation of the principle club activity but generally with closing times not later than:

Sunday to Friday -10.00pm
Saturdays -12.00 midnight

It is intended that these hours be “normal maximum” hours of operation. Applicants seeking more extensive hours should provide written justification for those hours. Their proposal may then be referred to the agency for consideration which may authorise the hours sought or request that the application be referred to the Liquor Licensing Authority for determination.

Explanation: The Sale of Liquor Act gives wide discretion to District Licensing Agencies in determining the hours of operation within its district.

The difficulty of providing for all circumstances and activities with which the sale of liquor is linked is acknowledged and this policy attempts to address the issue of diversity by prescribing “normal maximums” while retaining provision for true exceptions.

The option remains for applicants dissatisfied by this policy to pursue an issue before the agency or Liquor Licensing Authority as may be appropriate.

For “one off” unusual and exceptional circumstances there remains the option for licence holders to seek special licences for specific events.

In addition to the policy, applicants need to take into account the requirements of the Hurunui District Pan which may impose restrictions outside this policy.

POLICY 7 - Designations

- ❑ **That there be a general policy that premises which are clearly restaurants, by their nature, be undesignated.**
- ❑ **That clubs be undesignated.**
- ❑ **That off-licence areas of hotels, taverns and stand alone bottle stores be designated as supervised areas.**
- ❑ **That “public bars” and “places of entertainment” be designated as supervised areas.**
- ❑ **Council encourages the use of street areas for the purpose of dining. Where the street area is to be included in the licence, an application for consent to use the footpath or reserve area must be sort from the Council.**
- ❑ **Council do not consider it appropriate for tavern style drinking to be conducted in the street.**

POLICY 8 - Special Licences

- ❑ **Special licences can cover any event or series of related events (up to 15 per year) and can be issued for up to one year ahead.**
- ❑ **Premises used, say once a month for a service club or social club function, could be covered by one special licence issued for the whole year.**
- ❑ **Where an ongoing series of special licences is being sought then consideration should be given to seeking a full on-licence or club licence.**
- ❑ **Examples of where separate special licences are required are a school reunion one weekend followed by a fund raising ball the next weekend, even though they may be in the same hall.**
- ❑ **Where a Special Licence is sought for an event or occasion where the time of the event/occasion, the setting and/or the theme creates a risk of alcohol related harm, the Agency will consult, along with the Police, the Medical Officer of Health to ensure effective joint planning to minimise such risk. In such circumstances, the applicant may be required to file an Alcohol Management Plan for the event/occasion.**

Explanation: Special licences authorise and control the sale and supply of liquor for events or social gatherings where a permanent on, off, or club licence is not appropriate.

Where an event or social gathering occurs on licensed premises but outside of the normal hours authorised by the licence, a special licence is required. A special licence cannot be used as a tool to extend the authorised hours on a regular basis. The activity for which a special licence is sought must be outside of the premises regular activities.

The holders of club licences seeking to host events which will be attended by other than club members require a special licence. Examples of when a club might require a special licence are for wedding receptions, school reunions held on the premises, or simply when the club rooms are hired to another group and alcohol is to be sold or consumed on the premises.

A special licence is also required where liquor is to be sold or consumed on premises (other than at a private residential party) where the premises are not licensed and liquor is to be sold or supplied to those attending. Examples might be a wine and food festival, a one day cricket match, a ball, or other function where the alcohol provided appears to be “free” but the cost of which is actually included in the price of a ticket.

Appendix 3 attached - Guidelines for Special Licence Applications.

POLICY 9 - Issue and Renewal of Managers Certificates

- ❑ **The agency expects that applicants for club managers certificates will have successfully completed formal training in the management of licensed premises.**
- ❑ **Applicants for new general managers certificates and renewals must be the holders of the Licence Controllers Qualification (LCQ) issued by the Hospitality Standards Institute.**
- ❑ **In addition to formal training it is generally expected that applicants will have had at least six months experience working in licensed premises.**
- ❑ **Applicants for new general managers certificates where the applicant has or is purchasing licensed premises, they will be issued with a managers certificate tagged to their premises**

Explanation: This provision will only be exercised in respect of businesses where the sale of liquor is ancillary to the principle business. In other cases applicants intending to operate larger premises, in particular tavern style premises, will be expected to employ suitably qualified managers until such time as they gain qualification and experience.

