

Christchurch Tri-Agency Newsletter

October 2012

This newsletter is jointly produced by the Christchurch City Council Liquor Licensing Team, the Police Alcohol Strategy and Enforcement Team, and Community and Public Health Liquor Licensing Officers.

Licensees

Please ensure this newsletter is circulated to all staff, especially Duty Managers.

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1. Club Licenses Suspended for Selling to the Public

Due to concerns that some licensed Clubs were selling liquor to the general public, 5 Christchurch clubs were recently tested in Christchurch. Of the 5 clubs tested 3 of them sold liquor to unauthorised people. This has resulted in the suspension of their club licenses and Duty Managers Certificates.

A club licence **only** authorises the sale and supply of liquor 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.

Put simply, an On Licence allows the sale and supply of liquor to the public, **a Club licence does not allow the sale and supply of liquor to the public** unless the club has been issued a special licence.

Liquor Licensing Authority Decision PH 891-892/07 included the following:

“The Act gives privileges to a club but expects scrupulous behaviour in return. The basic rule is 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 Clubs are given certain advantages because the Act recognises that membership of the club can be withdrawn at any time for bad behaviour.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.”

A more recent Liquor Licensing Decision PH 1137-1139/10 clarified invited guests and included the following:

“At the time of the sale or supply of liquor to a guest, that guest must be accompanied by a member. In the Taradale Club decision, the expression ‘accompanied by’ is interpreted as meaning that the member must be in the member’s company and the member throughout is able to supervise and take responsibility for the guest’s behaviour.”

This decision resulted in the Club Licence being suspended for 7 days and the Duty managers Certificate being suspended for 14 Days.

The licensee or manager of any licensed premises that sells or supplies liquor when not authorised by the licence commits an offence under section 165 of The Sale of Liquor Act 1989 - Unauthorised sale or supply. The possible penalty in the case of the licensee is a fine not exceeding \$20,000 and/or the suspension of the licensee’s licence for a period not exceeding 7 days. In the case of a manager, a fine not exceeding \$20,000.

In addition I believe there are a number of Clubs hosting weddings, birthdays etc and selling liquor where a special licence should have been obtained. A special licence currently costs \$64.40 and the Christchurch District Licensing Agency should receive the application for a special licence at least 10 working days before it is required.

Inspectors, Police and Community and Public Health staff are planning further Club Controlled Purchase Operations. Licensed Clubs must ensure they only sell liquor to authorised persons.

If you have any questions please don’t hesitate to contact me directly.

Paul Spang, DLA Staff.

2. Tri-Agency Newsletter Only Available Electronically

To assist in reducing the amount of paper we use the Tri-Agency newsletter is no longer posted out and is only available electronically. The newsletter can be found on the Christchurch City Council website (past issues have been on the website for sometime):

<http://www.ccc.govt.nz/business/licencesconsents/liquorlicences/christchurchdistrictlicensingagencynewsletter.aspx>

For those who wish to have the newsletter emailed to them directly please email the address below with your details: liquor.licensing@ccc.govt.nz

Paul Rogers, Team Leader Liquor Licensing

3. Recent Controlled Purchase Operations

Three Controlled Purchase Operations were conducted in May and June this year. They tested differing areas of the Sale of Liquor Act and involved types of premises that did not expect to be tested.

Over the three operations a total of 50 premises were visited and two of those failed. This was not a bad result overall especially considering a recent out of town CPO had a 100% fail rate!

Congratulations to those premises that were tested and passed. They have been notified of their good work.

Just remember that all areas of the Sale of Liquor Act are important and all types of premise can be tested. Feel free to contact us or the other agencies if you would like assistance with staff training PRIOR to our next planned CPO to help avoid a costly failure.

Constable Melissa Arnold

4. Food Availability Requirements

The Liquor Licensing Authority considered food availability in the “Waipapakauri Hotel” decision PH371-271/2010. The following is an extract from that decision:

[7] The Authority considers that the expression “must be conveniently available” means that the food must be available upon request and within a very short period of time.

