

**Invercargill District Licensing Agency
Liquor Policy
2009**

SECTION	PAGE
Introduction	2
On-Licences	3
Off-Licences	6
Club Licences	8
Special Licences	11
Temporary Authority	13
Re-Definition	14
Re-Hearing	14
Manager's Certificate Applications	15
Reporting Criteria – Liquor Licensing Inspectors	16
Compliance Issues	19
Host Responsibility	20
Liquor Advertising and Promotions	21
Liaison With Licence Holders	21
Public Consultation, Participation and Liaison	21
Liquor Bans	23
Alcohol Accords	25
Map of Invercargill Licensing Trust Area	26



1.0 INTRODUCTION

Background

The Invercargill City Council is the District Licensing Agency for the Invercargill area. Its duties are set out under the Sale of Liquor Act 1989.

This policy is a requirement of the Act and one of several measures that the Council is implementing to try to address liquor related issues in a holistic way.

The object of the Sale of Liquor Act is to establish a reasonable system of control over the sale and supply of liquor to the public with the aim of contributing to the reduction of liquor abuse, so far as that can be achieved by legislative means.

The policy seeks to address the complexity of issues relating to liquor, its use and abuse, in the community

The key to achieving the aims of the Act is in the promotion of responsible attitudes of both licensees and the public in achieving a mature approach to liquor consumption.

The Invercargill District Licensing Agency (IDLA) carries out functions under the Act and reports to the Liquor Licensing Authority (LLA) based in Wellington. The LLA is part of the Tribunals Division of the Department of Justice.

Significant amendments have been made to the Sale of Liquor Act since 1989 and these are reflected in this policy document. It also reflects directions from the Liquor Licensing Authority in terms of S96 of the Act.

The Invercargill City Council is mindful that the Sale and Supply of Liquor and Liquor Enforcement Bill is before parliament and in parallel with this Bill, Sir Geoffrey Palmer's Law Commission first principles review of the Sale of Liquor Act will continue in 2010. The IDLA shall, review this policy again once the new Bill is promulgated. Any changes will be publicly notified and consulted.

Philosophy

To assist licence holders to comply with their obligations, the IDLA will send out reminder notices at least 3 months prior to the licence expiry. This is a service provided on an "all care-no responsibility" basis. Reminders will be sent to the last known address of the licensee. Any failure by the IDLA in this regard does not absolve the licensee of their legal obligation to ensure that their licence is current.

Local Authority Compliance Certificates

Local Authority Compliance Certificates are required for On, Off and Club licence types. This is usually a straightforward matter of checking with Councils Planning Department regarding Resource Management issues and differs from Code Compliance Certificates which are a building consent matter.

Invercargill Licensing Trust

It should be noted that the Invercargill Licensing Trust (ILT) has exclusive statutory trading rights in terms of taverns, hotels and bottle stores over a specific defined area of Invercargill City. See map on page 26.

In other centres, proliferation of outlets and availability of heavily discounted liquor are emerging as key factors in the increasing incidence of liquor abuse. It is likely that legislative change will address this. However, in Invercargill, the existence of the ILT whose boundaries include most of the urban area, means that this issue has already been addressed except with respect to Otatara. This control on the availability of liquor has positive outcomes for the community.

2.0 ON-LICENCES

An On-Licence authorises the holder to sell and supply liquor, on the premises or conveyance, for consumption on the premises or conveyance.

POLICY 2.1 – HOURS OF OPERATION

- (i) The Invercargill District Licensing Agency will consider each application on its merits.**
- (ii) Hours of operation for licensed premises, not in a residential area, will not exceed 9.00 am to 3.00 am the following day, unless a specific reason for longer hours can be shown by the applicant.**
- (iii) On-licences other than a restaurant in residential areas the following hours will be a guideline:**

Sunday to Thursday	9.00 am to 11.00 pm
Friday and Saturday	9.00 am to 1.00 am the following day
- (iv) Premises in non-residential areas operating solely as a restaurant may stay open Monday to Sunday from 7.00am to 3.00am the following day while operating as a restaurant.**
- (v) Premises operating solely as a restaurant in residential areas may stay open Monday to Sunday from 7.00.am to 1.00am the following day while operating as a restaurant.**

Comment

The Invercargill District Licensing Agency (IDLA) or the Liquor Licensing Authority (LLA) sets the hours of operation after considering the reports from the Liquor Licensing Inspector, Police and Medical Officer of Health. The application needs to fall within the scope of the District Plan (Resource Management Act 1991) before it can be lodged, but often there are reasons for additional restrictions on hours over and above requirements of that Act. Such hours may reflect concerns of the Police, the Liquor Licensing Inspector, the Medical Officer of Health or the general public.

Restaurants - Conditions for restaurants to operate as an on-licence has been outlined in a decision made by the Liquor Licensing Authority (Baba Louies Ltd decision no. PH 0208/05). The Liquor Licensing Authority determined that liquor can only be sold when the premises are being operated as a restaurant. This meant that the chef or cook would be present and working in the kitchen, which is functioning and diners who are eating. This would constitute bona fide dining.

Multiple Licences

Many premises are capable of holding multiple licences e.g. On- and Off- licences. As a general principle however, whatever the licence/s held in respect of a particular premises, the premises layout and design must accurately reflect the nature and purpose of the licence/s.

See reporting criteria on page 16.

POLICY 2.2 – ENTERTAINMENT LICENCES

Applicants seeking entertainment licences should convince the agency that the entertainment, as defined, will be greater than might be expected than in tavern style premises. The provision of large screen television, pool tables or video machines is not considered sufficient to warrant extended late night hours.

Applicants are required to have regard to and address the following criteria when applying for an entertainment license:

Persons on the premises are required to be there for the purpose of entertainment.

Also:

- (a) The IDLA expects that the facilities for the sale of liquor would not dominate the licensing area.
- (b) A stage, dance floor or similar facility would be available for entertainers and / or patrons use.
- (c) Live entertainment would be provided on a regular, frequent and ongoing basis in line with the hours sought.
- (d) The design of the premises including the size of the bar will be required to be consistent with the nature of the principal form of entertainment offered.
- (e) Extensive provision would be made for the supply of substantial food, tea, coffee and other non alcoholic refreshments at all times.
- (f) A cover charge would regularly apply. The licensee should be able to demonstrate that more than 50% of the business income is derived from the entertainment, not liquor sales.