Applications for new managers certificates satisfying the above criteria can anticipate issue of managers certificates where neither the police nor the licensing inspector oppose the application.

Applicants for renewal of managers certificates can anticipate three year renewal of their certificates where neither the police nor the licensing inspector oppose the application and where they are the holders of LCQ certificate.

POLICY 10 – Working Relationships

- ❑ **The Hurunui District Licensing Agency has a policy of working closely with the Police and Public Health Services.**
- ❑ **The agency supports a formal agreement with other agencies to record the common goals, differing roles, and agreed approach to processing applications, sharing information, and pooling resources.**
- ❑ **The agency supports staff attendance at agency meetings and at liquor licensing liaison group meetings.**
- ❑ **The agency supports community education and health promotion, and training for licensees in respect of responsible alcohol consumption and the reduction of alcohol related harm.**

Explanation: Care will be taken to ensure that any information provided or shared is of a general nature and which does not breach privacy legislation.

POLICY 11 – Wider Alcohol Strategy

- **The agency investigates the development of a wider alcohol strategy for the Liquor Licensing Policy to sit within to ensure that Councils obligations to contributing to the reduction of alcohol abuse are being met.**

POLICY 12 - Monitoring

- **The agency supports a monitoring strategy that defines the types of activities that would be carried out to confirm and measure compliance, and frequencies. This would include:**
 - 1. Regular routine monitoring of new and low-risk premises**
 - 2. Joint Police, Community and Public Health and Licence Inspector monitoring of licensed premises, including clubs, for the purpose of educating licensees of their responsibilities.**
 - 3. Late night, covert monitoring of licensed premises, utilising either agency licensing inspectors or suitably experienced contractors.**
 - 4. Controlled Purchase Operations (CPO) as conducted by the Police, Licensing Inspector and representatives of the Medical Officer of Health. The Inspector will formally advise those premises that refuse service during operations. The Inspector will take parallel enforcement action with Police, in respect of any premises that sells liquor to minors during a CPO, before the Liquor Licensing Authority**

Explanation: Compliance monitoring provides assurance that licensees are meeting their statutory requirements under the Act and comply with the conditions of their licences. The emphasis will be on active, risk-based monitoring for all licence types to ensure the focus and efficiency of compliance monitoring.

Additional monitoring and inspections also take place when licences fall due for renewal or when complaints are received about particular premises.

POLICY 13 – LLA Statements

- **All statements, present and future, issued by the Liquor Licensing Authority under the provisions of section 96 of the Sale of Liquor Act 1989 will form part of this policy. Appendix 4 attached, sets out the statements issued by the Liquor Licensing Authority to date.**

APPENDIX 1 - HOST RESPONSIBILITY POLICY

(Premises Name)

HOST RESPONSIBILITY POLICY

- ❖ **NON-ALCOHOLIC DRINKS** are available and advertised by signage in every bar, as well as listed in our beverage menu. Free water will always be available to all our customers.
- ❖ Hot and Cold food or a range of snack foods in the nature of pies, sandwiches, filled rolls and pizzas are available at all times and will be advertised throughout the premise. We will ensure that all our staff are aware of, and able to offer, at least four food options at all times that the premise is open.
- ❖ **LOW ALCOHOL BEVERAGES** such as low alcohol beer will be available and promoted by signage in all bars.
- ❖ Our staff will be fully trained in identifying and dealing with potentially intoxicated persons. **INTOXICATED PERSONS** will not be served and will be asked to leave our premises. Your safety is however paramount and we will endeavour to ensure that you come to no harm.
- ❖ It is our wish that you have a safe method of **TRANSPORT HOME** and actively promote safe driver schemes. We will advertise through signage that our bar staff are happy to arrange transport home for you if necessary.
- ❖ This area is designated **SUPERVISED**, which means that if under 18, you must be supervised by a parent or legally appointed guardian. As advertised throughout our premises, we will not sell alcohol to minors and our staff will ask for **PROOF OF AGE** if you look under 25. Please do not be offended - this is part of their job.

