

Liquor Licensing Act 1997

Clubs factsheet

(including limited clubs)

General information

If your club wishes to sell liquor, a club representative needs to apply to Consumer and Business Services (CBS) for a liquor licence.

It is an offence to sell liquor without a licence. A maximum penalty of \$20,000 can apply if found guilty of this offence.

Clubs must comply with the *Liquor Licensing Act 1997* (the Act) in relation to the management of consumption and supply of liquor on your club premises.

Clubs should also be aware that it is a condition of their licence that they must comply with the Commissioner's codes of practice. The current General Code of Practice (General COP) came into operation on 18 January 2013.

In addition to ensuring your club has the correct licence, your club should also be familiar with the legislative requirements relating to "regulated premises".

Licences

What type of licence does your club need?

Clubs that sell liquor for consumption on or off the premises require a Club licence or a Limited Club licence. A Limited licence is only appropriate for a one-off special event or a series of special events.

Club licence

A Club licence permits the sale and supply of liquor on licensed premises to any member of the public who is not a minor. It does not permit the sale of take-away liquor unless special approval has been granted by the licensing authority (refer section 36 and section 102 of the Act).

Limited club licence

A Limited Club licence permits the sale and supply of liquor on licensed premises to club members or guests of members only. A club member is permitted to have no more than five guests on the premises at any one time (refer section 36(3) of the Act).

A Limited Club licence does not permit the sale of take-away liquor.

Limited licence—General information

Limited licences are issued for one-off special events or functions, such as a grand final or awards night. Applications must be lodged at least 14 days before the event and must include event details (such as the date, time, type of liquor to be sold and the number of people expected to attend) (refer section 41 of the Act).

Applications for large events such as festivals, street closures, Christmas functions or events that extend over more than 3 days, should be lodged with CBS at least 60 days prior to the event. It is recommended that applications for large events be lodged as early as possible to ensure sufficient time for processing (refer regulation 11). Consent may also be required from your local council and the police.

A Limited licence can allow liquor to be sold or consumed within a “licensed area”, which can include the club rooms and grounds if the organisation chooses.

A Limited licence is also required if a licensed club holds a special function (such as a premiership celebration) that would involve trading outside of the hours covered by its standard licence.

Limited licence – Extended trading hours, trading areas and prescribed entertainment

On licensed premises liquor is only permitted to be sold and consumed in designated areas and during approved trading hours, as prescribed in the *Liquor Licensing Act 1997* and subject to any conditions of the individual licence. Furthermore, prescribed entertainment may only be provided on licensed premises where consent has first been obtained by the Commissioner.

Therefore, if a licensee wants to—

- extend the approved trading hours;
- extend the trading areas; or
- provide prescribed entertainment,

for a one-off special occasion, a limited licence must be obtained authorising the licensee “to extend on a temporary basis the trading rights under the current liquor licence”.

Please contact CBS on 8226 8655 for further assistance in relation to obtaining a limited licence.

Limited licence – Limited club licences

If the holder of a Limited Club licence wishes to hire out the club's premises then the club can do so under a Limited licence for—

- members who wish to hold a function and invite more than five guests per member to attend the function; or
- non-members who are looking for a venue to hold a function.

The supply of liquor during the function can be provided for by the club itself or by the person holding the function. In either case there are certain requirements to be met as outlined below.

If the club is involved in the function—

If the holder of a Limited Club licence wishes to hire out the club's premises where the club is responsible for the sale and/or supply of liquor during the function (and there are more than five guests per member attending the function) then the club itself must apply for the Limited licence. The type of Limited licence required would be for—

- sale of liquor (this authorisation will enable a club to sell liquor to a person during the function); or
- consumption of liquor (this authorisation will enable a club to supply liquor for consumption only during the function).

If the club is not involved in the function—

If the holder of a Limited Club licence wishes to hire out the club's premises and the club will not be involved in the supply of liquor during the function then the club must —

- remove the club's liquor (the club's liquor cannot to be used for the duration of the function); and
- advise the person holding the function that it is their responsibility to provide the liquor (and obtain a Limited licence if required).

