

Applying for a Liquor Licence

LIQUOR LICENCE TYPES

There are five types of liquor licence in Tasmania.

- **General Licence**
A general liquor licence authorizes the sale of liquor on premises between 5 am and 12 midnight daily, for consumption on or off the premises. Hotels providing bar and bottleshop facilities usually operate under a general licence.
- **Club Licence**
A club liquor licence authorizes the sale of liquor on the club's premises between 5 am and 12 midnight daily, for consumption on or off the premises. The sale of liquor is generally limited to club members, guests and people attending the venue for club related activities.
- **On Licence**
An on licence authorizes the sale of liquor for consumption on the licensed premises between 5 am and 12 midnight daily. Premises such as bars, lounges and nightclubs that do not have take away liquor service usually operate under an on licence.
 - An on licence also authorizes the sale of liquor at a restaurant for consumption with or without food. An on licence for a restaurant (where the principal activity is serving food for consumption on the premises) can be issued where the intention of the licensee is to continue to operate as a restaurant.
- **Off Licence**
An off licence authorizes the sale of liquor between 5 am and 12 midnight daily for consumption off the licensed premises. This licence is usually issued to a person who wishes to operate a bottle shop as a standalone facility or where the bottle shop portion of a hotel premises is to be independently licensed.
- **Special Licence**
A special licence authorizes the sale of liquor between specified times and subject to conditions specified in the licence. The licence authorizes the sale of liquor subject to specific limitations and restrictions such as restaurants, function centres, tertiary institutions, accommodation providers, wine producers or tourist attractions.

A liquor licence can only be held by a person who is at least 18 years old. A licence cannot be held by more than one person or by companies or trusts.

In considering an application for a licence, the Commissioner for Licensing is required to make a decision which is in his or her opinion in the best interests of the community.

QUALIFICATIONS FOR A LIQUOR LICENCE

The Commissioner for Licensing must be satisfied that the applicant is qualified to be granted the liquor licence applied for. Section 22(1) of the *Liquor Licensing Act 1990* (LLA) defines qualifications for a liquor licence applicant as follows:

- (a) he or she is a natural person who has attained the age of 18 years; and
- (b) the Commissioner is satisfied that the person is a fit and proper person to be a licensee; and
- (c) the Commissioner is satisfied that the person will be able to exercise effective control over the service, and any consumption, of liquor on the premises for which the licence is sought; and
- (d) has satisfied the Commissioner that the person has the necessary knowledge, experience and competency.

In addition a person is NOT qualified to be granted a liquor licence if the Commissioner reasonably suspects or believes that any associate of the applicant is not a fit and proper person to be an associate of a licensee.

FIT AND PROPER

In assessing whether someone is a fit and proper person under the LLA, the Commissioner will consider whether the person:

- (1) has had any major convictions within the last 10 years; and
- (2) whether there is a consistent pattern of convictions that suggest a disregard for the law; and
- (3) has any convictions against the provisions of the LLA; and
- (4) can demonstrate a knowledge and understanding of the obligations of the Act; and
- (5) is of good repute who does not have a history of behaviour that would render the person unsuitable to hold a licence or be an associate of a licensee.

EXERCISING EFFECTIVE CONTROL

Applicants are to provide information in respect to Section 22 (1)(c) above. The information should include details of any management structures proposed by the licence applicant to monitor the sale and consumption of liquor on the premises; details of any house policies, procedure manuals or staff training to be in place at the premises in relation to the sale of liquor and conduct of the premises; information that indicates an understanding by the applicant of the day to day operations of a licensed premises and details of the time the applicant will physically be at the premises.

RESPONSIBLE SERVING OF ALCOHOL

Unless exempted by the Commissioner for Licensing an applicant for a licence must undertake a Responsible Serving of Alcohol course (RSA) or provide evidence of RSA accreditation.