Comment

The following case law has relevance:

In the decision of DSL Investments Ltd, the LLA Decision 115/2002 determined that the premises was a nightclub based on it's belief on such factors as the imposition of the cover charge every time the premises were open, the nights of the week the premises were open and the trading figures for the previous months. The Authority concluded that there are a number of factors that can be looked at when considering whether the premises are a tavern, a nightclub or an entertainment venue. These factors include:

- (a) Nature and configuration of the premises
- (b) Public perception
- (c) Reasons why patrons attend the premises
- (d) Revenue from various sectors of the premises
- (e) Imposition of a cover charge
- (f) Nights of the week when the premises are open
- (g) Trading hours and days requested
- (h) Nature of the entertainment provided

POLICY 2.3 – LOCAL AUTHORITY COMPLIANCE CERTIFICATE

Applicants are required to submit a Local Authority Compliance Certificate with the application. For information contact Council's Planning Department.

POLICY 2.4 – RELEVANT LEGISLATION (New and Renewal of On-Licences)

All applications must comply with other legislation e.g. Smoke Free Environments Act 2004 (for more information contact Public Health South), and the Building Act 2004 e.g. Current Building Warrant of Fitness (for more information contact Council's Building Consents Department).

POLICY 2.5 – FIRE SAFETY

A current Fire Evacuation Scheme or Procedure must be submitted with the application – for more information contact the Fire Service.

POLICY 2.6 – HOST RESPONSIBILITY

Refer to 12.0 on page 20.

POLICY 2.7 – FOOD

That an appropriate menu or a good selection of food in the nature of sandwiches, savouries, mousetraps, mini pizza and pies be readily available at all times liquor is available for sale and supply and of a sufficient standard and amount for the maximum premises capacity.

Comment

In the past some premises, the Liquor Licensing Inspector has found that food is not readily available or there is insufficient amount of food for the number of patrons present.

PUBLIC NOTIFICATION

Comment

All new applications for On-licences must be publically notified in either the Southland Times or Southland Express. The IDLA requires the Public Notice to be vetted by the Licensing staff to ensure that the contents are correct.

This is because errors can be costly and delay the progress of the application.

RENEWAL OF ON-LICENCES

Comment

The Sale of Liquor Act requires that all On-Licences issued must be renewed after an initial 12 month period and then every three years thereafter. The application must be submitted 20 working days before the licence is due to expire. The renewal process requires public notification of the application. If there are any objections, it is then forwarded to the LLA for its consideration. Unopposed renewal applications are renewed by the IDLA.

If the applicant wishes to vary the conditions of the Licence at renewal, then the variation is considered by the IDLA unless there is opposition.

The IDLA will send out reminder notices to holders of On-Licences on an "all care-no responsibility" basis. It is the licensee's responsibility to ensure that the licence is current.

See reporting criteria on page 17.

Comment

The Council is committed to ensure as far as it can that premises with On-Licences are safe for patrons and that in particular, proper procedures are in place for the evacuation of patrons in the event of fire.

POLICY 2.8 – HOST RESPONSIBILITY

A current Host Responsibility Policy must be submitted with the renewal.

POLICY 2.9 – FIRE SAFETY

A current Fire Evacuation Scheme or Procedure statement must be submitted with the renewal – for more information contact the Fire Service.

VARIATION OF AN ON LICENCE

Comment

On Licence holders may apply for a variation of conditions that no longer suit their preferred manner of trading.

There is no limitation on the frequency or number of applications that can be made at any time.

See reporting criteria on page 17.

PUBLIC NOTIFICATION

Comment

All renewal applications for On-licences must be publically notified in either the Southland Times or Southland Express. The IDLA requires the Public Notice to be vetted by the Licensing staff to ensure that the contents are correct.

This is because errors can be costly and delays the progress of the application.

3.0 OFF-LICENCES

An Off-Licence authorises the holder of the Licence to sell and supply liquor on or from the premises described in the Licence and only for consumption off the premises.

POLICY 3.1 – HOURS OF OPERATION

- (i) The Invercargill District Licensing Agency will consider each application on its merits.**
- (ii) Hours of operation for Off-licence premises will not exceed 7.00 am to 11.00 pm the same day. Off-sales from premises with on- and off-licences may occur up until 1.00am from the said on-licensed premises provided that the sale is made personally by the manager or duty manager of the premise.**
- (iii) Off-licences for grocery stores will generally not be granted for a floor area of less than 150 square metres.**

Comment

The hours of operation are set by the IDLA or the LLA after considering the reports from the Liquor Licensing Inspector and Police. The application needs to fall within the scope of the District Plan (RMA) before it can be lodged, but often there are reasons for additional restrictions on hours over and above the requirements of the Resource Management Act 1991. Such additional restrictions on hour conditions may reflect concerns of the Police, Liquor Licensing Inspector or the general public.

It is important to note that numbers and locations of off-licenses are controlled by the Invercargill Licensing Trust, because Invercargill is a Licensing Trust Area. Off-Licences in residential areas will need to be compatible with the level of residential amenity. Location, size and hours of operation are the main factors.

See reporting criteria on page 16.

POLICY 3.2 – LOCAL AUTHORITY COMPLIANCE CERTIFICATE

Applicants are required to submit a Local Authority Compliance Certificate with the application. For information contact Council’s Planning Department.

POLICY 3.3 – RELEVANT LEGISLATION (New and Renewal of Off Licences)

All applications must comply with other legislation e.g. Smoke Free Environments Act 2004 (for more information contact Public Health South) and Building Act 2004 e.g. current Building Warrant of Fitness (for more information contact Council’s Building Consents Department).

POLICY 3.4 – HOST RESPONSIBILITY

Refer to 12.0 on page 20.

POLICY 3.5 – FIRE SAFETY

A current Fire Evacuation Scheme or Procedure must be submitted with the application.