[8] For patrons to wait for 15 or 20 minutes for food does not achieve the object of the legislation as set out in s.4 of the Act. The purpose of requiring food to be available is so that persons can eat and therefore reduce alcohol abuse. If persons are required to wait for some 15 to 20 minutes the chances are that they will proceed to have another drink.

It is clear from this decision that in respect of on licence premises, other than restaurants, food must be available almost immediately. This would preclude premises from relying totally on outsourced food although that remains available as an additional option to the food that is immediately available.

The expectations of the monitoring agencies are:

- Food **must** be available and promoted throughout on licence and club licensed premises at all times that liquor is available. This is just as important at the end of business as the start.
- Unless the premises are set up and operate as a restaurant, menus (including price) should be large and clear rather than reliance of table top or bar top menus.

Controlled purchase operations to ensure compliance are being conducted. This will involve patrons requesting food. If it is revealed that food availability does not meet the required standard, an application for the suspension of both the on licence and general manager's certificate is the likely consequence.

Peter Shaw, CDHB

5. Notice of Management Change, Temporary and Acting Managers

The Notice of Management Change Form is to be used for appointing a new certificate holding manager (new employee), a temporary manager, an acting manager, or advising of a termination/cancellation of a manager appointment.

A temporary manager may be appointed if there is no manager for any reason, but the appointee must apply for a manager's certificate within two working days of their appointment, if not then the licensee shall cease to employ the individual as a manager.

An acting manager may be appointed when a manager is ill, absent or on annual leave for a maximum of 3 weeks, aggregate 6 weeks in a 12 month period. It is not necessary for acting manager to apply for a manager's certificate.

Although it has always been necessary to inform the Liquor Licensing Authority, District Licensing Authority and the Police, this requirement has been neglected by licensees. As from 1 April 2000 it has been an offence not to inform. This offence carries a maximum penalty of a fine up to \$5000. In addition if the criteria for the appointment of a manager has not been met then any liquor sales are unauthorised. The penalty for an unauthorised sale is a fine of up to \$20,000 dollars.

Maria White, DLA Staff.

6. Smoking Areas

We are aware that some licensees have added plastic screens and the like to their previously compliant smoking areas. In many cases, these alterations have resulted in the area changing from being an 'open area' to an 'internal area'. The effect of this is that smoking is prohibited within the area. Licensees need to be aware that if they allow smoking within an 'internal area' of the premises, they will be liable to prosecution.

The Smoke-free Environments Act 1990, as amended in 2003, requires licensees of licensed premises to take 'all reasonably practicable steps' to ensure that people do not smoke in any area of the premises that is not an 'open area'. An 'open area' is any area that is not an 'internal area'. When considering whether an area is an 'internal area', the Act stipulates that any opening, capable of being closed, is to be treated as closed.

We are also aware that a number of licensees who, post-earthquakes, are converting or re-constructing. Please ensure that your architects/designers take account of the requirements of the Smoke-free Environments Act when looking at areas proposed to be used for smoking.

The following website provides a calculation tool as a guide to assessing whether an area is an 'open' or 'internal' area: <http://www.health.govt.nz/our-work/regulation-health-and-disability-system/smokefree-law/open-areas-calculator-smoke-free-environments>

If licensees wish to discuss any issues regarding the Act, please contact:
Nicola Ogden. Smokefree Enforcement Officer. Canterbury District Health Board. 03 3786789
nicola.ogden@cdhb.health.nz

Peter Shaw, CDHB.

7. Taverns and Hotels Trading on the Sacrosanct Days

This year Christmas Day falls on a Tuesday. As a reminder:

1. Off-licences are not permitted to sell liquor on Christmas Day.
2. Hotel or Tavern - No liquor is to be sold on Christmas Day to any person other than those who are:
For the time being living on the premises; or
Present on the premises for the purpose of dining.

If you are considering applying for a special licence for an event during this time please do so now. If an application for a special licence is not received by the District Licensing Agency with **at least 10 working days notice**, it is unlikely to be processed in time.

So what does for the purpose of dining mean?