ASSOCIATE(S) OF THE APPLICANT

A person is taken to be an associate of an applicant for a liquor licence if the person –

- (a) holds, or will hold, any relevant financial interest, or is, or will be, entitled to exercise any relevant power (whether in right of the person or on behalf of any other person) in the business of the applicant or licensee and, by virtue of that interest or power, is able, or will be able, to exercise a significant influence over, or with respect to, the management or operation of that business; or
- (b) holds, or will hold, any relevant position, whether in right of the person or on behalf of any other person, in the business of the applicant or licensee; or
- (c) is a relative of the applicant or licensee.

REQUIREMENTS FOR A LIQUOR LICENCE

Section 24A of the LLA defines the requirements for a liquor licence as follows:

- (1) In considering an application for a licence, the Commissioner must make a decision which, in the opinion of the Commissioner, is in the **best interests of the community**.
- (2) In considering an application for an off-licence, the Commissioner must be satisfied that the principal activity to be carried on at the premises will be the sale of liquor.
- (3) In considering an application for an on licence for a restaurant, the Commissioner must be satisfied that the premises are, or are intended to be, used as a restaurant.

BEST INTERESTS OF THE COMMUNITY

In considering an application, the Commissioner is required to determine whether granting the licence is in the best interests of the community. It is up to an applicant to provide a submission setting out the matters that the applicant believes will make the granting of the licence in the public interest.

The more relevant information you provide, the easier it will be for the Commissioner to understand what it is you are trying to achieve and to determine whether it is in the best interests of the community to grant you the licence.

There is no “one size fits all” answer to best interests of the community and every application must be dealt with on its own merits. The following is provided as a guide on the factors which may assist in determining whether an application is in the best interests of the community. The list is not exhaustive and any other matters an applicant considers relevant should be included.

- Will the business provide something other than the sale of liquor – for example, general hospitality, accommodation, dining, other retail items of benefit to a community?
- Will it provide services that are not available in the area?
- Will it provide additional choices of service and amenity in the area?
- Will it use existing premises, improve or add to existing premises or is it a new premises?
- Will it provide economic benefits or any additional employment opportunities, and if so to what scale?
- Will it provide liquor in a manner known to be safe and to minimise adverse impact?
- Are the operating plans for the business well thought out and clear or are they vague, imprecise or purely expressed in terms of personal benefit, without any obvious social or economic benefit to counter the risk of adverse impact from consumption of liquor?
- Is there a sense of ‘integrity’, capability, track record, and a realistic expectation to the applicant’s intentions?
- Is there community support for the application and your intended business? How is that expressed? Is it objective and supported by factual material? Do the people living and working in the vicinity want the business operating in their locality, and what evidence of that can you provide?

APPLICATION DOCUMENTS TO BE LODGED

The application **must** include the following:-

- (1) Licence Application form.
- (2) Licence Application Fee – Please refer to the fee schedule.
- (3) All applicants must provide a **submission** addressing section 24A(1) of the LLA (**refer above on page 3**).
- (4) Your **submission** should also cover the following if applicable to your application:
 - i. Business plan, including an outline of your products/services in terms of key features and potential customers;
 - ii. Business / Professional experience, in particular relevant knowledge, experience and competency in relation to the service of liquor;
 - iii. Details on how the applicant will be able to exercise effective control over the service and any consumption of liquor;
 - iv. General description of facilities and services;
 - v. Construction details (materials, finishes, acoustic treatment etc.);
 - vi. Costing of completed facility;
 - vii. Details of food (if applicable) to be provided, including menu;
 - viii. Liquor services - bars to be provided (if applicable) and range of liquor;
 - ix. Type of Entertainment (if applicable); and
 - x. Type of Accommodation (if applicable).
- (5) Plans – A4 or A3 size scale plans of the proposed licensed premises:
 - i. Site or property plan;
 - ii. Floor plan; and
 - iii. Photographs of site / building where applicable.
- (6) In addition, the following is required for a Club Licence application:
 - i. Evidence of the number of members in the club;
 - ii. Copy of the constitution and rules; and
 - iii. Certificate of incorporation.

