

## Liquor Licensing Act 1997

# General Code of Practice

## Part 1 - Preliminary

### 1. Citation

This code of practice may be cited as the *General Code of Practice* under the *Liquor Licensing Act 1997*.

### 2. Commencement

This code of practice came into operation on 18 January 2013 and was amended on 1 March 2014 and on 18 November 2019.

### 3. Purpose of the code

- (1) The purpose of this code of practice is to promote the objects of the *Liquor Licensing Act 1997* and, in particular -
  - (a) to ensure that the sale and supply of liquor occurs in a manner that minimises the harm and potential for harm caused by the excessive or inappropriate consumption of liquor; and
  - (b) to ensure that the sale, supply and consumption of liquor is undertaken safely and responsibly, consistent with the principle of responsible service and consumption of liquor; and
  - (c) to ensure as far as practicable that the sale and supply of liquor is consistent with the expectations and aspirations of the public.
- (1a) For the purposes of clause 3(1)(a) harm caused by the excessive or inappropriate consumption of liquor includes—
  - (a) the risk of harm to children, vulnerable people and communities (whether to a community as a whole or a group within a community); and
  - (b) the adverse economic, social and cultural effects on communities (whether on a community as a whole or a group within a community); and
  - (c) the adverse effects on a person's health; and
  - (d) alcohol abuse or misuse; and
  - (e) domestic violence or anti social behaviour, including causing personal injury and property damage.
- (2) The intention of this code of practice is to commit licensees to:
  - (a) make an assessment of the risk of their operational practices;
  - (b) not undertake operational practices involving unacceptable risk;
  - (c) consider and implement measures to manage high risk operational practices; and
  - (d) maintain standards of operational practice that, as a matter of course, address medium and low risk operations.



## 4. Interpretation

- (1) Unless the contrary intention appears, expressions defined in the *Liquor Licensing Act 1997* have the same meanings in this code of practice.
- (2) The levels of risk associated with the operational practices of a licensed premises are to be assessed on the basis of what a reasonable person would consider to be:
  - (a) low risk;
  - (b) medium risk;
  - (c) high risk; or
  - (d) unacceptable risk.
- (3) When assessing the level of risk associated with the operational practices of a licensed premises and the likelihood of a particular outcome occurring, consideration must be given to the class of licence and the nature of the operational practices being conducted under the licence.
- (4) *Reasonable steps* to prevent, reduce the likelihood of or manage an outcome associated with the operational practices of a licensed premises, will be deemed to have been taken where the licensee is able to demonstrate that they have reasonably assessed the risk and the likely occurrence of the outcome based on the class of licence and the operational practices being conducted under the licence, and have implemented a written management plan which contains reasonable measures to reduce the likelihood of the outcome occurring.
- (5) The existence of a management plan formulated in purported compliance with clause 4(4) will not constitute reasonable steps if it is no longer current and/or the licensee's staff have not received training as to the content of the management plan and the manner in which it is to be implemented.

**security personnel** means a person who holds a security agent's licence that authorises the person to perform the function of controlling crowds under the *Security and Investigation Industry Act 1995*.

**staff** includes any person who sells, offers for sale or serves liquor on licensed premises whether they are a paid staff member or not.

## 5. Mandatory nature of the code

- (1) Under section 42 of the *Liquor Licensing Act 1997*, it is a condition of every licence that the licensee must comply with the Commissioner's codes of practice.
- (2) This code of practice is in addition to, and does not derogate from, licence conditions imposed by the licensing authority.
- (3) For the purposes of section 45 of the *Liquor Licensing Act 1997*-
  - (a) If the letter "A", "B", "C" or "D" appears in column B of the table in Schedule 1 next to the listing of a provision, contravention or failure to comply with the provision is declared to be an offence in the category corresponding to that letter;
  - (b) If the letter "A", "B", "C" or "D" appears in column C of the table in Schedule 1 next to the listing of a provision, the offence of contravention or failure to comply with the provision is declared to be an expiable offence in the category corresponding to that letter.

## 6. Application of this code of practice under section 11A(3) of the *Liquor Licensing Act 1997*

- (1) The Commissioner may exempt the licensee from a specified provision of this code of practice.
- (2) The Commissioner may vary or revoke an exemption from a specified provision of the code on the Commissioner's own initiative or on application of the licensee.

## Part 2 - Required training and practices

### 7. Responsible service of alcohol training

- (1) The licensee must ensure that all staff engaged by the licensee have successfully completed nationally accredited responsible service of alcohol training by a Registered Training Organisation approved by the Commissioner and published on a website maintained by the Commissioner.
- (2) If any member of the licensee's staff has not completed the training specified in clause 7(1) at the time of engagement, the training must be successfully completed within three months from the commencement of the engagement of the staff member.
- (3) The licensee must ensure that prior to being engaged by the licensee all security personnel have successfully completed nationally accredited responsible service of alcohol training by a Registered Training Organisation approved by the Commissioner and published on a website maintained by the Commissioner.
- (4) Clauses 7(1) and 7(2) do not apply in relation to -
  - (a) a liquor production and sales licence that does not authorise the sale or supply of liquor for consumption on licensed premises;
  - (b) a packaged liquor sales licence that only authorises the licensee to sell liquor through direct sales transactions;
  - (c) a short term licence unless this clause is applied in relation to the licence by a licence condition imposed by the licensing authority, taking into account the nature and extent of the operations conducted under the licence;
  - (d) the sale or supply of liquor to a resident for consumption on licensed premises;
  - (e) an interstate direct sales licence.
- (5) The licensee must produce evidence of the completion of responsible service of alcohol training by persons as required by this clause or by licence conditions, within seven days of being requested to do so by an authorised officer (within the meaning of section 122 of the *Liquor Licensing Act 1997*).