Your Host's

APPENDIX 2 - NATIONAL PROTOCOL ON ALCOHOL PROMOTIONS



National Protocol on Alcohol Promotions

The amendment to the Sale of Liquor Act 1989 includes a provision concerning the excessive consumption of alcohol during alcohol promotions.

The new section 154A of the Act is as follows:

"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."

This Protocol is intended to assist District Licensing Agencies (DLA), Police, Medical Officers of Health and Licensees to understand the type of promotions and events which are likely to be considered acceptable and unacceptable in terms of the provision.

The above agencies, the Alcohol Advisory Council (ALAC), and the Hospitality Association of New Zealand (HANZ) encourage licensees to establish a written House Policy which details how any promotion of alcohol is to be managed, whether the promotion is on-premise or at an off-sales premise, setting out responsible service of alcohol practices to be followed during promotions.

Such a House Policy should deal with the Host Responsibility practices which are part of the conditions of the licence, such as the provision of food, non and low alcohol beverages and transport options, as well as specific guidelines for the management of promotions.

Some examples for such guidelines include a restriction on the number of drinks which can be served at any one time to each customer, and a limitation on the stockpiling of drinks.

A commitment to staff training on House Policy procedures is required from licensees.

THIS PROTOCOL IS ONLY A GUIDELINE and the determination of an acceptable promotion or event will always be decided on a case by case basis.

APPENDIX 2 (continued)

UNACCEPTABLE PRACTICES

- ✗ Promotions which offer alcohol in non-standard measures and/or by virtue of their descriptive titles, such as "laybacks" - "shooters" - "slammers" - "test tubes" - "blasters", and their method of consumption, encourage irresponsible drinking habits and are likely to result in rapid intoxication.
- ✗ Promotions or drink cards which provide a multiple of free drinks, extreme discounts or discounts of limited duration on a given day or night, which have the capacity to be readily stockpiled by patrons or transferred to other patrons. In other words the promotion or drink card must not, by design or potential create an incentive for patrons to consume liquor more rapidly than they otherwise might.
- ✗ Any labeling or titling of promotions that may encourage patrons to consume liquor irresponsibly and excessively.
- ✗ The refusal to serve single measures of spirits on request or provide reasonably priced non-alcoholic drinks.
- ✗ Any promotion that encourages a patron to consume liquor excessively - "all you can drink offers" - "free drinks for women" - "two for one" - and to consume it in an unreasonable time period.
- ✗ Any promotion that compromises patron safety or puts them at risk of harm.

ACCEPTABLE PRACTICES

- ✓ The traditional "happy hour" during or immediately following normal daytime working hours.
- ✓ A complimentary standard drink upon arrival.
- ✓ Promotions involving low alcohol beer where it is clear from the advertising and promotional material that it is a low alcohol beer promotion.
- ✓ The advertising of a consistent price of a particular type or brand of liquor across the entire trading hours of a premises on a given day or night, providing the price is not so low that it will, in itself, encourage the excessive consumption of alcohol and intoxication.
- ✓ Promotion of particular brands of liquor that provide incentives to purchase that brand by virtue of a consistent discounted price, offer of a prize etc. but does not provide any particular incentive to consume that product more rapidly than a patron's normal drinking habit.
- ✓ Competitions with prizes of food, meal deals or other prizes consistent with Host Responsibility.
- ✓ Promotions involving food, meal and drink combos and other offers that reflect Host Responsibility.

FURTHER COPIES OF THIS PROTOCOL
AND OTHER HOST RESPONSIBILITY MATERIAL ARE
AVAILABLE FROM ALAC OR YOUR LOCAL DLA

APPENDIX 3 - GUIDELINES FOR SPECIAL LICENCE APPLICATIONS

HURUNUI DISTRICT LICENSING AGENCY

SALE OF LIQUOR ACT 1989

SPECIAL LICENCES

INFORMATION FOR GUIDANCE OF APPLICANTS

Full details describing each individual event or function must accompany the application. Failure to supply sufficient information will result in the consideration of the application being delayed until further details are obtained.