If the club's licence is suspended for the duration of the function, liquor may still be consumed on the premises so long as it is BYO and there is no charge applied for admission to the function. In such circumstances there would be no need for the club or the person hiring the premises to apply for a Limited licence to cover the period of licence suspension.

A Limited licence would, however, be required if it was intended to sell liquor on the club's premises. Please contact CBS on 8226 8655 for further assistance.

Licence conditions

The Commissioner may impose specific conditions on a licence. These conditions are normally imposed when the licence is granted or when the licence is varied by the Commissioner from time to time.

The Act requires that a licensee complies with all licence conditions and the codes of practice (as compliance with the codes is a licence condition).

If licence conditions are not complied with, disciplinary action may be taken against the licensee.

Trading hours

Trading hours for the sale and supply of liquor are fixed by the Act and through licence conditions applied by the Commissioner. Licensees must only sell or supply liquor in accordance with the terms and conditions outlined on their specific licence held (refer s36 of the Act).

Extended trading authorisation

An extended trading authorisation can be granted by the Commissioner to allow the club to sell and supply liquor outside the statutory trading hours defined in the Act.

An extended trading authorisation can only be granted if the Commissioner is satisfied that the extension of hours would not cause any inconvenience to those in the vicinity of the licensed premises (refer section 44 of the Act).

If an extended trading authorisation is granted, further conditions may also be added to the licence.

Prescribed entertainment

If a licensee intends to provide prescribed entertainment on a licensed premises, the licensee must apply to the Commissioner for prescribed entertainment (refer section 105 of the Act).

Prescribed entertainment can apply to the whole of specific areas of a premises. The Commissioner may impose conditions on an approval of prescribed entertainment.

Prescribed entertainment includes—

- entertainment of a sexually explicit nature; or
- a professional or public boxing or martial art event within the meaning of the *Boxing and Martial Arts Act 2000*; or
- any other entertainment of a kind prescribed by the regulations for the purposes of this definition.

The Commissioner will not grant prescribed entertainment consent unless satisfied that:

- approval is consistent with the objects of the Act; and
- the prescribed entertainment is unlikely to cause undue offence to people who reside, work or worship in the vicinity of the premises.

No takeaway liquor except to members with the approval of the authority

It is an offence if a person takes liquor away from the licensed premises unless a licensee is authorised under the licence to allow this to happen (refer section 102 and section 104 of the Act). A Club licence allows for approval to be sought from the Commissioner for take-away liquor, however a Limited Club licence does not.

Approval for take-away liquor would only be granted if a club with a Club licence can establish that members cannot obtain liquor from a source other than the club without great inconvenience (refer section 36 of the Act).

Liquor won as a prize may be removed from the premises.

Regulated premises

It is an offence to sell, supply or consume liquor on “regulated premises” unless an appropriate class of licence has been granted.

Regulated premises includes “licensed premises” and “a public place that is being used for the purposes of an organised event, where admission to the event is gained on payment of money, presentation of a prepaid ticket or purchase of some item”.

For example, a fundraising event staged at a bowls club or a football grand final is considered regulated premises if an admission fee is charged.

Regulated premises also includes “a restaurant, café or shop; an amusement parlour or arcade; a public conveyance or a premises of a kind declared by regulation to be regulated premises”.

If your club is licensed, it is important that the licence covers ALL areas where liquor may be consumed.

It is not sufficient for a football club, for example, to hold a licence that only covers the club rooms if spectators will be drinking outside. In this example, any person who consumes liquor outside of the licensed club rooms would be guilty of an offence as well as any person who supplied the liquor to those consuming it.

If you need to redefine the area covered by your licence to include other parts of the club or associated grounds, please contact CBS.

