

Liquor Licensing Act: Compliance Considerations

Focus: Accommodation Providers

At a glance:

- Are you compliant with the conditions of your Liquor Licence, the Codes of Practice and the Act?
- Are you in fact licensed to supply liquor to your guests? If not, you may be committing an offence. Alternatively, you may be exempt from holding a licence altogether.
- Each licensed premises needs to have its own liquor management plan, reviewed and updated regularly in accordance with the General Code of Practice. Accordingly, now may be a good time to instigate a 'compliance audit', and review your licence conditions.

Compliance

There are a vast array of obligations and requirements under the *Liquor Licensing Act 1997 SA (Act)* and Commissioner's Codes of Practice. To avoid disciplinary action, Licensees must be vigilant to ensure that they are compliant. Some commonly overlooked requirements include having appropriate signage on display, making sure a responsible person is on duty whenever liquor is being sold or supplied and having an up to date management plan in place.

It is not uncommon for Police or authorised officers to issue fines or take disciplinary action in relation to offences such as those above.

If your premises has a licence and it has been some time between internal audits, now would be timely to ensure that you are compliant with the numerous obligations and requirements under the Act and Codes of Practice, before you may be subject to a licensing inspection. Our practitioners are well placed to assist with such matters.

There may also be some improvements available to your licence to increase your trading rights and opportunities for example.

Capacities and Other Issues

We often see licences subject to a number of separate areas having individual capacities. This can be difficult to monitor and regulate.

If this is a problem for you, there is the option of applying to the Liquor and Gambling Commissioner to combine and/or reassess capacities, so that one capacity applies to the whole licensed premises.

Licensees must also ensure that all areas in which liquor is sold, supplied and consumed are covered as an approved part of the licensed premises. For example, there may be outdoor areas surrounding your premises where people consume liquor from time to time. These areas need to be within the red line on the Commissioner's approved plan attaching to your premises.

Equally, if you are providing entertainment at prescribed hours, you will need to have an Entertainment Consent endorsed on the licence and appropriately delineated on the approved plan. Some recent changes to the Act may mean you do not need to have an entertainment consent in certain circumstances.

Licensees should be fully aware of these issues and ensure that their management plan reflects their current practices.

There may also be conditions arising from your Council planning approval that might impact on your licensing arrangements.

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Accommodation Providers without liquor licences – requirement for a licence?

It is a requirement of the Act that a licence is held in order to sell liquor. A person who sells liquor without being licensed under the Act to do so, is guilty of an offence. The definition of what constitutes a "sale" of liquor is quite broad. For example, even if you provide alcohol free of charge at events or functions on site, then it is likely this would constitute a sale and a licence would be required.

In certain circumstances an accommodation provider may be exempt from the requirement to obtain a liquor licence altogether. The exemption is intended to cover those who run small 'bed and breakfast style' operations. There are however strict criteria and regulations to follow for the exemption to apply, which include the number of persons the premises can accommodate, where the liquor is sourced and how it is provided to guests.

Review of the Act pending

The Government is currently conducting 'a wholesale review' of the Act. Submissions closed in January and a report will now be prepared by Timothy Anderson QC, which is due 30 June 2016.

If you are unsure whether your accommodation premises is exempt, or if a licence is required, please contact one of the practitioners listed below, who have considerable experience providing advice and obtaining licenses for accommodation providers.

Wallmans provide all SATIC members with a free 15 minute call to discuss any legal issue. If you are interested in discussing how this will affect your business please call one of our practitioners:



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