To ensure applications are process on time they should be lodged a minimum of 20 working days prior to an event.

The application fee (currently \$63.00 including GST) must accompany the application.

Under normal circumstances licences for evening social functions will not be granted for later than 2.00am the following day except when the function starts late (eg following a theatre performance or at the conclusion of an evening sports tournament).

Special licences may be granted for "an event or series of occasions or events". This is interpreted as meaning related and similar functions.

Licences for a series of occasions or events over an extended period will only be granted to clubs or groups where there is a pre-planned programme of clearly specified, and related club (or group) events.

An application may not be lodged for a series of unrelated events, ie a list of events including perhaps a twenty-first, a wedding, and a fund raising evening will require separate licence applications for each event whereas a theatre group with an annual performance programme involving group members can apply for a single licence for the annual programme.

Applicants are welcome to discuss their requirements with our staff prior to or when lodging their application.

If a function involves a marquee over 30m² a building consent is required; contact Council's Building Officials.

APPENDIX 4 – SECTION 96 LLA STATEMENTS

LIQUOR LICENSING AUTHORITY (SALE OF LIQUOR ACT 1989)

LIQ/ADM1

Secretaries
District Licensing Agencies

SECTION 96 STATEMENT

Section 96 of the Sale of Liquor Act 1989 provides:

96 Authority may send statements to Agencies –

- (1) *The Licensing Authority may from time to time issue to District Licensing Agencies a statement settling out its views on the general administration of this Act or 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 inquiry held by it or from any other source.*
- (2) *No such statement shall relate to any matter that may be a ground for an appeal against a decision of a District Licensing Agency.*
- (3) *In the exercise of its functions under this Act, every District Licensing Agency **must observe** any statement issued under this section.*

This is the eighth such statement issued since the Act came into force on 1 April 1990.

The seven statements previously issued are now republished (with amendments as appropriate) to the extent that they are still relevant. Statements 4 and 5 have been transposed for the purposes of continuity of subject matter.

1. SPECIAL LICENCES – (issued 19 October 1992)

- 1.1 The Authority confirms its view expressed in Decision No. 181/92 dated 3 June 1992 New Zealand Police v Selwyn District Licensing Agency, and earlier decisions, that a special licence should not be issued by a District Licensing Agency as a substitute for a “permanent” licence.
- 1.2 Special licences will often extend the trading hours permitted by the on, off or club licence in force. Agencies should ensure that the frequency of special licences for particular premises does not, in effect, give on going trading hours for premises, which the licensee has been unable to obtain when seeking the existing licence. Likewise, the Authority would not

expect special licences to issue where a permanent licence had been refused.

- 1.3 This statement sets out the Authority's general views on the administration of the Acts as it relates to special licences.
- 1.4 The Authority wishes to make clear that this statement should not be seen as –
 - 1.4.1 A desire to disturb or interfere with any Agency's exercise of its discretion to grant special licences in terms of sections 73 or 74;
 - 1.4.2 Predetermining any appeals that may be lodged to the Authority against decisions of District Licensing Agencies granting or declining applications for a special licence.

2. APPEARANCE AT PUBLIC HEARING – (issued 10 December 1992)

The Authority will always welcome appearances being recorded on behalf of Local Authorities or Community Boards by Mayors, Councillors or members, but in any event expects that a District Licensing Agency Inspector will be present (and record an appearance) at any public sittings of the Authority.

3. TEMPORARY AUTHORITY APPLICATIONS – INVOLVEMENT OF POLICE (issued 12 August 1994)

- 3.1 The Authority is aware that the Police do not always have the opportunity to report or comment on an application for a temporary authority being considered by a District Licensing Agency in terms of ss.24 and 47 of the Act.
- 3.2 The consequences of an unsuitable person operating premises pursuant to a temporary authority could obviously be as equally undesirable as such a person holding an on-licence or an off-licence.
- 3.3 Sections 24 and 47 provide that an Agency may determine such an application ex parte or direct that notice of the application be served on such persons as the Agency may specify. In terms of s.107(8) an Agency, subject to the provisions of the Act and the Regulations, may regulate its procedure in such manner as it thinks fit.
- 3.4 In the Authority's view it is prudent for District Licensing Agencies to refer any application for a temporary authority to the Police for comment and/or report. Each Agency should settle procedures for the referral of such applications with the Police. Those procedures should be able to take

account of situations where urgency or priority is required. Referral may involve less than a formal report.

