

# *Liquor Licensing Act 1997*

## **Late Night Trading Code of Practice**

### **Part 1 - Preliminary**

#### **1 Citation**

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

#### **2 Commencement**

This code of practice came into operation on 1 October 2013 and was amended on 1 February 2016.

#### **3 Purpose of the code**

The purpose of this code of practice is to promote the objects of the *Liquor Licensing Act 1997* and, in particular -

- (a) to minimise the harmful and hazardous use of liquor and promote responsible attitudes in relation to the promotion, sale, supply and consumption of liquor;
- (b) to minimise offence, annoyance, disturbance or inconvenience to people who reside, work or worship in the vicinity of licensed premises;
- (c) to prevent offensive behaviour on licensed premises;
- (d) to protect the safety, health and welfare of staff and customers;
- (e) to protect the safety, health and welfare of minors on licensed premises;
- (f) to ensure public order and safety; and
- (g) to impose special requirements for the sale of liquor for consumption on licensed premises for the purpose of reducing alcohol-related crime and anti-social behaviour.

#### **4 Interpretation**

(1) Expressions defined in the *Liquor Licensing Act 1997* have the same meanings in this code of practice.

**polycarbonate glassware** means thermoplastic glassware that is characterised by high-impact strength, flexibility and shatter resistance.

**tempered glassware** means safety glassware that has been processed to increase its strength compared with normal glass which when broken, crumbles into small granular chunks instead of splintering.

**metal detector** means a system or device that gives a signal when it comes into close proximity with metal.

## 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) Under section 11A of the *Liquor Licensing Act 1997*, a code of practice may be of general or limited application and may vary in operation according to the factors stated in the code.
- (3) This code of practice is in addition to, and does not derogate from, licence conditions imposed by the Liquor and Gambling Commissioner.
- (4) If this code of practice is inconsistent with a licence condition imposed by the Liquor and Gambling Commissioner, the licence condition so imposed will prevail to the extent of the inconsistency. Further, this code of practice is cumulative upon all other obligations imposed by law, including those imposed by or under the *Liquor Licensing Act 1997*.

### **Note -**

Under section 45 of the *Liquor Licensing Act 1997*, non-compliance will constitute an offence by the licensee and, if it involves conduct of another person that the other person knows might render the licensee liable to a penalty, by that other person. Disciplinary action may also be taken under Part 8 of the *Liquor Licensing Act 1997* in respect of the non-compliance.

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

- (1) This code of practice does not apply to a holder of the following (in respect of that licence):
  - (a) a producer's licence that does not authorise the sale or supply of liquor for consumption on licensed premises;
  - (b) a residential licence;
  - (c) a direct sales licence;
  - (d) a limited club licence unless this clause is applied in relation to the licence by a licence condition imposed by the Liquor and Gambling Commissioner, taking into account the nature and extent of the operations conducted under the licence;
  - (e) a limited licence unless this clause is applied in relation to a licence by a licence condition imposed by the Liquor and Gambling Commissioner, taking into account the nature and extent of the operations conducted under the licence; or
  - (f) a licence in respect of which an exemption is granted by the Liquor and Gambling Commissioner, taking into account the nature and extent of the operations conducted under the licence.
- (2) In addition to subclause (1), the Commissioner may exempt a licensee from a specified provision of this code of practice.
- (3) In addition to subclause (1), this code of practice does not apply in relation to:
  - (a) licensed premises that open for trade at any time between 5 am and 7 am and have been closed since 3 am; or
  - (b) the sale or supply of liquor to a lodger for consumption on licensed premises.

## Part 2

The following mandatory requirement 7 applies to licensees who are authorised to sell or supply liquor for consumption on licensed premises and who trade at any time between the hours of 12 am and 7 am on any day.

### 7 Restrictions on the supply of liquor free of charge

- (1) **Between 12.01 am and 7.00 am or closing time (which ever is earlier)**, the licensee must not supply liquor free of charge or permit the supply of liquor free of charge.

## Part 3

The following mandatory requirements 8-13 apply to licensees who are authorised to sell or supply liquor for consumption on licensed premises and who trade at any time between the hours of 2 am and 7 am on any day.

### 8 Information about public transport

- (1) **Between 9.00 pm and 7.00 am**, the licensee must ensure that information about taxi ranks and any special late operating public transport services in the vicinity of the licensed premises is prominently displayed and readily available to customers.

### 9 Queue Management

- (1) **Between 12.01 am and 3.00 am or closing time (which ever is earlier)**, 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.

### 10 Drink Marshal

- (1) **Between 12.01 am and 7.00 am or closing time (which ever is earlier)**, the licensee must ensure that at any given time, at least one person who is approved as a Responsible Person under the *Liquor Licensing Act 1997* is performing the duties of a drink marshal.
- (2) The duties of a drink marshal are to monitor compliance with section 108 of the *Liquor Licensing Act 1997* and the Liquor Licensing General Code of Practice and, in particular, to monitor the behaviour and alcohol consumption of customers to reduce the likelihood of incidents of intoxication and/or disorderly, offensive, abusive or violent behaviour on licensed premises.
- (3) The drink marshal must patrol the whole of the licensed premises accessible to and occupied by customers, and must alert bar and serving staff to any concerning behaviour that is taking place by customers on the licensed premises.
- (4) If the drink marshal suspects that a person is intoxicated or observes someone behaving in a disorderly, offensive, abusive or violent manner, he/she may exercise the powers that they have under the *Liquor Licensing Act 1997* as a Responsible Person or they must immediately report this to the licensee or manager/supervisor on duty for appropriate action to be taken.