POLICY 3.6 – OFF SALES ACROSS THE BAR

Sales of liquor for consumption off the premises may be made “across the bar” at times when the bottle store is required to be closed but only by the manager/s on duty and in accordance with the conditions of the licence.

Comment

The Council is committed to minimise the problems arising from liquor abuse late at night or in the early morning. There is an ongoing problem of broken glass around the central business district. One way to assist is to regulate late sales. The Council also believes that very late sales of liquor are a factor in liquor abuse generally.

POLICY 3.7 – DESIGNATION OF OFF-LICENCE PREMISES

Off-licence premises must be designated supervised with the exception of supermarkets, grocery stores and clubs.

Comment

This provision gives the Duty Manager control over who may be on the premises. Persons under 18 must be accompanied by a parent or legal guardian.

PUBLIC NOTIFICATION

Comment

All new applications for Off-licences must be publically notified in either the Southland Times or Southland Express. The IDLA requires the Public Notice to be vetted by the Licensing staff to ensure that the contents are correct.

This is because errors can be costly and delay the progress of the application.

RENEWAL OF OFF-LICENCES

The Sale of Liquor Act requires that all Off-Licences must be renewed after an initial 12 month period and every three years thereafter. The renewal process requires public notice of the application. If there are any objections, it is then forwarded to the LLA for its consideration. Unopposed renewal applications are renewed by the IDLA.

If the applicant wishes to vary the conditions of the Licence at renewal, then the variation is considered by the IDLA unless there is opposition.

The IDLA will send out reminder notices to holders of Off-Licences on an "all care-no responsibility" basis to the applicant's last known address. It is the licensee's responsibility to ensure the licence is current.

See reporting criteria on page 17.

POLICY 3.8 – FIRE SAFETY

A current Fire Evacuation Scheme or Procedure must be submitted with the renewal.

Comment

The Council is committed to ensure as far as it can that premises with Off-Licences are safe for patrons and that in particular, proper procedures are in place for the evacuation of patrons in the event of fire.

POLICY 3.9 – HOST RESPONSIBILITY

A current Host Responsibility Policy must be submitted with the renewal.

Refer to 12.0 on page 20.

PUBLIC NOTIFICATION

Comment

All renewal applications for Off-licences must be publically notified in either the Southland Times or Southland Express. The IDLA requires the Public Notice to be vetted by the Licensing staff to ensure that the contents are correct.

This is because errors can be costly and delays the progress of the application.

VARIATION OF AN OFF LICENCE

Comment

The Sale of Liquor Act provides that Off-Licence holders may apply for a variation of conditions that no longer suit their preferred manner of trading. There is no limitation on the frequency or number of applications, which can be made at any time.

See reporting criteria on page 17.

4.0 CLUB LICENCES

A Club Licence authorises the holder to sell and supply liquor, on the premises, for consumption on the premises, to:

- (a) Any member of the club; or any person who is a guest of, and is accompanied by, a member of the club; or

- (b) 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.

POLICY 4.1 – HOURS OF OPERATION

Hours of operation will be consistent with the club's activities and, as a guideline, in residential areas would not exceed the following hours:

Sunday to Thursday	9.00 am to 11.00 pm
Friday and Saturday	9.00 am to 1.00 am the following day

Hours of operation in non-residential areas will not exceed 9.00 am to 1.30 am the following day unless a specific reason for longer hours can be shown by the applicant.

Comment

The hours of operation are set by the IDLA or LLA after considering the reports from the Liquor Licensing Inspector, Police and Medical Officer of Health. The application needs to fall within the scope of the District Plan (Resource Management Act 1991) before it can be lodged, but there may be reasons for additional restriction on hours over and above any requirement of that Act.

The effect on residential areas is a primary concern. Limiting liquor abuse and its consequences are the Council's reasons for a policy of 1.30 am closure in non-residential areas.

It is important that the sale of liquor remains ancillary to the club's activities and that this be reflected in the hours of operation.

See reporting criteria on page 16.

POLICY 4.2 – LOCAL AUTHORITY COMPLIANCE CERTIFICATE

Applicants are required to submit a Local Authority Compliance Certificate with the application. For information contact Council's Planning Department.

POLICY 4.3 – RELEVANT LEGISLATION (New and Renewal of Club Licences)

All applications must comply with other legislation e.g. Smoke Free Environments Act 2004 (for more information contact Public Health South) and Building Act 2004 e.g. current Building Warrant of Fitness (for more information contact Council's Building Consents Department).

POLICY 4.4 – FIRE SAFETY

A current Fire Evacuation Scheme or Procedure must be submitted with the application.

POLICY 4.5 – HOST RESPONSIBILITY

Refer to 12.0 on page 20.

POLICY 4.6 – FOOD

Comment

That clubs will have an appropriate menu or at least three choices of food in the nature of sandwiches, savouries, mousetraps, mini pizza and pies be readily available at all times liquor is available for sale and supply and of a sufficient standard and amount for the maximum premises capacity.

RENEWAL OF CLUB LICENCES

All Club licences are required to be renewed after an initial 12 month period and then every subsequent three years thereafter. The renewal process requires public notice of the application. Unopposed applications are renewed by the Invercargill District Licensing Agency.

If the applicant wishes to vary the conditions of the Licence at renewal, then the Invercargill District Licensing Agency considers the variation, unless there is opposition.

The IDLA will send out reminder notices to holders of Club Licences on an “all care-no responsibility” basis to the applicant’s last known address. It is the licensee’s responsibility to ensure the licence is current.

See reporting criteria on page 17.

Comment

The Council is concerned to ensure as far as it can that premises with Club Licences are safe for patrons and that; in particular, proper procedures are in place for the evacuation of patrons in the event of fire.

POLICY 4.7 – HOST RESPONSIBILITY

A current Host Responsibility Policy must be submitted with the renewal.

POLICY 4.8 – FIRE SAFETY

A current Fire Evacuation Scheme or Procedure must be submitted with the renewal application.

PUBLIC NOTIFICATION

Comment

All renewal applications for Club licences must be publically notified in either the Southland Times or Southland Express. The IDLA requires the Public Notice to be vetted by the Licensing staff to ensure that the contents are correct.