Hotels and taverns can not operate business as usual, however they may remain open to sell meals and supply liquor with that meal. The intent of legislation was to restrict the sale of liquor on those days to liquor sold only as an accompaniment to a meal.

The Authority has clearly indicated this would normally mean a sit down meal with knives and forks. Background music is acceptable, however televised sport and other entertainment generally do not fit with dining. This includes allowing the use of the pokie machines.

Providing food and meals is not an excuse to remain open. The purpose of being open on these days is to provide meals to customers present for the sole purpose of dining.

Licensees and Duty Managers can incur a fine of up to \$20,000 and every person present can incur a fine of up to \$2000. A suspension or cancellation of the licence may also be sought.

If any confusion remains discuss your plans with agency staff.

Martin Ferguson, DLA Staff.

8. Lodging a Liquor Licence Renewal Application

When you apply for a renewal of your licence please ensure you complete the application form in full. If any of your details have changed please cross them out and clearly write the new details next to them.

Also cross out one of the options for the Fire Evacuation Scheme. If you are not sure which relates to you the appropriate number at the Fire Service is on the form for you – call them.

You are required to publicly notify your application. This can be done in the Press or Star. We send you templates to use but check they are correct. If you are seeking a change to trading hours please discuss this with DLA staff prior to advertising the public notices.

You need to publicly notify your application for renewal within 10 working days of filing your application. The legislation requires not less than 5 nor more than 10 days between each notice.

We will visit your premise at renewal time. We will be looking for a number of things including:

- That the name of the duty manager is clearly displayed and they are on the premise
- The licence is displayed at the main entrance
- Food availability and promotion
- Prohibited persons signs are displayed (under 25 and intox)
- Availability of non and low alcohol drinks

We may also ask you how many patrons you have on the premise and we will be looking for any intoxicated patrons.

Building Warrants of Fitness

Hit two birds with one stone at renewal - check the Building Warrant of Fitness (BWOFF) for your building is current. We will look into any BWOFF that your building may have and report on it.

A BWOFF is a declaration by the building owner stating that the specified systems have been maintained in accordance with the Compliance Schedule. A copy of the Building Warrant of Fitness must be provided annually to the Council and publicly displayed at the building it pertains to. Most buildings open to the public are required to have a current BWOFF. It is the responsibility of the building owner to maintain the BWOFF. Following the earthquake events of 2010-2011 you are reminded that it is the responsibility of the building owner to ensure the building is safe for public use prior to trade.

You are required to have a BWOFF if your building contains any of the following specified systems:

- automatic systems for fire suppression (for example sprinkler system)
- automatic or manual emergency warning systems for fire or other dangers (other than a warning system for fire that is entirely within a household unit and serves only that unit)
- electromagnetic or automatic doors or windows (for example ones that close on fire alarm activation)
- emergency lighting systems
- escape routes pressurisation systems
- riser main for fire service use
- any automatic back flow preventers connected to a potable water supply
- lifts, escalators, travelators or other systems for moving people or goods within buildings
- mechanical ventilation or air conditioning systems
- building maintenance units providing access to exterior and interior walls of buildings
- laboratory fume cupboards
- audio loops or other assistive listening systems
- smoke control systems
- means of escape from fire
- emergency power systems for, or signs relating to, a system or feature specified in any of clauses above
- Cable Car (including to a private dwelling).

If you have any question regarding a Building Warrant of Fitness please contact Building Officer Raewyn Kinnis on 941-8457.

Jenn Davison, DLA Staff

9. Staff Training

Staff training is the key to operating a successful business, especially in overcoming the risks involved in a heavily regulated environment.

The three regulatory agencies combine to provide a staff training package that covers the requirements of the Sale of Liquor Act 1989, licence conditions and the expectations of the agencies. These sessions are provided without charge.

Contact Peter Shaw, Community and Public Health to arrange training for your staff.

CPHLiquorLicences@cdhb.govt.nz

Peter Shaw, CDHB

10. Noise Complaints Against Licensed Premises

Due to ongoing problems with some licensed premises the Council is changing the way noise complaints will be handled.