PROCEDURE FOR LICENCE APPLICATIONS

APPLICATION

- (1) Before proceeding with an application for a liquor licence, an applicant should contact the Liquor and Gaming Branch to discuss the intended application.
- (2) It is recommended that a licence applicant check with the relevant local council to clarify any issues such as planning and building requirements before lodging an application for a liquor licence. While an application for a licence can be determined without planning approval having been obtained, applicants should be aware that a licence is of no effect if the use of the premises for the sale of liquor is not otherwise lawful. The Commissioner may request the applicant to provide details around planning related issues prior to considering the application.

- (3) The applicant for a liquor licence is to give public notice of the application. The Commissioner for Licensing will provide the applicant with the format for the notice.
- (4) If the Commissioner is satisfied that an applicant is qualified to hold a licence and that the application is in the best interest of the community he will direct the grant of the licence. The Commissioner may choose to refer the matter to the Tasmanian Liquor and Gaming Commission to make a determination. If the Commissioner refers the matter to the Commission then the applicant will be informed that this has occurred.

GRANT OF LICENCE AND ANNUAL FEE

- (1) If the Commissioner or Commission directs the grant of a liquor licence the Commissioner shall
 - (a) inform the applicant; and
 - (b) request the applicant to pay:
 - i. a grant of licence fee (refer to the fee schedule)
 - ii. an annual fee – this will be calculated according to the date the licence is to be issued.
- (2) The Commissioner shall not grant a liquor licence until the fees specified have been paid.
- (3) A liquor licence does not authorize the sale of liquor if the use of those premises for that purpose is otherwise unlawful.

REFUSAL OF LICENCE APPLICATION

If the Commissioner makes a determination to refuse the licence application the applicant may appeal to the Tasmanian Liquor and Gaming Commission against the decision.

LIQUOR AND GAMING CONTACT DETAILS

<p>Hobart 80 Elizabeth Street, HOBART G P O Box 1374, HOBART Ph: (03) 6166 4040 Fax: (03) 6173 0218</p>	<p>Launceston Henty House, 1 Civic Square, LAUNCESTON P O Box 972, LAUNCESTON Ph: (03) 6777 2777 Fax: (03) 6173 0218</p>
<p>E-mail: licensing@treasury.tas.gov.au Web: www.liquorlicensing.tas.gov.au</p>	
	

Jul 2016

15/51051

APPLICATION TO BE COMPLETED ONLY AFTER READING THE ACCOMPANYING INFORMATION DOCUMENT.

APPLICATION FOR A LIQUOR LICENCE

CHECKLIST PLEASE ENSURE REQUIREMENTS FOR EACH ITEM ARE COMPLETE BEFORE SUBMITTING THIS APPLICATION

- All questions are answered and details provided where required.
 The correct application fee is enclosed (refer to schedule of fees).

You may be requested to provide additional information as part of the assessment of your application.

TYPE OF LICENCE PLEASE TICK

GENERAL ON ON - RESTAURANT OFF CLUB

SPECIAL

RESTAURANT CELLAR DOOR/WINERY VINEYARD OTHER

1. FULL NAME OF APPLICANT (Note: The applicant must be at least 18 years of age)

TITLE	SURNAME	GIVEN NAME	
MIDDLE NAME/S		DATE OF BIRTH	PLACE OF BIRTH (TOWN AND STATE)

2. HAVE YOU BEEN KNOWN BY ANY OTHER NAMES?

(For example, maiden name, married name, family name, change by deed poll etc.)

GIVE DETAILS

3. CONTACT DETAILS

BUSINESS PHONE	HOME PHONE	MOBILE / AH	FAX

EMAIL

NOTE: PROVIDING AN EMAIL ADDRESS IS CONSENT TO INFORMATION BEING GIVEN BY MEANS OF ELECTRONIC COMMUNICATION

4. CURRENT RESIDENTIAL ADDRESS

POSTCODE:

5. POSTAL ADDRESS (If different from residential)

POSTCODE:

6. PREVIOUS RESIDENTIAL ADDRESS

POSTCODE:	
FROM (month and year)	TO (month and year)

7. DO YOU HAVE A CURRENT DRIVER LICENCE? NO YES (If YES complete below)

LICENCE NUMBER	EXPIRY DATE	PLACE OF ISSUE

I consent to a copy of this document being provided in confidence to Tasmania Police and consent to the supply of a copy of any traffic or criminal convictions recorded in my name and held by Tasmania Police or any other police jurisdiction being provided to the Commissioner for Licensing for the purpose of this licence application and at any time during the period that I am the holder of the relevant liquor licence that is the subject of this application.

