

Liquor Licensing Act 1997

Commissioner's Direction

Effective: 18 November 2019

Introduction

This document sets out certain requirements of the Liquor and Gambling Commissioner (the Commissioner) under the *Liquor Licensing Act 1997* (the Liquor Act). These requirements supersede any previously issued requirements or Practice Directions.

Exemptions

7A—Exemptions

If a provision of this Act allows a licensing authority to grant an exemption from a provision or requirement under this Act (including a provision or requirement under a code of practice), the licensing authority may vary or revoke the exemption, and must give notice of the variation or revocation of the exemption in a manner and form determined by the licensing authority.

For the purposes of section 7A of the Liquor Act, the licensing authority will give notice of the variation or revocation of an exemption by written notice to the licensee. Written notice includes a notice sent to the licensee through Liquor and Gaming Online (LGO). LGO can be accessed by visiting lgo.cbs.sa.gov.au.

Intervention by Commissioner of Police

28AA—Intervention by Commissioner of Police

- (1) The Commissioner of Police may intervene in proceedings before a licensing authority, by notice lodged in a manner and form approved by the Commissioner, at least 7 days before the day appointed for the determination or hearing of the proceedings (or such lesser period as the licensing authority may allow), for the purpose of introducing evidence, or making submissions, on any question before the authority...

For the purposes of section 28AA(1) of the Liquor Act, the Commissioner approves the SAPOL Portal as the manner and form in which the Commissioner of Police may intervene in proceedings before the licensing authority.

If exceptional circumstances exist, the Commissioner may approve an alternate manner and form in which the Commissioner of Police may intervene in proceedings.



Club Licence

36— Club licence

...

- (4) In addition, a club licence is subject to the following conditions:
- (a) if there is a change to the composition of the committee of management of the club, the club will, within 14 days, give the Commissioner notice of the change in the form and containing the information required by the Commissioner; ...

For the purposes of section 36(4)(a) of the Liquor Act, the Commissioner requires licensees to use LGO to notify the Commissioner of a change to the composition of the committee of management of the club. The information required is the information required by the relevant form in LGO. LGO can be accessed by visiting lgo.cbs.sa.gov.au.

If exceptional circumstances exist, the Commissioner may approve an alternate form which licensees may use when notifying the Commissioner of a change to the composition of the committee of management of the club.

Mandatory Conditions

42— Mandatory Conditions

...

- (1a) It is a condition of every licence (other than a short term licence) that, if there is a change in the name of the licensed premises, the licensee must, within 14 days, give the Commissioner written notice of the change in the form determined by the Commissioner.

...

- (1c) It is a condition of every licence that the licensee must, within 14 days of any change of the name, address or contact details of the licensee, give the Commissioner notice of the details of the change in a form determined by the Commissioner. ...

For the purposes of section 42 of the Liquor Act, the Commissioner approves LGO as the form which licensees must use when notifying the Commissioner of a change of name or the change of the name, address or contact details of the licensee. LGO can be accessed by visiting lgo.cbs.sa.gov.au.

If exceptional circumstances exist, the Commissioner may approve an alternate form which licensees may use when notifying the Commissioner of a change of name or a change of the name, address or contact details of the licensee.

Notification of Certain Variations to Licences

50B— Notification of certain variations to licences

If a licensee notifies the Commissioner, in a manner and form determined by the Commissioner, that the licensee—

- (a) has reduced the number of hours during which the licensee trades in liquor (but not so as to allow the licensed premises to trade at later hours than those previously fixed in relation to the licence); or
- (b) has reduced the number of persons stated in the licence as the maximum capacity of the licensed premises; or
- (c) no longer sells or supplies liquor in accordance with a club event endorsement, a club transport endorsement or a production and sales event endorsement,

the Commissioner may vary the relevant licence and any terms and conditions under the licence accordingly.

For the purposes of section 50B of the Liquor Act, the Commissioner approves LGO as the manner and form which licensees must use when notifying the Commissioner of a reduction in trading hours, a reduction in the premises capacity or the removal of an endorsement. LGO can be accessed by visiting lgo.cbs.sa.gov.au.

