

## Questions and Answers

- Commonly asked questions that arose from the Liquor and Gaming Forums conducted around the State in February/ March 2010.

### Liquor

#### **The Liquor Licensing Act 1990:**

**Q.** What is the responsibility/liability for a licensee and/or server of alcohol with secondary supply of alcohol to underage persons?

**A.** A server of alcohol is not liable for a secondary sale, however servers of alcohol should not sell alcohol to a person if they are aware it is to be supplied to an underage person.

**Q.** Why not bring back opening hours from 5 AM?

**A.** The Act authorises trading from 12 midnight to 5.00 AM through the issue of an Out of Hours (OOHP) permit. The Commissioner must not grant a permit unless satisfied that the sale of liquor would not cause undue annoyance and disturbance or cause the occurrence of disorderly conduct. Given that the Act provides for OOHPs to be issued up until 5am, it would not be appropriate for the Commissioner to have a blanket policy not to issue permits up to 5am, unless there was evidence that this is creating significant problems. While there are, from time to time, issues with individual OOHPs, these are not such as to justify a blanket reduction in hours.

**Q.** Does the licensee always need to be on the premises?

**A.** No there is no requirement for the licensee to be always on the premises.

**Q.** How long does the licensee need to be away before being required to notify absence to the Commissioner?

**A.** A licensee must not be absent from the licensed premises for a period exceeding 14 days, without notifying the Commissioner of the length of absence and the name and address of the person who will be in charge of the premises.

**Q.** Can off-licences also refuse service to someone who appears to be drunk?

**A.** Yes and are required to do so under the Act.

**Q.** Would consideration be given to enabling corporate entities to hold a liquor licence?

**A.** The Act is quite specific and requires the licensee to be a “natural” person, able to exercise effective control over the sale and consumption of liquor on the licensed premises. An amendment to

**the Act would be required to enable corporate entities to hold a liquor licence. This is a matter for the Government.**

**Q.** Are licence fees set on a cost recovery basis?

**A.** **The fees charged reflect the cost of processing the application – they do not, however, reflect the full cost of regulating the various types of licences and permits.**

**Q.** Some medical conditions can cause a person to appear to be drunk – is there a strategy and process for determining whether a person appears to be drunk?

**A.** **Identifying whether a patron “appears to be drunk” is difficult and staff of premises must have a strategy and policy in place that is consistent and applied at all times. The Act does not provide a definition of “appearing to be drunk” but staff should refer to the RSA Resource Book which deals with the assessment of patrons and recognising the signs.**

**Q.** What happens when there is illegal sale or service of alcohol?

**A.** **Any illegal sale or service of alcohol should be reported to Tasmania Police.**

**Q.** Why aren't people who are intoxicated, charged instead of or in addition to licensees/servers?

**A.** **The Act places the responsibility on the licensee and server of alcohol to ensure that patrons who ‘appear to be drunk’ are not served or supplied alcohol.**

**Q.** What can I do about patrons smuggling liquor into my licensed premises?

**A.** **It is not an offence under the Act for a patron to take liquor onto licensed premises. However the licensee has the right to refuse and check patrons at the entry to the premises. If liquor is brought onto premises it is difficult for a licensee to control the consumption of liquor, comply with the law and adhere to RSA principles.**

**Q.** Why don't we regulate the supply of alcohol to minors by parents?

**A.** **The Police Offences Act was recently amended to make it an offence to supply alcohol to underage persons on private property without the permission of a parent or responsible adult.**

**Q.** Why can't annual licence fees be paid electronically?

**A.** **The Branch within the next three months will be in a position to accept payments, like annual licence fees, through BPay (internet banking).**

**Q.** Why are premises able to ban someone who is drunk and disorderly for only 24 hours?

**A.** A licensee, or a person acting with the authority of the licensee may prohibit the entry of any person onto the licensed premises. There is no time limit.

**Q.** Are the new penalties in the Liquor Licence Act effective?

**A.** Yes, since the new penalties were introduced, Police have issued a number of infringement notices to staff and licensees.

**Q.** How much does it cost to transfer a liquor licence?

**A.** The transfer fee for a general, on, off and club licence is \$532.00, an on-restaurant or special licence is \$266.00 and a special licence for wine producers is \$133.00. A schedule of fees can be viewed on the website. (See *Liquor or Gaming under fees*)

**Q.** Why are around the clock jugs, which encourage binge drinking, allowed?

**A.** If premises engage in irresponsible practices they leave themselves exposed to a breach of the Act and liable for an offence. Premises should avoid practices that encourage rapid or excessive consumption of alcohol.

**Q.** Implementation of National Competition Policy has meant that it is too easy to get a licence, particularly an off-licence.

**A.** The Licensing Board when considering an application for a licence, must make a decision that is in “the best interests of the community” and in the case of an off licence the Board must be satisfied that the principal activity to be carried on at the premises is the sale of liquor. The Tasmanian Alcohol Action Framework recognises that readily available alcohol is associated with a range of alcohol related problems and that regulating availability may be an effective strategy to reduce problems.

**Q.** How do you keep an eye on someone to whom you have refused service because they appear to be drunk and stop someone else buying alcohol for them?

**A.** The licensee, staff and security must be vigilant and monitor the refused patron to ensure that they do not get access to alcohol. Depending upon the circumstances it may be appropriate to ask the patron to leave the premises.