Responsibilities

When a Club licence, Limited Club licence or Limited licence is granted, the licensee must comply with all the requirements of the Act, including approval of Committee Members and Responsible Persons, and the Commissioner's codes of practice (refer section 42 of the Act and the General COP).

In particular, the licensee must ensure that:

- all licence conditions are complied with.
- liquor is not sold or supplied to minors (refer section 110 of the Act and the General COP).
- when selling liquor, the club is always supervised by the licensee or a "responsible person" (unless an exemption has been granted) (refer section 97 of the Act).
- liquor is not sold or supplied to intoxicated persons (refer section 108 of the Act and the General COP).
- the promotion, sale, or supply of liquor does not encourage the rapid and excessive consumption of liquor (refer to the General COP).
- liquor is always sold or supplied in a responsible manner (refer to the General COP).

Committee members

Club licence

- Committee members of a licensed club are classified as "persons in a position of authority", and therefore must be approved by the Liquor and Gambling Commissioner (refer section 98 of the Act).
- New committee members must be approved before assuming their position on the committee. The approval process includes the lodgement of an application form and notification of the composition of the committee using the appropriate forms that are available on the CBS website. If the club holds a gaming machine licence, then the committee members must each lodge a Personal Information Declaration, which requires the provision of certain personal details, including information relating to any criminal history.

Limited club licence

- There is no formal approval process for committee members of a club that is covered by a Limited Club licence (refer section 98(1) of the Act).
- However, the management committee of a club holding this type of licence must keep CBS informed of any changes to the composition of the committee using the appropriate forms that are available on the CBS website (refer section 36(3)(d) of the Act).

Approval of responsible persons

An approved “responsible person” must be present at all times when licensed premises are open to the public and wear identification approved by the Commissioner whilst on duty.

A licensee may apply to the Commissioner for an exemption from this requirement under specific circumstances.

A Limited Club licence holder may, upon application, be granted an exemption from the requirements relating to a responsible person being present.

An application fee applies for the approval of a responsible person, except in the case of a Limited Club licence where no application for approval is required (refer section 97 of the Act). A fee for an approved identification badge applies in accordance with the *Liquor Licensing (General) Regulations 2012*.

The Commissioner can issue an interim approval on the condition that the person satisfies the Commissioner that the person is a fit and proper person within a set time, for more information please refer to the [Responsible person approvals information guide](#). The Commissioner also the power to revoke the approval of a responsible person.

General code of practice

It is a condition of every licence that the licensee complies with the Commissioner's codes of practice (refer section 11A and section 42 of the Act), unless an exemption is granted by the Commissioner.

The General Code of Practice promotes the objects of the Act and requires licensees to undertake a risk assessment of their operations. It requires licensees to develop a written management plan that demonstrates how they manage the risks associated with their operational practices. Specifically, licensees are required to:

- assess their operational practice;
- not undertake practices involving unacceptable risk;
- implement measures to manage high risk practices; and
- maintain practices that address medium and low risk operations.

CBS has developed a Risk Assessment and Management Plan Template to assist licensees with their obligation to comply with this requirement of the General COP. This template is available from the CBS website www.cbs.sa.gov.au.

The General COP also requires licensees to ensure that all staff (paid and unpaid) involved in the service or supply of liquor on a licensed premises complete nationally accredited responsible service of alcohol (RSA) training.

A link to a list of Registered Training Organisations currently registered to deliver nationally accredited RSA training in South Australia can be found on the CBS website www.cbs.sa.gov.au.

The requirement to complete RSA training does not apply to a Limited Club licence or Limited licence unless imposed as a condition on the licence by the licensing authority.

Also available from the CBS website are Supporting Guidelines developed to assist licensees with complying with their obligations under the General COP.

BYO alcohol

Clubs must ensure they comply with the following:

- BYO alcohol is ONLY permitted at **LICENSED CLUBS THAT ALLOW BYO**. If BYO alcohol is permitted, the area where alcohol is consumed must be licensed. For example, spectators cannot consume BYO alcohol around a football oval if the bar and club rooms are the only areas at the club that are licensed.