This is because errors can be costly and delays the progress of the application.

VARIATION OF A CLUB LICENCE

Club Licence holders may apply for a variation of conditions that no longer suit their preferred manner of trading. There is no limitation on the frequency or number of applications, which can be made at any time.

See reporting criteria on page 17.

CHARTERED CLUB OFF LICENCES

Chartered Clubs may hold Off Licences.

The holder of the licence is authorised

- (a) to sell and supply liquor on or from the premises to any member of the club; or
- (b) any member of any other club with which the holder of the licence has an arrangement for reciprocal visiting rights for members of the club, for consumption off the premises, and
- (c) to supply complimentary samples of liquor on the premises.

POLICY 4.9 – CHARTERED CLUB - OFF SALES ACROSS THE BAR

Sales of liquor for consumption off the premises may be made “across the bar” at times when the bottle store is required to be closed but only by the manager/s on duty and in accordance with the conditions of the licence.

5.0 SPECIAL LICENCES

A special licence authorises the holder to sell and supply liquor for an occasion or event, or series of occasions or events. Special licences may be granted in respect of premises with existing liquor licences or unlicensed premises.

The following guidelines will apply in respect of special licences:

- All special licence applications must be filed with the IDLA at least 20 working days before the occasion or event.
Note: Late applications may not be looked upon favourably.
- The IDLA will consider all special licence applications on their merits.
- A special licence will not be issued by the IDLA when in the opinion of the reporting agencies, the nature and extent of the activities should be covered by an on, off or club licence. A special licence will not be issued as a substitute for a permanent licence.
- Holders of a Special Licence are required to display the Special Licence, the conditions of the licence and the signage required in the conditions.

The IDLA acknowledges that occasions can arise, such as a bereavement that may require an application to be processed with urgency. In such genuine cases the IDLA will do its utmost to assist.

POLICY 5.1 - APPLICATIONS FOR SPECIAL LICENCES

Applications for Special Licences will be forwarded to the Police, Liquor Licensing Inspector for comment.

Even though there is no statutory requirement to forward applications to the Medical Officer of Health and or the Fire Service for comment – this is part of a combined reporting agency approach that the IDLA takes especially for large events.

Applicants for Special Licences must detail and describe fully what the occasion or event entails and how the event will be managed.

POLICY 5.2 – TRADING HOURS FOR SPECIAL LICENCES

The trading hours granted will be discretionary, however, where the hours or the nature of the operation are restricted by the conditions of resource consent, a special licence may not be granted.

- (i) **Hours of operation for licensed premises, not in a residential area, will not exceed 9.00 am to 3.00 am the following day, unless a specific reason for longer hours can be shown by the applicant.**
- (ii) **In residential areas the following hours will be a guideline:**

Sunday to Thursday	9.00 am to 11.00 pm
Friday and Saturday	9.00 am to 1.00 am the following day

Comment

Applications for Special Licences will need to reflect provisions of the Sale of Liquor Act regarding hours of sale and public holidays, or to clearly demonstrate good and specific reasons why alternate or additional hours are necessary for the planned occasion or event.

The IDLA will generally expect that Special Licences will not extend beyond 3.00 am unless extended hours are necessary because of the nature of the event.

See reporting criteria on page 18.

POLICY 5.3 – RELEVANT LEGISLATION

All applications must comply with other legislation e.g. Smoke Free Environments Act 2004 (for more information contact Public Health South) and the Building Act 2004 e.g. current Building Warrant of Fitness (for more information contact Council’s Building Consents Department).

POLICY 5.4 - FIRE SAFETY

A current Fire Evacuation Scheme or Procedure must be in place for the premises.

POLICY 5.5 – HOST RESPONSIBILITY FOR SPECIAL LICENCES

Applicants for Special Licences must meet Host Responsibility requirements at all times during the event.

The provision of an appropriate menu or at least three varieties of food, non-alcoholic refreshments and low-alcohol beverages and assistance with alternative forms of transport are conditions of the licence.

Food of a substantial nature must be available in close proximity to all points of the sale and supply of liquor.

The amount and nature of the food required will be discretionary dependent on the nature of the event.

Signage displaying what food is available must be displayed at all points of the sale and supply of liquor.

The applicant must have available a range of non-alcoholic refreshments and low-alcohol beverages at all times liquor is for sale and supply.

The applicant must make available or provide assistance for patrons about alternative forms of transport from the premises.

Licensees are reminded that if non-alcohol refreshments, low-alcohol beverages or the food supply is exhausted, they are no longer compliant with the conditions of the special licence and the sale of liquor needs to cease immediately.

POLICY 5.6 – DUTY MANAGERS FOR SPECIAL LICENCES

The IDLA will require the holder of a General or Club Manager’s Certificate to be responsible for the sale and supply of liquor when a special licence is in force. However, an exception will be considered for small events if the IDLA is satisfied that the licensee or some other person nominated by the licensee will manage the sale or supply of liquor pursuant to the licence and will monitor the conduct of the premises.

POLICY 5.7 – PUBLIC NOTIFICATION / HEARINGS OF SPECIAL LICENCES

If any aspect of a particular Special Licence is, in the opinion of the Secretary, likely to be contentious or to have significant implications for the public or an affected party, it shall be publicly notified.

Comment

The Sale of Liquor Act provides for public notification under Section 76(4). It is anticipated that advertising would in practice be the exception rather than the rule. In arriving at a decision whether an application should be advertised the Secretary shall have regard to reports made pursuant to Section 78 by the Police, a Liquor Licensing Inspector and or the Medical Officer of Health and comments made by any other party with a legitimate interest. If notification is to occur, it shall consist of notices, with appropriate modification, as set out in Form 1 of the Sale of Liquor Act Regulations 1990 and be erected as a site notice and published as the Secretary directs.

POLICY 5.8 – PROCEDURES WHEN OBJECTIONS OR SUBMISSIONS ARE RECEIVED

Where the Police, Liquor Licensing Inspector or Medical Officer of Health opposes an application, or public objections are received, the applicant will be advised that the application is opposed and given a copy of the relevant report.

If the applicant wishes to proceed, the matter will then go to a public hearing.