If exceptional circumstances exist, the Commissioner may approve an alternate form which licensees may use when notifying the Commissioner of a reduction in trading hours, a reduction in the premises capacity or the removal of an endorsement.

Form of Applications

51— Form of applications

- (1) An application to a licensing authority—
 - (a) must be made in a manner and form approved by the Commissioner; and
 - (b) must be accompanied by the plans and specifications required under the regulations and any documents or material required by the Commissioner; and
 - (c) if a time limitation is prescribed by the regulations—must be made within the prescribed time; and
 - (d) must be accompanied by the fee required under the regulations. ...

For the purposes of section 51(1) of the Liquor Act, the Commissioner approves Liquor and Gaming Online (LGO) as the manner and form in which applications to the licensing authority must be made. LGO can be accessed by visiting lgo.cbs.sa.gov.au.

If exceptional circumstances exist, the Commissioner may approve an alternate manner and form in which applications to the licensing authority may be made.

The application process

All applications under the Liquor Act must be lodged through LGO unless the Commissioner approves an alternate application process where exceptional circumstances exist.

An application will not be accepted by LGO unless all required fields are completed, all required documents are uploaded and application fees are paid in full. The application will then be allocated to a Consumer and Business Services (CBS) case manager who will assess the application.

If the application does not meet minimum requirements (e.g. incorrect or incomplete documents uploaded/fields not completed correctly), the applicant will receive a notification through LGO with a request to provide the outstanding information.

Once the application meets the minimum requirements, it will be assessed for advertising needs in accordance with the Advertising of Applications Information Guide and advertising directions will be issued (if required), together with the scheduled determination date. This information will be provided through LGO and will generally occur within 10 business days of CBS having received all relevant information.

If required, the case manager will contact the applicant, through LGO, to provide details of any further documentation required to determine the application. Any such documentation needs to be provided through LGO and received by the case manager at least seven business days prior to the scheduled determination date or the matter will be adjourned for six months. If the matter is not ready to proceed after six months, the matter will be dismissed.

Once all documentation is received for an adjourned matter, the application will be re-listed for determination within 10 business days.

Once any required advertising is complete, and any interventions ¹ or submissions ² received in respect of the application are dealt with, the applicant will receive a notification through LGO that their matter has been determined. A copy of the order made by the Commissioner and any other relevant documents, such as the licence and plans, will then be available to the applicant through LGO.

NOTE: LGO will notify applicants by email if they are required to log on to LGO and undertake any actions. If the application has been made by a representative of the applicant through LGO, both the representative and the applicant will receive all LGO notifications relating to the application.

¹ South Australian Police may intervene in proceedings before a licensing authority by notice lodged with the Commissioner at least seven days (or such lesser period as the licensing authority may allow) before the determination date.

² If an application has been advertised, a person may make a submission, on certain grounds, to the licensing authority on the application. The submission must be made at least seven days (or such lesser period as the licensing authority may allow) before the determination date.

Applicant to Be Fit and Proper Person

56—Applicant to be fit and proper person

...

(1a) Subsection (1) does not apply to an applicant for a club licence if the applicant informs the licensing authority of each member of the committee of management of the club and provides the information required by the licensing authority (in a form approved by the licensing authority) about each member. ...

For the purposes of section 56(1a) of the Liquor Act, the Commissioner approves LGO as the form which applicants for a club licence can use to inform the licensing authority of each member of the committee of management of the club and provide the information required by the licensing authority about each member. LGO can be accessed by visiting lgo.cbs.sa.gov.au.

If exceptional circumstances exist, the Commissioner may approve an alternate form which applicants for a club licence can use to inform the licensing authority of each member of the committee of management of the club and provide the information required by the licensing authority about each member.

