

## CHANGES TO LICENCE APPLICATIONS AND RENEWALS

One of the aims of the Sale and Supply of Alcohol Act 2012 is to improve community input into local alcohol licensing decisions.

From 18 December 2013, DLAs will cease to exist and all outstanding applications will be transferred to the new district licensing committees (DLCs) for completion.

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### DISTRICT LICENSING COMMITTEES (DLCs)

Every territorial authority must establish one or more district licensing committees (DLCs) to make decisions on all licences and managers certificates. A DLC cannot delegate its decision-making role.

DLCs will replace district licensing agencies on 18 December 2013.

#### From that date, DLCs are responsible for considering:

- all licence applications and renewals, regardless of whether they are contested or uncontested
- all managers certificate applications and renewals, regardless of whether they are contested or uncontested enforcement applications relating to licence suspensions for non-compliance with public health or fire precaution requirements.
- Local alcohol policies (LAPs)

Once a LAP is in place, licensing bodies will have to consider the policy when they make decisions on licence applications.

- LAPs are optional. Territorial authorities are not required to have a LAP.
- Each territorial authority can only have one LAP. However, a LAP can have different conditions for different areas within the territorial authority's district.
- Two or more territorial authorities may develop a joint LAP.

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### WHAT A LAP CAN COVER

#### Through local alcohol policies, communities will be able to:

- limit the location of licences in particular areas or near certain types of facilities, such as in specific neighbourhoods or near schools or churches
- limit the density of licences by specifying whether new licences or types of licences should be issued in a particular area
- impose conditions on groups of licences, such as a one-way door condition that would allow patrons to leave premises but not enter or re-enter after a certain time
- restrict or extend the maximum opening hours set in the new Act:
  - o 8am - 4am for on-licences (such as pubs and restaurants)
  - o 7am - 11pm for off-licences (such as bottle stores and supermarkets).

LAPs must be reasonable and consistent with the object of the Act. The first two bullet points above will not apply to special licences and LAPs cannot include policies on matters unrelated to licensing.

### THE EFFECT OF A LAP

Although some communities currently have alcohol policies, these are not legally enforceable. The new Act gives legal standing to LAPs that are developed according to its requirements.

Licensing bodies will have to consider LAPs when they make decisions about licence applications.

The Act aims, through LAPs, to give local communities more input into licensing decisions. This means local supermarket chains may have different opening hours or conditions depending on where they are located.

For reasons of fairness, policies relating to the location and density will not apply to existing licences.

However, the LAP will apply to new licences that are issued for existing premises (eg, if a store has a new owner who is applying for a licence).

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### OBJECTIONS UNDER THE NEW CRITERIA

The new criteria also provide communities with new grounds to oppose licence applications.

Under the Act, a person may object to the issuing or renewing of a licence based on the criteria, provided they have greater interest in the application than the public generally. The greater interest test is the same as the existing Sale of Liquor Act.

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### GROCERY STORE, DAIRY OR CONVENIENCE STORE?

Grocery stores that mainly sell food products may sell alcohol if they have an off-licence.

Under the previous Sale of Liquor Act 1989, some dairies and convenience stores were granted a licence to sell alcohol. This was not intended. Such stores with existing licences will not be able to renew them.

#### Grocery Store means a shop that:

- has the characteristics normally associated with shops of the kind commonly thought of as grocery shops
- a range of food products and other household items is sold
- the principal business carried on is or will be the sale of food products
- The definition of food products does not include:
  - alcohol, confectionery, ready-to-eat prepared food, or snack food;
  - a drink (other than milk) sold in a container with a capacity of 1 litre or less

#### It does include:

- delicatessen items that are not ready-to-eat prepared food or snack food

#### The licensing authority must form an opinion on whether the store is a grocery store based on:

- the size, layout, and appearance of the premises
- a statement of the annual sales revenues (or projected annual sales revenues) of the shop,
- the number, range, and kinds of items on sale
- the LA may have regard to any other matters it thinks relevant
- the LA may determine that the store does not have the characteristics of a grocery store based on the premises and/or the items on sale

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## OTHER CHANGES

### TRADING HOURS

New national maximum trading hours apply:

- 7am 11pm for off-licences  
(If you are currently open outside these times, you'll have to change your operating hours or the times you sell alcohol.)
- These changes took effect from your first full trading day on 18 December 2013.
- If your existing licence is for shorter hours, you must stick to those times.
- Local councils may set different maximum trading hours as part of a local alcohol policy. Check your councils website to see if it is putting a policy in place.