From the 1st October 2012 if a noise complaint is received about a licensed premises and the noise is considered to be excessive, an Excessive Noise Direction will be issued immediately. The noise direction will be served on the Duty Manager.

If a further complaint or complaints are received and confirmed within 72 hours, another noise direction will be issued.

The second direction confirms for the Council that the first direction has not been complied with, and this non-compliance is an Infringement Offence.

The Council will then follow up with an Infringement Notice with an infringement fee of \$500.

We recommend all licensed premises regularly monitor the escape of noise, in particular bass noise which has a tendency to travel and is more disruptive to nearby residents.

Martin Ferguson, DLA Staff.

11. Health Licensing Team Update

Some important food safety tips for warmer weather:

- Keep food either cold or hot.
- Cold food should be between 2°C and 4°C - check the temperature daily using a thermometer.
- Hot food should be greater than 60°C.
- Meat particularly poultry should be cooked to or above 75°C.
- Cover food to protect it from flies and other insects.
- Wash fruit and vegetables before use.
- Wash your hands with soap, for at least 20 seconds and then rinse them well. Dry them completely for another 20 seconds on a clean dry hand towel or paper towels.
- Keep the premises and equipment clean and sanitised.
- Use separate chopping boards and utensils when preparing raw foods that require cooking (especially meat and chicken), and cooked or ready-to-eat foods (e.g. salad)
- Don't prepare food for other people if you have an illness with diarrhea or vomiting. You could contaminate the food and pass the illness on to others.

More information can be found on our website, www.ccc.govt.nz/business/healthsafety/information sheets.aspx and the Ministry for Primary Industries website, www.foodsafety.govt.nz/industry/sectors/food-service/.

Food Control Plans

The Food Control Plan (FCP) for the Food Service and Catering businesses are currently available for those wanting to implement a food safety programme in their food service business. At this stage we are able to provide some assistance and so businesses choosing to implement this FCP are able to take advantage of the support we can offer.

We advise keeping in touch with our Health Licensing team as legislation relating to food is expected to change and this is likely to affect food premises in the Food Service and Catering industry particularly premises holding liquor licenses.

For further information regarding this FCP, please contact Environmental Health Officer in the Health Licensing team at HealthLicensing@ccc.govt.nz or phone 941 8999.

Reminder to have a current Certificate and keeping your details up-to-date

Remember that in order to operate you must have a current Certificate of Registration or Certificate of Exemption for holders of the Food Control Plan.

If your details have changed please notify us so that we can keep your records current so we may contact you. Also include email addresses so we have another means of contacting you particularly as a means of getting information to you faster and more effectively.

For administration queries please contact our Health Admin team at HealthAdmin@ccc.govt.nz or phone 941 8999.

Rowena Yee, Food Act Officer, Health Licensing

12. Training Provider with Tri-Agency Input

Christchurch Polytechnic Institute of Technology – Phone 940 8000

13. Contact Telephone Numbers

- Christchurch District Licensing Agency
 - Paul Rogers (Team Leader) – Phone 941 8909
 - Martin Ferguson (Senior Inspector) – Phone 941-8956
 - Paul Spang (Inspector) – Phone 941 8826
 - Fiona Proudfoot (Inspector) – Phone 941 5064
 - Jenn Davison (Inspector) – Phone 941 8828
 - Natasha Lafituanai – Phone 941 8827
 - Maria White – Phone 941 8821
 - Michele Vincent – Phone 941 8068
 - Fax: 941 5033
 - Email: liquor.licensing@ccc.govt.nz
 - Website: www.ccc.govt.nz/business/licencesconsents/liquorlicences/index.aspx
 - Community and Public Health
 - Paul Tweed – Phone 378-6771
 - Peter Shaw – Phone 378-6812
 - New Zealand Police Liquor Licensing – Phone 378 0430
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Regards

Christchurch City Council Liquor Licensing Team, Police Alcohol Strategy and Enforcement Team and Community and Public Health Liquor Licensing

PLEASE CIRCULATE THIS TO ALL YOUR STAFF - ESPECIALLY DUTY MANAGERS - AND/OR PLACE ON YOUR NOTICE BOARD