### 8. Practices relating to minors

- (1) The licensee must take reasonable steps to prevent -
  - (a) minors consuming or being supplied with liquor on the licensed premises; and
  - (b) minors unlawfully entering or remaining on the licensed premises or any area of the licensed premises that is out of bounds to minors.
- (2) The licensee must not conduct, promote, advertise or permit the conduct, promotion or advertisement of their business in a way that tends to encourage minors to consume liquor.

### 9. Practices promoting responsible attitude to consumption of liquor on licensed premises

- (1) The licensee must not conduct, promote, advertise or permit the conduct, promotion or advertisement of their business in a way that tends to encourage the rapid or excessive consumption of liquor or that discourages a responsible attitude to the consumption of liquor.
- (2) The licensee must not conduct, promote, advertise or permit gender-based promotions involving free or discounted liquor on the licensed premises including free or discounted entry to the licensed premises.

- (3) Except where liquor is sold for consumption off licensed premises only, or where liquor is supplied by way of sample only, the licensee must at all times -
  - (a) ensure that free cool drinking water is readily available to patrons on licensed premises; and
  - (b) ensure that at least one non-alcoholic beverage (other than water) is available for purchase at a price that does not exceed the price of the least expensive alcoholic beverage available for purchase.
- (4) **Between 12.01 am and 7.00 am at all times while open for trade** the licensee must not supply liquor free of charge or permit the supply of liquor free of charge.
- (5) The holder of an on premises licence (except where the licensed premises is a public conveyance) must ensure that food is available to patrons at all times that the premises is open for trade.

## 10. Practices relating to drink spiking

- (1) The licensee must take reasonable steps to prevent the likelihood of drink spiking occurring on licensed premises.
- (2) The licensee must cooperate with and assist police in any investigation relating to alleged drink spiking.
- (3) In this clause -

**drink spiking** includes any addition of liquor or other substance to a person's drink without the person's knowledge or permission (whether at all or in the quantity added).

## 11. Practices relating to intoxication and disorderly, offensive, abusive or violent behaviour

The licensee, responsible person or staff of the licensee must take reasonable steps -

- (a) to prevent the sale or supply of liquor to persons in circumstances where their speech, balance, coordination or behaviour is noticeably affected and it is reasonable to believe that the affected speech, balance, co-ordination or behaviour is the result of the consumption of liquor or some other substance;
- (b) to reduce the likelihood of incidents of intoxication and/or disorderly, offensive, abusive or violent behaviour on licensed premises; and
- (c) to manage incidents related to intoxication and/or disorderly, offensive, abusive or violent behaviour that may occur on licensed premises.

## 12. Practices relating to disturbances

The licensee must take reasonable steps -

- (a) to prevent undue offence, annoyance, disturbance, noise or inconvenience to people who reside, work or worship in the vicinity of the licensed premises, resulting from entertainment or activities on the licensed premises or the conduct of people making their way to or from the licensed premises; and
- (b) to ensure public order and safety.

## 13. Queue management

**Between 12.01 am and 3.00 am at all times while open for trade** the licensee must take all practicable steps to ensure that any line up or queue to enter the licensed premises is orderly and continuously monitored and managed to prevent obstruction to pedestrian traffic on the footpath.

## Part 3 - Required measures promoting compliance with the code

### 14. Risk assessment and reasonable steps

- (1) The licensee must consider the measures that will be implemented in conducting operations under the licence for the purposes of compliance with this code of practice and, in particular, the measures that will be taken to comply with the requirements to take reasonable steps.
- (2) The measures must be contained in a written management plan.
- (3) A copy of the management plan must be kept on the licensed premises and made available as soon as practicable upon request of an authorised officer.
- (4) The management plan must be reviewed and if necessary, modified every two years or when operations under the licence alter in such a way that warrants a review and modification of the management plan to be undertaken.

### 15. Induction and refresher training in the written management plan

- (1) The licensee must provide to all staff involved in the service or supply of liquor on the licensed premises, training in relation to the management plan to be implemented to address the risks associated with the operational practices.
- (2) The training must be provided to all staff on induction and at least once in each subsequent period of two years.
- (3) The licensee must produce evidence of the completion of the training by persons as required by this clause within seven days of being requested to do so by an authorised officer (within the meaning of section 122 of the *Liquor Licensing Act 1997*).

### 16. Guidelines

The Commissioner may issue guidelines designed to assist in risk assessment and training for compliance with this code of practice.

# Schedule 1

Liquor Licensing Act 1997

## Categories of Offences and Expiations

Column A Clause No.	Column B Offence category	Column C Expiation category
7(1)	B	B
7(2)	B	B
7(3)	B	B
7(5)	B	B
8(1)(a)	A	A
8(1)(b)	A	A
8(2)	A	A
9(1)	A	A
9(2)	A	A
9(3)(a)	B	B
9(3)(b)	B	B
9(4)	A	A
9(5)	A	A
10(1)	A	Not Applicable
10(2)	A	Not Applicable
11(a)	A	A
11(b)	A	A
11(c)	A	A
12(a)	A	A
12(b)	A	A
13	B	B
14(1)	B	B
14(2)	B	B
14(3)	B	B
14(4)	B	B
15(1)	B	B
15(2)	B	B
15(3)	B	B