### STORE DISPLAYS

New rules about alcohol displays, promotions and associated advertising in supermarkets and grocery stores came into force on 18 December 2013.

The law requires that displays and promotions can only be in a single area of the store. The purpose of the new rule is to limit how much shoppers are exposed to them.

**The store must be so configured and arranged that the alcohol area is not:**

- situated in the most direct pedestrian route between the entrance and the main body of the store
- situated in the most direct pedestrian route between the main body of the store and any general point of sale area (such as tills, checkouts or self service checkouts)
- Once a single area condition is in place, all advertising, display, and promotion of alcohol within the store must occur within the single alcohol area.
- Non - alcohol products must not be displayed, advertised or promoted within this area.
- The restriction on the promotion and advertising of alcohol to within the single area does not apply to: Promotions or advertisements in newspapers, magazines or catalogues.

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

The new criterion of design and layout aligns with concepts contained in Crime prevention through environmental design (CPTED). Guidelines on CPTED can be obtained through the Health Promotion Agency at <http://www.alcohol.org.nz/research-resources/latest-resources>

Check sections [112-115 of the Act](#) and get legal advice to ensure you comply with the law.

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## ADVERTISING

### NATIONAL GUIDELINES ON ADVERTISING AND PROMOTIONS

The new law bans all advertising and marketing that promotes excessive alcohol consumption or has special appeal to minors. The penalty is a fine of up to \$10,000. A business licence may also be suspended or cancelled.

**Under the new Act it is an offence to do any of the following:**

- Encourage excessive consumption of alcohol.
- advertise free alcohol anywhere that can be seen or heard from outside the licensed premises.
- (It is not an offence to promote or have a discount on licensed premises of 25% or more if it cannot be seen or heard from outside the premises.)
- offer customers free goods, services or opportunities to win prizes if they purchase alcohol
- Loyalty programmes where rewards or discounts are not primarily applied to the purchase of alcohol are allowed
- The penalty is a fine of up to \$10,000. A business licence may also be suspended or cancelled.

### ADVERTISING STANDARDS AUTHORITY

All advertising and promotions should also comply with the Advertising Standards Authority's.

**The Advertising Standards Authority's Code for Advertising and Promotion of Alcohol identifies Alcohol advertising and promotions shall:**

- observe a high standard of social responsibility
- be consistent with the need for responsibility and moderation in alcohol consumption and
- be directed at adult audiences both in content and placement.
- Sponsorship advertisements shall promote the sponsored activity, team or individual. The sponsor may be featured only in a subordinate manner.

Advertising, promotions and sponsorship that are the subject of a complaint may breach these principles and may be referred to the Advertising Standards Complaints Board for a decision.

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### REPEAT OFFENDERS LICENCES MAY BE CANCELLED

If you break licensing laws, you are now more likely to lose your licence or managers certificate.

In particular, if the Alcohol Regulatory and Licensing Authority finds that you breached specific provisions three times within three years, your licence or managers certificate can be cancelled. If it is, you won't be able to get another one for five years.

The specific offences are set out in [section 288 of the Act](#). They include breaking the new advertising and promotions rules, and selling and supplying alcohol to under-age drinkers and intoxicated people.

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### INTOXICATED PEOPLE WILL NOT BE SERVED

As under the previous law, you cannot serve intoxicated people or allow them to remain on the premises.

The new Act clearly defines intoxicated. This means someone who is affected by alcohol, drugs or other substances and who is displaying two or more of the following conditions:

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

- Impaired speech

You should familiarise yourself with the new definition and make sure your staff know their responsibilities. Useful resources include the intoxication assessment tool.

The penalties for breaching intoxicated patrons offences include fines of up to \$10,000.

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