The IDLA will encourage consultation between the Police, the Liquor Inspector, the Medical Officer of Health and the applicant where it seems likely that an application will be opposed and a hearing may become necessary. The IDLA will attempt to facilitate resolution of differences by non-adversarial means.

6.0 TEMPORARY AUTHORITY

A Temporary Authority is an authority granted by the IDLA to carry on, for a period not exceeding three months -

- (a) The sale and supply of liquor on any premises or conveyance in respect of which an On-Licence is in force; or
- (b) The sale and delivery of liquor on or from any premises in respect of which an Off-Licence is in force.

This is an interim measure to allow trade to continue while applications for an On- or Off-Licence by a new owner of a licensed premises are considered.

When applying for a Temporary Authority the applicant has to *prove* what right, title, estate or interest they have in the premises i.e. submit a lease agreement or purchase.

The Temporary Authority must be accompanied by an application for a substantive licence unless there are exceptional circumstances.

POLICY 6.1 – WHEN SHOULD APPLICATIONS FOR TEMPORARY AUTHORITY BE LODGED

Applications for a Temporary Authority are required to be lodged at least 10 working days prior to becoming operative. Applications lodged later than this will be accepted and processed only where it is practicable to do so.

Comment

This is to give time for applications to be processed before opening day deadlines.

POLICY 6.2 – DURATION OF A TEMPORARY AUTHORITY

The IDLA will issue a Temporary Authority for an initial period of three months. Where the holder of a Temporary Authority has not made application for the respective On or Off Licence, or has made application but the application is incomplete, a subsequent Temporary Authority will only be issued for a period of one month.

Comment

The IDLA will encourage applicants for a Temporary Authority to simultaneously make application for an On- or Off-Licence in respect of the premises or conveyance to which the Temporary Authority will apply. A Temporary Authority should not be allowed to become a device to allow trade to continue ad infinitum in the absence of a proper and complete On- and/or Off-Licence.

POLICY 6.3 – POLICE AND LIQUOR INSPECTOR COMMENT ON TEMPORARY AUTHORITY APPLICATIONS

Applications are forwarded to the Police and the Inspector for comment and/or report prior to a decision being made on the application.

Comment

While the Agency is not required to get reports from the Police, Liquor Licensing Inspector or Medical Officer of Health regarding applications for a Temporary Authority, it will do so before making a decision on the application. In a statement from the Liquor Licensing Authority, issued on 15 May 2000, it was suggested that it would be prudent for District Licensing Agencies to refer all applications for a Temporary Authority to the Police for comment and/or report.

POLICY 6.4 – RE-HEARING OF APPLICATION

The IDLA may re-hear an application for Temporary Authority.

Comment

Refer to 8.0 on next page.

7.0 RE-DEFINITION OF PREMISES

The IDLA issues replacement licences for re-definition of premises.

See reporting criteria on page 18.

POLICY 7.1

Applications for all re-definitions of premises are required to be addressed to the Secretary, Invercargill District Licensing Agency and be submitted on an IDLA application form and accompanied by a detailed plan of the changes to the premises.

POLICY 7.2

Before submitting the application, applicants are encouraged to contact Council's Planning Department to enquire if a new Local Authority Compliance Certificate is required.

8.0 DISTRICT LICENSING AGENCY MAY RE-HEAR ANY MATTER DETERMINED BY IT

Sale of Liquor Act 1989 - Section 110

Authority and Agencies deemed to be Commissions of Inquiry –

- (1) The Licensing Authority and every District Licensing Agency shall each, within the scope of its jurisdiction, be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to the provisions of this Act and of any regulations made under this Act, the provisions of that Act shall apply accordingly.
- (2) For the purposes of this section, the power to issue summonses requiring the attendance of witnesses before the Authority or Agency or the production of documents, or to do any other act preliminary or incidental to the hearing of any matter by the Authority or Agency may be exercised by the chairperson, or by the secretary purporting to act by direction or with the authority of the chairperson.
- (3) In addition to its powers under the Commissions of Inquiry Act 1908 the Authority or any Agency may at any time if it thinks fit re-hear any matter that has been determined by it.

9.0 MANAGER'S CERTIFICATE APPLICATIONS

All applications for General or Club Manager's Certificates are forwarded to the Police and Liquor Licensing Inspector for reporting.

A Manager's Certificate is one of the following:

- (a) A General Manager's Certificate authorises the holder to manage any licensed premises in respect of which a Licence is in force;
- (b) A Club Manager's Certificate authorises the holder to manage any premises in respect of which a Club Licence or a Special Licence is in force.

POLICY 9.1 – QUALIFICATIONS REQUIRED FOR MANAGERS CERTIFICATES

All applicants for General Managers' Certificates are to provide evidence that they hold the "prescribed qualification".

The "prescribed qualification" is the Licence Controller Qualification (LCQ) administered by the Hospitality Standards Institute (HSI).

To achieve this, applicants are required to attend a course of training to gain the Unit Standards 4646 (Sale of Liquor Act) and 16705 (Host Responsibility).

Club Managers' Certificates – Applicants must provide evidence of having gained either a SCANZ Certificate or Unit Standards 4646 and 16705. There is no requirement to hold the LCQ.

Comment

Applicants are required to have undertaken a training course and to have had at least six months experience in the hospitality industry prior to applying for a Manager's Certificate.

New applicants are required to supply two character referees and references from their current or immediate past employers as evidence of their experience in the hospitality industry.

The IDLA cannot issue a certificate to an applicant who does not hold the LCQ.

For new and renewal of Club Manager's Certificates the IDLA will accept the Units Standards 4646 and 16705, LCQ, SCANZ Certificate or other evidence of recent training and experience.

Persons with limited experience who apply for a General Managers Certificate may be directed by the Police or the Liquor Licensing Inspector to give a written undertaking to the IDLA to use their certificate in certain types of premises. E.g. Cafes, restaurants and off licences are different than that of a Tavern/Nightclub type premises – hence this request.

This allows the applicant to gain experience in the hospitality industry. In this case the applicant must not use their certificate at any other premises without first notifying and receiving permission from the Secretary IDLA, the Police and the Liquor Licensing Inspector.