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SIGNATURE OF APPLICANT

DATE

8. HAVE YOU LIVED OUTSIDE OF TASMANIA IN THE PAST 10 YEARS? NO YES (If YES provide details)

GIVE DETAILS

9. NAME OF SPOUSE / DEFACTO

TITLE	SURNAME	GIVEN NAME
MIDDLE NAME/S	DATE OF BIRTH	PLACE OF BIRTH (TOWN AND STATE)

10. DETAILS OF PREMISES

PREMISES NAME:
ADDRESS:
POSTCODE:
MUNICIPALITY:

11. **DETAILS OF CLUB** (If Club Licence application)

CLUB NAME:
ADDRESS:
POSTCODE:

12. **PROVIDE DETAILS OF ANY PERSON WHO WILL HAVE INFLUENCE OVER OR WILL ASSIST IN THE MANAGEMENT OF THE PREMISES.** Each nominated person will be deemed an associate as defined on the last page of this form (meaning of “associate”), and must be a fit and proper person.

SURNAME	GIVEN NAME/S	DATE OF BIRTH

Further particulars may be required as considered necessary.

13. **HAVE YOU EVER HELD A LIQUOR LICENCE OR WORKED IN A LICENSED PREMISES?**

NO YES (If YES provide details)

LICENCE TYPE	NAME AND ADDRESS OF PREMISES	POSITION HELD	PERIOD
			From: To:
			From: To:
			From: To:

14. **WHAT BUSINESS OR PROFESSIONAL EXPERIENCE HAVE YOU HAD?**

GIVE DETAILS

15. **HAVE YOU ATTENDED A RESPONSIBLE SERVICE OF ALCOHOL (RSA) COURSE?**

NO - If you have not undertaken RSA training, the Commissioner for Licensing may require you to undertake training prior to the licence being issued.

YES - Provide a copy of certificate or statement of attainment with application.

16. **WILL YOU BE OPERATING THE PREMISES AS:**

MANAGER FREEHOLD OWNER LESSEE

APPLICANT'S CERTIFICATION

False or misleading statements may attract a maximum penalty of 50 penalty units.

Any omissions may result in unnecessary delays in processing your application.

I DECLARE THAT THE ABOVE PARTICULARS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

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SIGNATURE OF APPLICANT

--

DATE

DEFINITION

as defined under the *Liquor Licensing Act 1990*

Meaning of “associate”

1. For the purpose of this Act, a person is taken to be an associate of an applicant for a liquor licence or of a licensee if the person -
 - (a) holds, or will hold, any relevant financial interest, or is, or will be, entitled to exercise any relevant power (whether in right of the person or on behalf of any other person) in the business of the applicant or licensee and, by virtue of that interest or power, is able, or will be able, to exercise a significant influence over, or with respect to, the management or operation of that business; or
 - (b) holds, or will hold, any relevant position, whether in the right of the person or on behalf of any other person, in the business of the applicant or licensee; or
 - (c) is a relative of the applicant or licensee.
2. In this section -

“**relative**” means the spouse (including de facto spouse), parent, child or sibling (whether full blood or half-blood);

“**relevant financial interest**”, in respect of a business, means:
 - (a) any share in the capital of the business; or
 - (b) any entitlement to receive any income derived from the business;

“**relevant position**”, in respect of a business, means:
 - (a) the position of the director, manager or other executive position or secretary, however that position is designated in that business; or
 - (b) if that business is conducted in premises in respect of which a liquor licence is in force; the licensee;

“**relevant power**”, means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others -
 - (a) to participate in a directional, managerial or executive decision; or
 - (b) to elect or appoint any person to any relevant position.