**Q.** Do Out of Hours Permits have to be displayed?

**A.** Yes

**Q.** Is there still a requirement for name of licensee to be displayed over the door?

**A.** No

**Q.** How long does it take for a liquor licence to be transferred?

**A.** An application to transfer a liquor licence should be made to the Commissioner at least 28 days before the day on which the transfer is to take effect. The Commissioner may approve a transfer in a lesser period, dependent upon the Commissioner being satisfied that the applicant is qualified to be granted a liquor licence.

**Q.** Why is approval for the extension of a licensed area required?

**A.** The area of licensed premises cannot be altered without approval from the Commissioner as the Commissioner must be satisfied the alteration is in ‘the best interests of the community’ dependent on the nature of the alteration and the activities to be conducted and that the designations to prohibit or restrict young people are appropriate.

### **Liquor Accords:**

**Q.** Are liquor accords likely to result in increased police numbers at key trading times?

**A.** Liquor accords provide a forum for licensees, Police and Liquor and Gaming to discuss issues affecting the conduct of premises and initiate solutions that maintain and improve the environment in and around licensed premises. This may include extra policing if appropriate or justified.

**Q.** Should the taxi services be involved in an accord?

**A.** Yes, taxi services can be an integral component of accords to the mutual benefit of taxi service companies and licensees.

### **Staff training Responsible Service of Alcohol (RSA) and Responsible Conduct of Gaming (RCG):**

**Q.** Could consideration be given to the establishment of a centralised RSA register?

**A.** No. The Act confers the responsibility on the licensee to ensure that a person who serves liquor has successfully completed an approved course.

**Q.** Is it likely that staff and licensees will need to update their RSA qualifications in the future?

**A.** Yes, it is being considered that serving staff will be required, in the future, to update their qualifications on line or through a refresher course. It is important for servers of alcohol to be up to date with the law, licensing policy and the principles of RSA, to reduce their liability and support the “duty of care” to patrons.

**Q.** Is there a time limit on the RSA qualification?

**A.** No, not at this stage

**Q.** What integrity does the RSA online system provide to ensure that the certificate is issued to the person who has actually undertaken the training?

**A.** **Persons completing RSA online must complete an online declaration or a workplace testimonial or attend a Skills Institute campus and complete the assessment.**

**Q.** What happens to statement of attainment/qualifications gained by doing RSA online once the trial is complete? Will they still be valid?

**A.** **Yes.**

**Q.** When will the approved provider list for RCG be finalised?

**A.** **The approved provider list for RCG will be finalised once Registered Training Organisations have notified the Commission that they intend to deliver RCG training, following the RCG Moderation day on 24 March 2010. The list will be posted on the website prior to 1 July 2010 and licensees notified through the Liquor and Gaming newsletter.**

**Q.** Do we accept interstate RSA certificates?

**A.** **Yes**

**Q.** Could consideration be given to better coordinating training provided by Network Gaming with RCG training to make it easier for people from regional areas to attend.

**A.** **This a matter for Network Gaming. The issue has been raised with Network Gaming which has indicated it will consider whether coordination can be improved. It is recognised that people in remote areas sometimes have difficulty accessing training in a timely manner. The Skills Institute will be developing a RCG online course which, if accepted by the Commission, will assist those living in regional areas.**

## **General**

**Q.** Would the Licensing Board consider holding a similar forum? *It would be good to hear what the Board takes into account in determining whether issuing a licence is in the public interest.*

**A.** **The Board is not considering holdings forums. An understanding of the Board's considerations when determining an application for a licence can be gleaned from their decisions which can be viewed on the website. (See *Licensing Board under Liquor*)**

**Q.** Can different liquor self-assessment checklists be provided for different licence types? The existing check list is difficult to complete for bottleshops?

**A.** **We are reviewing the checklists and will consider providing a separate checklist for bottleshops**

- Q.** Will calling Tasmania Police earn licensees a black mark?
- A. No. Tasmania Police have stated that licensees will not be criticised or penalised for requesting assistance, particularly when premises have good compliance strategies in place and actively promote RSA.**
- Q.** Do the Liquor and Gaming Branch get police reports of all incidents, even in rural remote areas, when police attend premises?
- A. Yes, Tasmania Police provide the Branch with monthly reports on all incidents that occur in and around licensed premises.**
- Q.** Is there a way to minimise the trouble and expense for club committees that hold a liquor licence and need to transfer the licence when committee members change?
- A. Someone in the club must be responsible for holding the liquor licence. However, this does not need to be a member of the Committee. For example, the bar manager could hold the liquor licence.**

## **Gaming**

- Q.** I am having difficulty in navigating the gaming exclusions database?
- A. If you are having trouble navigating the exclusions database – call the Branch on 6233 2475 for assistance.**
- Q.** How do you apply for a keno licence?
- A. Licensees wishing to conduct Keno need to contact Network Gaming. If Network Gaming offer the product, the applicant will be required to apply to the Tasmanian Gaming Commission for a gaming licence.**
- Q.** Are there any signs that need to be displayed in relation to the prohibition on minors from gaming?
- A. Yes, there are two signs – one prohibiting underage persons from entering a gaming area containing gaming machines and a second prohibiting underage persons from gambling. These signs are on the website. (See *Gaming under signs*)**
- Q.** Is there a sign that can be used to indicate that minors are prohibited from participating in minor gaming (e.g. bingo and lucky envelopes)?
- A. Not at present, but consideration will be given to developing such a sign.**