Training courses should provide the applicant with knowledge of the Sale of Liquor Act 1989 and what is expected from a liquor manager. The course should have been undertaken within two years of the application so that the knowledge is fresh. However this may not be required where the person has held a Certificate and missed a renewal and can produce documentation that his/her knowledge of the Act and its requirements is up to date.

All Managers Certificates are required to be renewed after an initial 12 month period and then every subsequent three years thereafter. The renewal process requires similar involvement as the application process. Unopposed applications are renewed by the IDLA.

Recent LLA decisions indicate that applications for renewal when a person is not in the liquor industry are not looked upon favourably.

The IDLA will send out reminder notices to holders of Managers' Certificates on an "all care-no responsibility" basis to the applicant's last known address; however it is the responsibility of the holder to renew the certificate.

See reporting criteria below.

10.0 REPORTING CRITERIA - LIQUOR LICENSING INSPECTORS

Applications for new On-, Off- and Club Licences

The Liquor Licensing Inspector's report will include comment on the criteria listed in Sections 13, 35 and 59 of the Act, namely, but not exclusively:

1. The suitability of the applicant;
2. The hours of operation/suitability for proposed activity;
3. Designation of areas within the premises;
4. Steps proposed to be taken to ensure requirements in relation to sale and supply of liquor to prohibited persons are observed;

5. Provision of food, non-alcoholic refreshments and low-alcohol beverages and transport options; (On- and Club Licences)
6. The applicant's Host Responsibility Policy;
7. The nature of the operation, other than liquor the provision of any other service, sale or supply of any other goods;
8. Resource Management Act 1991 and Building Act 2004 compliance;
9. For a Club Licence the relevance of the prime activity of the club to the hours sought, i.e. the days on which and the hours during which the applicant proposes to sell and supply liquor; compared with the days on which and the hours during which the premises are used for the club's activities will be taken into consideration;
10. For a Club Licence consideration to the proportion of the membership of the club who are prohibited persons will be taken into account.

The following matters are also relevant for comment:

1. Compliance of the premises with relevant legislation, e.g. hygiene standards;
2. Matters raised by complaint or objection to the application;
3. Whether or not the Licence should be granted and any special conditions / circumstances;
4. Responsible business practices and event management;
5. Social impact matters.

Applications for Renewal of On-, Off- and Club Licences

The Liquor Licensing Inspector's report on applications for renewal of On-, Off- and Club Licences will include comment on criteria listed in Section 22, 45 and 68 of the Act, namely:

1. Suitability of the Licensee;
2. Conditions attached to the Licence;
3. Manner in which the Licensee has conducted the sale and supply of liquor pursuant to the Licence;
4. The adequacy and implementation of the premises' Host Responsibility Policy.

The following matters are also relevant:

1. Any adverse environmental impact;
2. Any objections / concerns raised or lodged through the public process by any affected parties;
3. Management's willingness to comply with the Sale of Liquor Act 1989 and its requirements;
4. Promotion of the premises and control of liquor abuse;
5. Responsible business practices and event management;
6. Social impact matters.

In undertaking the review of each premises the Liquor Inspector may take into account the following:

- (a) Information obtained from any public complaint relating to the premises;
- (b) Information obtained from the Police, Medical Officer of Health, Fire Service or any other relevant source;
- (c) Any other information or sources that the Liquor Licensing Inspector deems appropriate.

Applications for Variation of On-, Off- and Club Licences

The Liquor Licensing Inspector's report on an application for variation of conditions on an On, Off or Club Licence will include comment on:

1. The nature of the variation sought by the applicant;
2. Any adverse effect that the variation may have;
3. Resource Management Act 1991 and Building Act 2004 compliance;
4. Matters raised by complaint or objection to the application.
5. Any other information or sources that the Liquor Inspector deems appropriate.

Applications for re-definition of premises

The Liquor Licensing Inspector's report on an application for re-definition of an On, Off or Club Licence will include comment on:

1. The nature of the re-definition sought by the applicant;
2. The area to be re-defined;
3. Any adverse effect that the re-definition may have;
4. Resource Management Act 1991 and Building Act 2004 compliance.
5. Any other information or sources that the Liquor Inspector deems appropriate.
6. Responsible business practices and event management.
7. Social impact matters.

Applications for Special Licences

The Liquor Licensing Inspector's report on a Special Licence application will comment on criteria listed in Section 79 of the Act, namely:

1. The nature of the event/occasion/social gathering/series of events;
2. The suitability of the applicant;
3. The days on which and hours during which the Special Licence is sought;
4. The area(s) of premises that are to be designated;
5. Steps proposed to be taken to ensure requirements in relation to sale and supply of liquor to prohibited persons are observed;
6. Provision of food, non-alcoholic refreshments and low-alcohol beverages, and assistance with transport;
7. The responsibility/adequacy of the management of the event;
8. Compliance of the premises with relevant legislation, e.g. hygiene standards;
9. Any other special conditions/circumstances, which should be taken into account. E.g. Fire evacuation procedure in place;
10. Responsible business practices and event management.
11. Social impact matters.

Applications for new and renewal of Managers Certificates

The Liquor Licensing Inspector will interview applicants for new and renewal of General and Club Managers' Certificates. The applicant will be required to demonstrate, a good working knowledge of the Act and Host Responsibility.

The Liquor Licensing Inspector's report on applications for new and renewal of General or Club Managers' Certificate applications will comment on criteria listed in Section 121 and 126 of the Act, namely:

1. The character and reputation of the applicant;
2. Any convictions recorded against the applicant;
3. Any experience, in particular recent experience, that the applicant has had in controlling any premises or conveyance in respect of which a licence was in force;
4. Any relevant training, in particular recent training, that the applicant has undertaken and evidence that the applicant holds the prescribed qualification required under section 117A of the Act;
5. Any other information or sources that the Liquor Inspector deems appropriate.

For renewal

1. The character and reputation of the applicant;
2. Any convictions recorded against the applicant since the certificate was issued or last renewed;
3. The manner in which the manager has managed the sale and supply of liquor pursuant to the licence (with the aim of contributing to the reduction of liquor abuse);
4. Any other information or sources that the Liquor Inspector deems appropriate.

