

Local Liquor Wanganui

Issue 24

A newsletter prepared by the Wanganui District Licensing Agency
For those in the Liquor Industry

March 2007

Daylight Saving

Daylight saving finishes at 2.00am on Sunday 18 March 2007 when clocks are put back one hour. The Time Act provides that where licences permit trading to 3am premises effectively have an extra hour of trading

Welcome

3 Amigos
(Old Town Restaurants Ltd)
13 Victoria Avenue
Wanganui

Introducing

Claire Laws
Liquor Licencing Officer
Wanganui District Council

Liquor Licensing Requirements for Easter and Anzac Day 2007

The Sale of Liquor Act prohibits the sale of alcohol by hotels, taverns and off licences on Good Friday, Easter Sunday and before 1pm on Anzac Day to any person other than:

- Guests or employees accommodated on the premises
- Any person present for the purposes of dining
- Where a special licence is held for an occasion or event

Good Friday, Easter Sunday and Anzac Day all start at midnight.

If considering a special licence to trade on any of Good Friday, Easter Sunday and before 1pm on Anzac Day members should apply now to ensure that there is sufficient time for a licence to be granted.

The Police and the local District Licensing Agency (DLA) may do a written report on the application even if they do not oppose the application, and often do not process applications in less than the 20 day timeframe provided for in the Sale of Liquor Act. Effectively this means your application should be filed at least one month before the day on which it is required. This period needs to be doubled if you expect your application to require a hearing with your DLA.

You should make your application as detailed as you can. The "occasion or event" should be something outside the usual trading of your establishment. Be as specific as you can, including about the type of food or entertainment available.

Remember also, that it is your responsibility as the applicant to follow up on your application. Don't leave it to the DLA to get in touch with you as you may find that you do not receive your licence in time.

Public Drinking in Club Licensed Premise.

The Agency has received a number of enquiries re non-members drinking in various clubs so it may be of benefit to revisit the topic.

Any Club licence clearly spells out who the Club can supply liquor to.

I refer to the Liquor Licensing Authority Decision PH 745/2005 *Waiuku Cosmopolitan Club Incorporated* as a reference.

In this case the club was trying to legalise the sale to non-members by use of a day membership ticket.

I have extracted comments from the Authority that are applicable for all instances.

“The Authority’s Decision and Reasons

[44] In our view the scheme of the Act is aimed at ensuring 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 offence of being on licensed premises after hours does not apply to clubs.

[45] On the other hand, Parliament has specifically stated that if a member of the public is invited to visit a club as a guest of a member, then the guest may only be served with liquor if that guest is in the member’s company. In other words, having invited a member of the public to visit the club, the member assumes and accepts responsibility for supervising the guest’s behaviour.

[46] The confidence which Parliament reposed in the management of clubs is reflected in the number of times that clubs appear before us for enforcement applications. In only rare occasions do we have to deal with disputed club licence renewals.

[47] The definition of a club licence is set out in s.53 of the Act and reads:

A club licence shall authorise the holder of the licence to sell and supply liquor, on the premises described in the licence, for consumption 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.

[48] The club licence is one of just four licences which can be granted under the Act. It has a special significance in licensing law. A club is specifically prevented by s. 8(2) of the Act from holding an on-licence. **In other words, it may not sell to members of the public without a special licence, or unless the member of the public is a bona fide guest.** Pursuant to s.59 (2) of the Act, a club licence cannot be granted until we are satisfied that the predominant purpose for which the premises are to be used, is not the consumption of liquor.

[49] Even the provisions of s.115 are relaxed for a club licence. Normally speaking, the holder of a General Manager’s Certificate must be on duty at all times when the premises are open. However, in the case of clubs, the Act has taken into account that the members are disciplined by their membership, and the law only applies when liquor is being sold to the public. **The clear quid pro quo for the advantages which a club enjoys, is that it will not allow members of the public to use its facilities.**

[54] We believe that the Club has unwittingly allowed its premises to become a place to which members of the public have been encouraged to resort.

[55] In our experience, if the law is allowed to be circumvented in this way, and if standards are allowed to be relaxed, then the abuse of liquor will follow. The taint of illegality inevitably spreads throughout the management of a business. When people agree to join a club, they should recognise that membership is a privilege and not a right. No application for membership is guaranteed. There is a process to be followed. In this way members will respect the club and its facilities. If membership becomes an automatic right, then respect will disappear. ...”

If you have any questions or concerns please don’t hesitate to give us a call.

Contacts:

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