



Barring a Person from a Licensed Premises Information sheet

Level 9, East Wing
50 Grenfell St Adelaide SA 5000
GPO Box 2169 Adelaide SA 5001
t 08 8226 8410 f 08 8226 8457

e olgc@agd.sa.gov.au w olgc.sa.gov.au

A person can be barred from licensed premises pursuant to Section 125 of the Liquor Licensing Act 1997.

Barring a person from licensed premises under the Liquor Licensing Act 1997 follows a different procedure to barring a person from a gaming area under the Gaming Machines Act 1992. Refer '*Barring a Person from a Gaming Area - Information Sheet*'.

Who has the authority to bar a person from licensed premises?

A licensee or the licensee's responsible person can bar a person under the *Liquor Licensing Act 1997*.

The licensee or the licensee's responsible person can bar a person from the licensed premises for any of the following reasons:

- The person behaves in an offensive or disorderly manner
- The person commits an offence
- The licensee or responsible person believes that the welfare of the person or the person's family is seriously at risk as a result of the consumption of alcohol by the person
- Any other reasonable ground.

Amendments to the Liquor Licensing Act now enable the Commissioner of Police and police officers of a specified rank to bar persons from a licensed premises or multiple licensed premises for specified periods.

Police have the power to bar people from all licensed premises, from all licensed premises in a particular area or all licensed premises of a particular class.

The grounds of barring can be on:

- reasonable grounds based on criminal intelligence
- welfare grounds
- offences or offensive, disorderly behaviour on or adjacent to licensed premises
- other reasonable grounds.

How long can a person be barred from licensed premises?

The length of the barring period varies under the Liquor Licensing Act 1997:

- Licensees can bar a person for up to three months if the person has not been barred from the premises before
- Licensees can bar a person for up to six months if the person has been barred from the premises at least once before

- Licensees are now able to apply to the Liquor and Gambling Commissioner to bar a person for a period exceeding three months or six months for a first or second barring. A licensee does not have to wait for the Commissioner to specify the period before barring the person. After inserting the statutory barring period on the barring order (*either three months or six months*) then the licensee must insert the words 'or such longer period as may be approved by the Commissioner'.
- Licensees can bar a person for a specified time or indefinitely where the person has been barred on at least two previous occasions from the premises, **or** if the licensee or responsible person are barring the person in order to protect the person's welfare or the welfare of the person's family as a result of the consumption of alcohol by the person.
- Police may bar persons indefinitely on reasonable grounds based on criminal intelligence or based welfare grounds (*if they believe the welfare of the person or the person's family is seriously at risk as a result of the alcohol consumed by that person*).
- Persons can be barred by police for longer periods of up to three months - on the first occasion of offensive or disorderly behaviour or an offence being committed - and six months for the second occasion. A third occasion could lead to indefinite barring.
- Persons may also be barred by police for 72 hours for committing an offence or for disorderly or offensive behaviour in or around licensed premises.

How is a person barred from a licensed premises?

The licensee must complete the '*Order Barring Person from Licensed Premises*' form, available from this Office. The order becomes effective only once a copy of the barring order is served on the person being barred.

A copy of the order must also be kept on the licensed premises. Licensees **are not** required to send barring orders issued under Section 125 to the Liquor and Gambling Commissioner if the period of barring is six months or less.

If a person is barred for an **indefinite period or a period exceeding six months**, the Liquor and Gambling Commissioner **must within seven days** of service, receive a copy and details of the barring order (*in accordance with Section 125 of the Liquor Licensing Act 1997*) from the Licensee or Responsible Person, **or the order will cease to have effect**.

Licensees should provide details to staff of persons who have been barred. This will assist staff with the detection of barred persons entering the licensed premises.

Information, including a person's identity may now be provided within fourteen days to the licensee by police to assist the licensee barring the person.

Where must barring orders be kept?

While the *Liquor Licensing Act 1997* does not specify how barring orders issued under Section 125 are to be kept, it is recommended that copies of barring notices be kept in a place which is accessible or visible to staff (*but not to members of the public*). It is very important that staff should be given full particulars of patrons who have been barred.

Can the barring order be reviewed or revoked?

If the barring is for a period in excess of one month, the barred person can apply to the Liquor and Gambling Commissioner for a review of the barring order. The Commissioner may then uphold, vary or revoke the barring following a hearing of the matter. **This decision of the Commissioner cannot be appealed.**

A licensee or a responsible person for the licensed premises may revoke an order barring a person from the premises, by completing a *Licensee Revocation order* available from this office

The decision of the Commissioner to extend the length of a licensee barring order is reviewable by the Licensing Court.

What happens if a barred person enters the premises?

A licensee, a responsible person for the licensed premises or an employee of the licensee who allows a barred person to enter or remain in the licensed premises is guilty of an offence. The maximum penalty which may apply is \$1,250.

A person who enters or remains in a premises from which he or she is barred is guilty of an offence. The maximum penalty which may apply is \$1,250.

The licensee, a responsible person, an approved crowd controller or a police officer may prevent a barred person from entering the licensed premises, or request a barred person to leave the licensed premises. If the person refuses, they may use only such force as is necessary to remove them.

If further information is required, please contact this office.