11.0 COMPLIANCE ISSUES

POLICY 11.1 - MONITORING

That the IDLA will, via its Liquor Licensing Inspector(s) and in conjunction with the Police, Medical Officer of Health and other agencies monitor the operation of all licensed premises within the district and take appropriate action as detailed below where necessary.

Comment

The IDLA works closely with the Police, Medical Officer of Health and other agencies to monitor the operation of licensed premises within the IDLA area.

In addition, the IDLA will follow up any enforcement enquiries or complaints lodged and take the appropriate action.

Enforcement problems are brought to the IDLA's notice from a number of sources including the Police, Liquor Licensing Inspectors, Medical Officer of Health, other agencies, members of the public, and other Licensees. The IDLA has some flexibility in the way in which enforcement problems are handled.

Where the IDLA is aware of a Licensee not operating within the requirements of the Sale of Liquor Act 1989, the following enforcement actions are available to the IDLA:

1. The Police and / or Liquor Inspector(s) may be requested to monitor particular premises and report in specific terms to the IDLA.
2. The Licensee may be invited to meet with representatives of the IDLA, Police and Medical Officer of Health to discuss any enforcement problems or infringements of the Sale of Liquor Act 1989, and solutions or action that should be taken in order to rectify the situation.
3. The IDLA may advise the Licensee in writing of its concern in relation to any enforcement problems, noting any infringements of the Act that may have taken place, and the action that the IDLA and/or the Police require in order to remedy the situation.
4. The matter is referred to the Liquor Licensing Authority.

Copies of any meeting notes or correspondence may be placed on Licensee's file and referred to in relation to subsequent applications/renewals etc.

The IDLA is prepared to attempt to resolve matters at a local level and so prevent the need for legal action, recognising the statutory right of the Police, Medical Officer of Health, the Fire Service and Liquor Licensing Inspector(s) to initiate enforcement action in their own right.

12.0 HOST RESPONSIBILITY

POLICY 12.1 – REQUIREMENT FOR HOST RESPONSIBILITY POLICY

Holders of On-, Off- and Club Licences shall have a written Host Responsibility Policy for the premises.

This must be submitted with the application and be displayed in a prominent position in the premises for staff to observe at all times and available to reporting agencies.

Comment

New On-, Off- and Club Licence applications are required to have a Host Responsibility Policy.

The Liquor Licensing Inspector and the Medical Officer of Health will both address the applicant's "Host Responsibility" Policy.

The Sale of Liquor Act places a significant emphasis on Host Responsibility.

Steps should be taken to ensure that liquor is not sold and supplied to prohibited persons e.g. minors or intoxicated persons. All staff should be aware of the Host Responsibility Policy, which needs to be legible and shows how the premises comply with the particular conditions of their licence.

Golden Rule – if a person looks under 25, ask for ID – no ID no service.

A responsible host should avoid any promotion or activity on the premises, which may encourage alcohol abuse or irresponsible behaviour. Such activities on licensed premises will result in appropriate actions being taken by the IDLA in conjunction with other authorities.

This is an important factor in the ongoing monitoring of licensed premises, and reporting at the time of any renewal or variations.

- Provision of non-alcoholic refreshments and low-alcohol beverages at all times liquor is available for sale and supply;
- Provision of food, as per an appropriate menu submitted or the availability of food in the nature of sandwiches, savouries, mousetraps, mini pizzas and pies at all times liquor is available for sale and supply, and notices advising availability;
- Measures to ensure that sales are not made to minors or intoxicated persons;
- Display signs prominently stating no liquor shall be sold and supplied to minors or intoxicated persons;
- Provision of a telephone or assistance for patrons to arrange transport;
- The responsibility of the manager is to conduct the sale and supply of liquor in accordance with the conditions of the Licence;

The Host Responsibility Policy for an Off Licence premises must include:

- Measures to ensure that sales are not made to minors or intoxicated persons;
- Display signs prominently stating no liquor shall be sold and supplied to minors or intoxicated persons;
- Measures aimed at reducing alcohol abuse i.e. encouraging host responsibility in the home.

Host Responsibility requirements for a Special Licence

- Applications must provide detailed Host Responsibility requirements in relation to the food available, non-alcoholic refreshments and low-alcohol beverages and transport options.
- Provision of food as per menu submitted or the availability of food in the nature of sandwiches, savouries, mousetraps, mini pizzas and pies at all times liquor is available for sale and supply, and notices advising availability.

13.0 LIQUOR ADVERTISING AND PROMOTIONS

POLICY 13.1

That licensed premises should reflect National Protocols and Guidelines.

These should also reflect current decisions from the Liquor Licensing Authority and codes for the advertising of liquor.

14.0 LIAISON WITH LICENCE HOLDERS

POLICY 14.1

The Invercargill District Licensing Agency will periodically host liaison meetings to discuss matters relating to the enforcement of the Sale of Liquor Act 1989 with licensees.

Comment

The IDLA will periodically meet with Licensees, the Police and other authorities involved in the licensing process to exchange information and discuss items of concern.

The procedures involved in obtaining, renewing, varying and redefining Licences are set out in the IDLA application forms available from Council's Liquor Licensing staff.

Applicants need to be familiar with these documents and the Sale of Liquor Act 1989 when making an application.

15.0 PUBLIC CONSULTATION, PARTICIPATION AND LIAISON

POLICY 15.1 – PUBLIC PARTICIPATION

The Invercargill District Licensing Agency will offer opportunities for public involvement in policy setting and will take appropriate action to publicise its role and functions.

Comment

The IDLA encourages input to the licensing policy from the general public.

POLICY 15.2 – CONTINUING EDUCATION

The IDLA will maintain a continuing education role with emphasis on the need for moderation in alcohol consumption.

Comment

The IDLA recognises the need for greater public awareness and education in relation to alcohol. The Sale of Liquor Act goes some way towards that, but there must also be initiatives from agencies and organisations (e.g. District Licensing Agencies, Police, Health Promotion Authorities, ALAC, and Licensee Organisations such as HANZ, SCANZ and

other groups) to foster and continue ongoing education and awareness of the problems associated with alcohol consumption.