PERSONAL INFORMATION PROTECTION STATEMENT

1. Personal information will be collected from you for the purpose of determining your application and will be used by the Liquor and Gaming Branch, Department of Treasury and Finance, for managing, assessing, advising upon and determining the relevant application and may be used for other purposes permitted by the *Liquor Licensing Act 1990* and Regulations.
2. You are required to provide this information by the *Liquor Licensing Act 1990* and Regulations. Failure to provide this information may result in your application not being able to be processed or the service not being able to be provided.
3. Your personal information will be used for the primary purpose for which it is collected, may be disclosed to contractors and agents of the Liquor and Gaming Branch, the Licensing Board of Tasmania, law enforcement agencies, and other organisations authorised to collect it.
4. Your basic personal information may be disclosed to other public sector bodies where necessary for the efficient storage and use of the information.
5. Personal information will be managed in accordance with the *Personal Information Protection Act 2004* and may be accessed by the individual to whom it relates on request to the department. You may be charged a fee for this service. Further information on the Department’s policies in relation to the *Personal Information Protection Act 2004* can be found at <http://www.treasury.tas.gov.au/pip>

WHAT YOU NEED TO DO

This application must be supported by the following:

- Completion of this form – *Application for a Liquor Licence*.
- Copy of RSA Certificate.
- Licence application fee.
- Detailed written submission in support of your application.
- Two (2) A4 or A3 size scale plans of the proposed licensed premises.

Application may be lodged in person, by post or faxed to the contact details below.

Email: licensing@treasury.tas.gov.au

Web: www.treasury.tas.gov.au

Hobart

80 Elizabeth Street, HOBART
GPO Box 1374, HOBART TAS 7001
Ph: (03) 6166 4040
Fax:(03) 6173 0218

Launceston

Henty House, 1 Civic Square, LAUNCESTON
PO Box 972, LAUNCESTON TAS 7250
Ph: (03) 6777 2777
Fax:(03) 6173 0218



Tasmanian
Government

LIQUOR FEES 01/07/2016 to 30/06/2017		
Application Fee	General, On, Off, Club Licence	\$1 224.00
	On-Restaurant	\$612.00
	Special Licence: - Authorizing the sale of Tasmanian wine at Winery or Cellar Door premises	\$306.00
	Special Licence: - Authorizing the sale of Tasmanian wine from a Vineyard only	\$153.00
	Special Licence: - Other	\$612.00
Grant Fee	General, On, On-Restaurant, Off, Club, Special Licence	\$306.00
Annual Licence Fee	General	\$846.80
	On, Off	\$604.35
	On-Restaurant, Club, Special	\$397.80
Transfer Fee	General, On, Off, Club Licence	\$612.00
	On-Restaurant, Special Licence	\$306.00
	Special Licence (Wineries)	\$153.00
Interim authority to act as licensee	Application Fee	\$153.00
Variation of Conditions	Application Fee to vary conditions – liquor licence	\$137.70
Liquor Permits:	Out-of-hours Permit (valid for)	
	less than 7 days	\$76.50
	7days to 12 Months (both inclusive)	\$604.35
	Other Permits	
	On Permit	\$306.00
	Off Permit	\$306.00
	Special Permit	
	Valid for less than 4 days	\$61.20
	Valid for 4-30 days	\$168.30
	6 months	\$198.90
	Annual	\$397.80

These fees are GST exempt.

Applications may be lodged in person, by post or faxed, payment can be made by credit card, Cheque or money order made payable to the Commissioner for Licensing.

ABN: 25 628 526 128

July 2016
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CREDIT CARD AUTHORITY

Name of Applicant:-
Venue / Premises:-

Name on Credit Card:-
Acceptable Credit Cards (please tick):- MasterCard <input type="checkbox"/> Visa <input type="checkbox"/>

Credit Card No _____/_____/_____/_____	Expiry Date ____/____
Card Verification Number (last 3 digits on signature panel)	____ _

Signature of credit card holder:-	
Total amount to be debited	\$ _____

(Office use only)

PAYMENT NO:-	ENTERED BY:
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LIQUOR AND GAMING CONTACT DETAILS

Hobart

80 Elizabeth Street, HOBART
G P O Box 1375.50, HOBART
Ph: (03) 6166 4040
Fax: (03) 6173 0218

Launceston

Henty House, 1 Civic Square, LAUNCESTON
P O Box 972, LAUNCESTON
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E-mail: licensing@treasury.tas.gov.au
Web: www.liquorlicensing.tas.gov.au

A GUIDE TO TASMANIAN LIQUOR LAWS

This guide is published by the Commissioner for Licensing, as a quick reference for any person involved in the operation or regulation of premises at which liquor is being sold.