- 3.5 Any Police report of comment which an Agency considers it may wish to have regard to in determining an application must be referred to the applicant before any decision is taken.

4. DURATION OF TEMPORARY AUTHORITIES – (issued 21 April 1998)

- 4.1 Sections 24 and 47 of the Act provide that upon application of any person who appears to have any right, title, estate or interest in any premises or conveyance, or any business conducted in any premises or conveyance, in respect of which an on or off-licence is in force, a District Licensing Agency may make an order authorising the applicant, or some suitable person nominated by the applicant, to carry on the sale, supply or delivery of liquor for such period not exceeding 3 months as the Agency may specify in the order (the emphasis is ours).
- 4.2 There have been instances of applications for on-licences being opposed and scheduled for public hearing before us, but pending a hearing the applicants have operated the business pursuant to temporary authorities issued in terms of s.24.
- 4.3 Having been satisfied by the evidence adduced at the hearings that, in each case, the applicant was unsuitable to hold the licence sought, we refused to grant the applications.
- 4.4 The temporary authorities current at the time of public hearing still had a significant portion of their three-month period to run. This has enabled a person, adjudged by us unsuitable to hold a licence under the Act, to continue to trade for the remaining life of the temporary authority.
- 4.5 It is the Authority's view that it may be appropriate for District Licensing Agencies to consider the grant of any temporary authority on the basis that it carries a clear indication that it will expire on a specified date; or on such date as the holder's application for an/off-licence has been determined, whichever is the sooner.

5. RETENTION OF "COMPLETE FILES" BY DISTRICT LICENSING AGENCIES (issued 5 July 1996)

- 5.1 A Local Authority, in exercising its power as a District Licensing Agency, must comply with Part XVII of the Local Government Act 1974 as they apply to the custody of documents and local archives.

- 5.2 This statement, whilst setting out the Authority's general views as to the retention of "complete files" under the Sale of Liquor Act 1989, must not be read as detracting from those specific Local Government Act requirements, and it makes no comment as to the length of time a District Licensing Agency should retain "complete files".
- 5.3 "Complete files" are as described under ss.12, 34 and 58 of the Act and include such documents as specified in Regulations 5(3), 8(2) and 11(2) of the Sale of Liquor Regulations 1990.
- 5.4 The Authority's practice on determination of an on, off, club licence, or manager's certificate application, is to return the "complete file" to the District Licensing Agency. At public hearings some District Licensing Agencies have been unable, or have had difficulty, in making available the "complete file" for a previously processed application when called upon.
- 5.5 Issues can arise – including questions as to the extent of premises and the part or parts of premises in which liquor may be sold, supplied, consumed, or delivered in terms of the licence – which require the Authority to look at the formal record in respect of an existing licence. The formal record, including the plan referred to in the licence, is the "complete file" and that must be able to be made available to the Authority.
- 5.6 This matter is of sufficient concern to the Authority for its indicate that it expects District Licensing Agencies to maintain a system for timely retrieval of "complete files" in respect of existing licences should they at any time be requested.

6. REQUIREMENT FOR CERTAIN DOCUMENTS TO BE FORWARDED FROM AGENCIES TO THE AUTHORITY – (issued 15 May 2000)

- 6.1 Section 98(1)(b) of the Act obliges the Authority to report to the Minister annually " on the working of the Act and the desirability or otherwise of amending it".
- 6.2 Section 221(4) of the Act provides that "*The Secretary of each District Licensing Agency shall send to the Secretary of the Liquor Licensing Authority a copy of every application made to the District Licensing Agency, and a copy of every decision made by the District Licensing Agency.*"
- 6.3 With the devolution to the Agencies of decision making in respect of unopposed on, off, club licence, or managers' certificate applications, the Authority wishes to know how that is working in practise. With that in mind, and having regard to the requirements of s.221(4), the Authority seeks from each Agency:-

In respect of applications for the grant, renewal or variation of on, off or club licences:

- (a) a copy of each completed application form.
- (b) a copy of the report of the District Licensing Agency Inspector.
- (c) a copy of the decision made by the Agency.
- (d) a copy of the licence and/or notice of renewal issued.