- If a licence authorises liquor to be consumed on a licensed premises with or ancillary to a meal provided by the licensee, BYO alcohol may be brought onto the licensed premises, but only if the licensee consents, and only if the alcohol has been brought onto the premises with the intention that it be consumed with or ancillary to a meal provided by the licensee (refer section 104 of the Act).
- Patrons who BYO in these circumstances are allowed to take any unconsumed portion away with them in its original container. This means that patrons will not have to leave behind wine that they have brought or paid for and allows patrons who would rather finish the bottle at a later time to be able to do so.
- BYO liquor is not permitted at unlicensed club grounds that are regulated premises.
- If admission is charged for entry to a function held at a club, the entire club area becomes a regulated premises and liquor is prohibited if the club is not licensed.
- If admission is not charged and an area is not licensed, your club grounds are still a regulated premises (if the club rooms or bar is licensed), where the oval and surrounds are under the control of the licensed club.
- If admission is not charged to an unlicensed club and the area is a public place (not under a club's control), the consumption of liquor may be permitted subject to any dry area regulations.
- Unconsumed liquor may only be removed from a licensed premises if:
 - the licence held authorises the consumption of liquor (includes both Club and Limited Club licence); and
 - the licensee consents to liquor being brought onto the licensed premises. The unconsumed portion of liquor may be removed from the premises under specific conditions (refer section 104 of the Act).

Employment of minors

A minor may be employed on licensed premises to carry out tasks such as clearing tables or general cleaning duties, but generally may not be employed to sell, supply or serve liquor on a licensed premises.

However, a minor may be employed to sell, supply or serve liquor on the licensed premises if—

- the minor is aged 16 years of age or more, a child of the licensee or a responsible person for the licensed premises and resident on the premises; or
- the minor is aged 16 years of age or more and a child of the licensee or a responsible person for the licensed premises, and has been approved by the licensing authority for that purpose (refer section 107 of the Act).

However, if the licensed premises also has a gaming machine licence (a Limited Club licence does not allow for gaming machines), the minor is not allowed to enter the gaming area(s) of the licensed premises.

Management agreement - Section 99 (management & profit sharing agreements)

Section 99 of the Act refers to agreements between licensed and unlicensed parties. The Act refers to this type of arrangement as a profit sharing arrangement under which the unlicensed person receives a percentage of the proceeds of the business conducted at the licensed premises. The Commissioner may, on application, approve agreements between these parties under this section of the Act.

Examples relating to profit sharing are as follows—

- Where there is an agreement between the club and a performer, and the performer charges an admission fee, then no approval is required. However, if the agreement also provides that the performer is entitled to a percentage of the bar takings, then an approval would be required.
- If a club engages a business to provide catering services and only pays a flat fee per person (or per meal) that is in no way connected to bar takings or does not otherwise share in other revenue generated by the club, then this is not considered a 'profit share agreement' and does not require the approval of the Commissioner under section 99 of the Act. However, should the fee paid to the catering service also encompass a percentage of the bar takings, a profit sharing agreement would be required.

Where the Commissioner approves an agreement and the licensed party wishes to modify this agreement, an application must be made under section 99. It remains a requirement that the licensee maintains primary control of the business conducted under the licence.

Should an unlicensed party want a club to enter into a profit sharing arrangement, the club may wish to seek legal advice.

Penalties

If a club sells liquor without a licence, or breaches the Act or a licence condition, disciplinary action may be taken against the club and committee members.

The Licensing Court of South Australia may impose a range of penalties, such as variation of licence conditions, suspending or revoking a person's approval, or issuing a fine or a reprimand (refer section 121 of the Act). The Licensing Court also has injunctive remedies and the power to punish contempts.

Depending on the nature of the offence, penalties may apply to the club and/or individual persons.