Commissioner of Police May Make Written Submissions

76—Commissioner of Police may make written submissions

Without limiting the Commissioner of Police's right under Part 2 to intervene in proceedings before a licensing authority, the Commissioner of Police may, in relation to an application under this Part, by notice lodged in a manner and form approved by the Commissioner, at least 7 days before the day appointed for the determination or hearing of the application (or such lesser period as the licensing authority may allow), make written submissions to the Commissioner in respect of the application.

For the purposes of section 76 of the Liquor Act, the Commissioner approves a notice lodged by way of the submission form located at cbs.sa.gov.au/advertised-liquor-notice.

If exceptional circumstances exist, the Commissioner may approve an alternate manner and form for the purposes of section 76 of the Liquor Act.

General Right to Make Written Submissions

77—General right to make written submissions

(1) If an application has been advertised under this Part, a person may, by notice lodged in a manner and form approved by the Commissioner, at least 7 days before the day appointed for determination or hearing of the application (or such lesser period as the licensing authority may allow), make written submissions to the Commissioner in respect of the application. ...

For the purposes of section 77(1) of the Liquor Act, the Commissioner approves a notice lodged by way of the submission form located at cbs.sa.gov.au/advertised-liquor-notices.

If exceptional circumstances exist, the Commissioner may approve an alternate manner and form for the purposes of section 77(1) of the Liquor Act.

Supervision and Management of Licensee's Business

97 – Supervision and management of licensee's business

...

- (5) A responsible person for licensed premises must, while acting as such on the licensed premises, wear identification in a form and manner approved by the Commissioner.

Maximum penalty: \$1 250.

Expiation fee: \$160.

For the purposes of section 97(5) of the Liquor Act, the Commissioner approves the following:

- > a responsible person must wear the responsible person badge issued by CBS at all times that the person is acting in the role of the responsible person for the premises; and
- > the responsible person badge must be worn above waist level and must be fully visible with the face and name side facing outwards.

Requirements Relating to Notices

113A – Requirements relating to notices

- (1) The Commissioner may specify requirements relating to the erection or display of notices for the purposes of this Part.
- (2) Without limiting subsection (1), requirements specified by the Commissioner may relate to the following:
- (a) the form and content of a notice;
 - (b) locations where notices must be erected or displayed;
 - (c) any other matter the Commissioner thinks appropriate.
- (2) A requirement under this section may be of general, limited or varied application according to –
- (a) the kind of notice; or
 - (b) the circumstances; or
 - (c) any other specified factor,
- to which the requirement is expressed to apply.

For the purposes of section 113A of the Liquor Act, the Commissioner specifies the following:

Holders of a:

- > licence allowing the *consumption of liquor* **on the licensed premises** must display sign **LGC2019-1**;
- > licence allowing the *consumption of liquor* **on the licensed premises** **after midnight** must also display sign **LGC2019-2**;
- > *packaged liquor sales licence* must display sign **LGC2019-3** except if the licence is restricted to the sale of liquor by direct sales transactions only;
- > licence not permitting people *under 18* in a *particular area* of the licensed premises must display sign **LGC2019-4**;
- > licence not permitting people *under 18* from *entering* the licensed premises must display sign **LGC2019-5**; and
- > licence not permitting people *under 18* from *entering or remaining on* the licensed premises between 9pm and 5am must display sign **LGC2019-6**.

All signs:

- > must be displayed in the original form as downloaded from cbs.sa.gov.au. No modifications or additions to the signs are permitted;
- > must be displayed in colour on A4 (210 x 297mm) paper;
- > must be of a sufficient quality to ensure that they are clearly legible; and
- > must be displayed so that the information contained in them is clearly visible to the public.

If **LGC2019-4** is required to be displayed at the premises, it must be displayed at or near each entrance to areas where minors are prohibited.

If **LGC2019-5** or **LGC2019-6** is required to be displayed at the premises, it must be displayed at each entrance to the licensed premises.

Signs are available for download from the Resource Centre on cbs.sa.gov.au or by visiting sa.gov.au/topics/business-and-trade/liquor/running-a-licensed-venue/signage.

Date: 18/11/2019