In respect of applications for the grant or renewal of managers' certificates, the Authority seeks from each Agency:

- (a) a copy of each completed application form.
- (b) a copy of the certificate or notice of renewal issued.

- 6.4 The Authority also seeks copies of delegations pursuant to s.104 and the name and designation of the Secretary of the District Licensing Agency. When delegations are altered or a new District Licensing Agency Secretary is appointed, the Authority wishes to be advised.
- 6.5 Each Agency is asked to produce, as at 30 June annually, a list of licensed premises in its area detailing the licensee's name, premises name and addresses, type of licence held, licence number, date of licence issue and date of licence expiry. This continues previous practice enabling a comparison of the information held by each Agency with that held by the Authority, and will help to ensure the accuracy of the national register of licensed premises required to be maintained by the Authority.
- 6.6 Following devolution to Agencies of the bulk of the decision making an licence issue process, Agencies' annual reports to the Authority will assume greater significance in enabling the Authority to assess the overall working of the legislation, and have that reflected in its own annual report to Parliament. It is requested that each Agency submit to the Authority, as at 30 June annually (by 31 August), a statistical return detailing the workload undertaken during the year. This return should form a part of each Agency's annual report to the Authority.
- 6.7 In summary the Authority seeks from all Agencies:
 - 6.7.1 Copies of all licences, notices of renewal, managers' certificates and Inspectors' reports, **in addition to the application and decision required by s.221(4).** These documents should be sent within five working days of issue.
 - 6.7.2 Copies of any written delegations in terms of s.104(3), and the name and position held of the Secretary of the District Licensing Agency.
 - 6.7.3 An annual list of all actively licensed premises in each Agency's district.
 - 6.7.4 A standard annual statistical return.

7. REQUIREMENT TO DESCRIBE THE NATURE OF THE BUSINESS CARRIED ON UNDER CERTAIN TYPE OF ON-LICENCE – (issued 24 October 2000)

Following enactment of the Sale of Liquor Amendment Act 1999, with effect from 1 April 2000, section 7(1) of the principal Act was repealed. In consequence the different categories of persons to whom liquor may be sold pursuant to an on-licences. Irrespective of the nature of the business, under any on-licence issued after 1 April 2000, liquor may be sold to **any** person present on the premises.

However, pursuant to s.14(2) of the Act, on-licences granted in respect of hotels and taverns must still include a condition restricting the sale of liquor to lodgers or diners on Good Friday, Easter Sunday, Christmas Day, and on Anzac Day prior to 1.00pm. The inclusion of such a condition identifies hotel and tavern businesses.

Other on-licences that relate to a specific business are those issued for conveyances and BYO restaurants.

In early 2000, District Licensing Agencies were provided by the Authority's secretariat with sample templates (subsequently updated as appropriate) of the various types of licences available for issue after 1 April 2000. the templates for on-licences, other than hotels, taverns, conveyances and BYOs, all have provision for a business description in the condition relating to trading days and hours authorised.

Given that the wording of the authority to sell, supply and consume liquor is standard on **all** on-licences issued after 1 April 2000, and bearing in mind that the trading name on any individual licence may give little or no indication of the business to be carried on under that licence, the Authority requires that for businesses other than hotels and taverns the condition of the licence covering the days and hours of sale include a description of the nature of the business; e.g.:-

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

On such days and during such hours as the premises are being operated as a nightclub and entertainment venue but no other than on the following days and hours: ...”

or

“On such days as the premises are being operated as a restaurant but not other than on the following days and hours: ...”

This requirement is to ensure that licensees who portray their business **as being other than that of a hotel or tavern** do not operate a business in which the sale and consumption of liquor predominates, particularly at a time when hotel and tavern premises are prevented by statute from so trading.