More information

CBS has developed General Code of Practice supporting guidelines and a risk assessment and management plan template to assist licensees, and these can be found at www.cbs.sa.gov.au or by contacting CBS on 131 882. Clubs SA has also developed a template risk assessment and management plan specifically for Clubs.

Clubs SA is the peak body for the licensed club industry in South Australia. Clubs SA's contact details are—

Clubs SA House 222a Henley Beach Rd

TORRENSVILLE SA 5031

Ph: 08 8290 2200

www.clubssa.com.au

Clubs may also consider registering with the Good Sports program. Good Sports works with sporting clubs to promote the responsible service of liquor. For more information visit www.goodsports.com.au.

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Activity	Club Licence	Limited Club Licence
Sale of Liquor	A club licence authorises the sale of liquor on the club premises to club members and the general public. The club may also be permitted to sell liquor for 'carry-off' if specifically approved, and by direct sales.	A limited club licence authorises the sale of liquor on the club premises to club members and their guests only. A member of the club is not permitted to have more than five guests on the club premises at any one time (or a lesser number if determined by the licensing authority). A limited club licence cannot authorise the sale of liquor for 'carry-off' or by direct sales.
Do committee members need to be approved?*	<p>Yes</p> <p>Committee members need to satisfy the licensing authority that they are fit and proper persons to be in a position of authority. Names, dates of birth and contact details for each committee member must be provided with the application.</p> <p>If the club holds a licence under the <i>Gaming Machines Act 1992</i> committee members will need to complete a Personal Information Declaration. Relevant liquor knowledge, skills and experience, the results of a police check and creditworthiness will be taken into consideration.</p> <p>Fingerprints will also be required if the club applies for, or has a gaming machine licence.</p> <p>If any committee member is going to have a hands on role in the daily running of the club, they will require an identification badge and will need to complete training.</p> <p>Each approval is subject to an application fee, a fee for a badge if required and may take up to six weeks to be granted.</p>	<p>Yes (the process is simplified)</p> <p>Committee members need to satisfy the licensing authority that they are fit and proper persons to be in a position of authority. Names, dates of birth and contact details for each committee member must be provided with the application. However, a 'Personal Information Declaration' form does not need to be completed.</p> <p>Each time the committee changes, or a committee members ceases to occupy that position, CBS needs to be notified by completing another form to indicate the changes.</p> <p>No application fees are required.</p> <p>If the licensing authority notifies the club that it considers that any member of the committee of management of the club is not a fit and proper person to be in a position of authority in the club, the club must immediately take action to have that person removed from the committee of management.</p>
<i>*Approval of a committee member is different from being approved as a Responsible Person</i>		
Is the club required to have a Responsible Person approved?	<p>Yes</p> <p>An approved responsible person wearing a photo identification badge must be on duty at all times during operating hours.</p> <p>An application fee and a fee for the identification badge will apply.</p> <p>If an exemption has been granted then the club does not require a responsible person to be approved.</p>	<p>Yes</p> <p>An approved responsible person wearing a photo identification badge must be on duty at all times during operating hours.</p> <p>No application fee is required, however, a fee for the identification badge will apply.</p> <p>If an exemption has been granted then the club does not require a responsible person to be approved.</p>

<p>Can the club apply for an exemption from the requirement to have a responsible person supervising the premises?</p>	<p>Yes</p> <p>The club must prove that there is limited scope to the business and approval of a responsible person would not be required. For example, an exemption may be given when a club has a small membership and only operates during limited hours.</p>	<p>Yes</p> <p>The club must prove that there is limited scope to the business and approval of a responsible person would not be required. For example, an exemption may be given when a club has a small membership and only operates during limited hours.</p>
<p>Will the licence allow a gaming machine licence?</p>	<p>Yes</p> <p>If the club has a gaming machine licence, a gaming machine manager will be required to supervise the gaming operations. Persons working in the gaming area may need to be approved as gaming machine employees.</p>	<p>No</p>

Please contact CBS on 8226 8655 for more information.