## 11 First Aid

- (1) **Between 12.01 am and 7.00 am or closing time (which ever is earlier)**, the licensee must ensure that at least one staff member is on duty who has been approved as fit and proper under the *Liquor Licensing Act 1997* and has nationally accredited first aid training.

## 12 Restrictions on the sale and supply of beverages promoting rapid or excessive consumption

- (1) **Between 2.01 am and 7.00 am or closing time (which ever is earlier)**, the licensee must not permit the sale or supply of any alcoholic beverage that may encourage the rapid or excessive consumption of liquor including:
  - (a) beverages commonly known as 'shooters', 'doubles', 'laybacks', 'test tubes', 'blasters', 'stingers' 'jelly shots' or similar; or
  - (b) any other beverage that contains more than 45ml of spirits.

## 13 Footpaths and other outdoor areas

- (1) **Between 2.01 am and 7.00 am or closing time (which ever is earlier)**, the licensee must not permit the service or supply of alcohol for consumption on any part of the licensed premises comprised of a footpath or other outdoor area to which the general public has access (not including beer gardens, balconies, enclosed courtyards or similar that are only accessible from within the licensed premises).

## Part 4

The following mandatory requirements 14-15 apply to licensees who are authorised to sell or supply liquor for consumption on licensed premises and who trade at any time between the hours of 3 am and 7 am on any day.

## 14 Entry onto licensed premises and use of metal detectors

- (1) **Between 12.01 am and 3.00 am or closing time (which ever is earlier)**, the licensee must ensure that suitably trained employees are operating a metal detector to screen customers upon entry onto the licensed premises, to detect persons who may be carrying weapons or other potentially dangerous objects.
- (2) The metal detector must comply with the standard technical specification approved by the Liquor and Gambling Commissioner and must be kept in good working order at all times.

## 15 Restriction on the use of Glassware

- (1) **Between 3.01 am and 7.00 am or closing time (which ever is earlier)**, the licensee must:
  - (a) not allow any drink (whether it contains liquor or not) to be sold or supplied for consumption on the licensed premises in glassware unless it is tempered or polycarbonate glassware; and
  - (b) ensure that all empty non-tempered and/or non-polycarbonate glassware receptacles are removed from all areas of the licensed premises to which customers have access.

## Part 5

The following mandatory requirement 16 applies to licensees (other than the Skycity Adelaide Casino or the holder of a restaurant licence in respect of that licence) who are authorised to sell or supply liquor for consumption on licensed premises and who trade at any time between the hours of 3 am and 7 am on any day.

### 16 Late Night Restricted Entry

- (1) **Between 3.01 am and 7.00 am or closing time (which ever is earlier)**, the licensee must not permit a customer to enter the licensed premises.

## Part 6

The following mandatory requirement 17 applies to licensees who are authorised to sell or supply liquor for consumption on licensed premises and who trade at any time between the hours of 3 am and 7 am on any day and who trade from within the area of the City of Adelaide bounded on the north by the northern bank of the River Torrens, on the south by the northern alignment of South Terrace, on the east by the western alignment of East Terrace and its prolongation north to the northern bank of the River Torrens and on the west by the eastern alignment of West Terrace and its prolongation north to the northern bank of the River Torrens.

### 17 Digital Closed Circuit Television (CCTV)

- (1) **At all times while open for trade**, the licensee must have a digital CCTV system in place to take visual recordings at all entry and exit points, the footpath immediately adjacent to the premises and all other internal and external licensed areas of the premises (excluding toilets) to which customers have access.
- (2) The digital CCTV system must operate continuously while the premises is trading and must continue to operate for at least one hour after the premises ceases to trade.
- (3) The digital CCTV system must record the correct date and time.
- (4) The digital CCTV system must comply with the standard technical specifications approved by the Liquor and Gambling Commissioner.
- (5) The licensee must ensure that while the digital CCTV system is in use, the level of lighting at all entry and exit points is adequate so as to allow clear visual recordings to be taken.
- (6) The licensee must ensure that the visual recordings are securely stored so as to prevent unauthorised access, for a period of time not less than 28 days.
- (7) The licensee must ensure that the visual recordings can be easily downloaded via disk and USB and must be compatible with contemporary operating systems.
- (8) The licensee must ensure that the visual recordings and any information relating to the visual recordings is made available as soon as practicable upon the request of an authorised officer acting in the course of his or her official duties (noting that the authorised officer must identify the date, time and location of the premises to which the request relates as well as the reason for the request).
- (9) The licensee must take all practicable steps to ensure that the CCTV system is in good working order at all times and, in the event of any cessation in the operation of the CCTV system, the licensee bears the onus of proving that such steps have been taken.