Education and health promotion applies to many levels in many areas, not only the important role of education of youth, but also groups such as Licensees, the general public and people involved in administering the Act itself. These promotions need to be ongoing as do local projects in conjunction with Police, Medical Officer of Health and other agencies.

An example of these projects aimed at reducing alcohol related harm is the ALAC "Culture Change" project and reflected in the Invercargill Community Alcohol Strategy.

The IDLA will act in a role of promoting a more responsible attitude towards the use of alcohol. The following groups will be targeted:

Youth

The IDLA will support the education and health promotion projects for prevention of alcohol abuse in conjunction with the other organisations e.g. the "Youth Access To Alcohol" project" (YATA).

Licensees and their Staff

The IDLA is already involved in promoting awareness of Licensees and staff responsibilities under the Sale of Liquor Act 1989 and this will continue. The Policies of the IDLA in relation to applications for new and the renewal of existing Licences, as well as Managers' Certificates, reflect the IDLA's requirements for Licensees and their staff to have appropriate levels of training.

The Liquor Licensing Inspector may assist training providers where deemed appropriate including running "Drinksafe Workshops".

The General Public

The IDLA in conjunction with Police and Medical Officer of Health will take such initiatives as deemed appropriate to make the general public more aware of their collective responsibility in relation to the Sale of Liquor Act 1989.

District Licensing Agencies and Other Agencies Involved in Liquor Licensing

It is important that the IDLA and its Liquor Licensing Inspectors meet regularly with other agencies such as the Police and Medical Officer of Health at a local level. This enables discussion on topical matters, application, and procedures etc that are occurring in the district.

The IDLA recognises that in order to operate in the manner required by the Sale of Liquor Act 1989, it is essential for IDLA staff and the staff of other organisations involved in the administration of the Sale of Liquor Act to be aware and up to date with the responsibilities and requirements of the Sale of Liquor Act.

In order for all agencies to work together to ensure that the Sale of Liquor Act 1989 is administered properly, it is essential that all agencies involved in the Sale of Liquor Act communicate regularly, and are working towards the same goals (within the bounds of their own legislative requirements and purposes). For this reason the IDLA may promote and take part in Sale of Liquor Act seminars aimed specifically at the administering agencies and their staff.

16.0 LIQUOR BANS

POLICY 16.1 – LIQUOR BAN BYLAW 2008

The Council may use the provisions of the Local Government Act to address problems of consumption and abuse of liquor in public places.

Comment

The Council has undertaken consultation with the community, which revealed a large measure of support for banning, under the Local Government Act, the possession and consumption of alcohol in such places as the Central Business District.

The Council has prohibited, and will continue to prohibit, the consumption and possession of liquor in the Central Business District and other public places for specific occasions and events.

The Council's reason for such prohibitions is to prevent the abuse of liquor and the resultant threats to public safety.

Such bans are subject to periodic review.

The Liquor Ban Bylaw 2008 states: -

Possession or consumption of liquor in the liquor ban affected area shown is prohibited 24 hours of every day pursuant to the Invercargill City Council Environmental Health Bylaw 2008/1 – Liquor Ban

Exemptions:

This Bylaw does not prohibit, in the case of liquor in an unopened bottle or other unopened container:

- (a) The transport of that liquor from premises that adjoin a public place during any period, when, under the Sale of Liquor Act 1989, it is lawful to sell liquor for consumption off the premises, provided the liquor is promptly removed from the public place.
- (b) The transport of that liquor from outside a public place for delivery to premises that adjoin the public place, provided the premises are licensed for the sale of liquor under the Sale of Liquor Act 1989.
- (c) The transport of that liquor from outside a public place to premises that adjoin a public place:
 - (i) By, or for delivery to, a resident of those premises or by his or her bona fide visitors; or
 - (ii) From those premises to a place outside the public place by a resident of those premises, provided the liquor is promptly removed from the public place.

Offences & Penalties

Every person who breaches the Bylaw commits an offence and is liable on summary conviction to a fine, pursuant to Section 242(4) of the Local Government Act 2002.

The powers this Bylaw confers on the Police are:

1. The power to arrest without a warrant a person contravening the Bylaw.
2. The power to arrest without a warrant a person who refuses to leave the public place after requested to do so.
3. The power to arrest without a warrant a person who refuses to surrender liquor that is in their possession in breach of the Bylaw.
4. The ability to search without a warrant a vehicle in, entering or about to enter the public place subject to the Bylaw for the purpose of ascertaining whether or not the vehicle contains liquor.

17.0 ALCOHOL ACCORDS

POLICY 17.1 – SUPPORT FOR ACCORDS

- (i) The IDLA supports the concept of Alcohol Accords as a way of addressing problems arising from the consumption of liquor.**

- (ii) The IDLA will be a willing party to any initiative to establish an Alcohol Accord.**

Comment

Alcohol accords are a concept promoted by the Alcohol Advisory Council, the Police and the Prime Minister's Crime Prevention Unit.

"An Accord is a written agreement between people and/or organisations to support or work together ... to prevent the inappropriate service and consumption of alcohol in licensed premises and to lessen the harm and anti-social behaviour ... that result from excessive alcohol consumption."

An Accord may be a partnership between the Police, the IDLA, and the owners or proprietors of licensed premises in the accord coverage area. Other groups, such as Medical Officer of Health, other Agencies, the Chamber of Commerce, retailers' associations, transport operators, security firms, and Iwi and Pacific peoples' representatives may need or wish to be involved.

For an Accord to work there needs to be:

- A willingness to put resources into brokering the accord by a lead agency e.g. the Police, the Licensing Agency, or the Hospitality Association;
- "Buy in" to the provisions of the Accord by all stakeholders;
- Ongoing commitment to maintaining the Accord through regular meetings.

The IDLA notes the potential for an Accord or Accords to successfully address problems on a co-operative and non-regulatory basis arising from consumption of liquor.

All correspondence on liquor licensing matters should be addressed to:

The Secretary
Invercargill District Licensing Agency
Invercargill City Council
Private Bag 90104
INVERCARGILL