It contains extracts from the *Liquor Licensing Act 1990* and *Police Offences Act 1935*.

Disclaimer:

This publication is issued in good faith as a guide only and the relevant legislation should be referred to if further information is required.

LIQUOR AND GAMING CONTACT DETAILS

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80 Elizabeth Street, HOBART
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CONTENTS

Liquor Licensing Act 1990	Pg No.
Liquor not to be sold except as authorized	3
Liquor not to be sold to young people	3
Liquor not to be supplied to young people on licensed premises, &c.	3
Young persons not to enter, &c., certain parts of licensed premises, &c.	3
Young persons not to produce false evidence of identity	4
Liquor not to be purchased by young people	4
Young person not to be sent to obtain liquor	4
Young person not to be given possession or charge of liquor on licensed premises, &c.	4
Young person not to consume liquor on licensed premises, &c.	5
Young person not to have possession or control of liquor on licensed premises, &c.	5
Liquor not to be sold to people appearing to be drunk	5
Liquor not to be supplied on licensed premises, &c. to people appearing to be drunk	5
Licensee to prevent offences on licensed premises	5
Person to leave licensed premises when requested to do so, &c.	6
Person to leave special permit premises when required to do so, &c.	6
Special permits to be displayed	6
Authorized officer not to be hindered, &c.	7
Name, address and date of birth to be given to police if lawfully requested	7
Police may request name, address and date of birth if offence suspected	7
Power to restrict entry to licensed or special permit premises.	7
Police Offences Act	
Provisions as to Underage	7
Removal of patrons from licensed premises	8
General Information	8

NOTES:

- **One penalty unit equals \$157** (as at 1 July 2016 - subject to annual increase).
- **The number to the left of each clause relates to the particular section of the legislation.**

LIQUOR LICENSING ACT 1990

Liquor not to be sold except as authorized

- 5 A person shall not sell liquor except as authorized by -
- (a) a liquor licence; or
 - (b) a liquor permit; or
 - (c) a general liquor exemption.

Penalty: *Fine not exceeding 40 penalty units.*

Liquor not to be sold to young people

- 70 (1) A person shall not sell liquor to a person under the age of 18 years.
Penalty: Fine not exceeding 50 penalty units.
- (2) A licensee is guilty of an offence if a person authorized by the licensee to sell liquor on the licensed premises sells liquor to a person under the age of 18 years.

Penalty: *Fine not exceeding 100 penalty units.*

If you are unsure or doubtful that a person is 18 years of age insist on one of the following forms of identification.

- a photographic drivers licence
- a photographic firearms licence
- a photographic passport
- a photographic "Keypass card"
- a photographic "personal information card"

[If in doubt - ask for a second form of identification.]

[Remember:- "No ID - No Liquor"]

Liquor not to be supplied to young people on licensed premises, &c.

- 71 A person shall not supply liquor to a person under the age of 18 years on
- (a) licensed premises; or
 - (b) premises specified in a special permit.

Penalty: *Fine not exceeding 50 penalty units.*

Young persons not to enter, &c., certain parts of licensed premises, &c.

- 72 (1) A person under the age of 18 years shall not enter or remain on any part of licensed premises designated as a Prohibited area where a notice specifying the prohibition is displayed in accordance with section 60.

Penalty: *Fine not exceeding 20 penalty units.*

- (2) A person under the age of 18 years shall not enter or remain on any part of licensed premises designated as Restricted where a notice specifying the prohibition is displayed in accordance with section 60 except -
- (a) to have a meal; or
 - (b) in the company of a parent or guardian.

Penalty: *Fine not exceeding 20 penalty units.*

- (3) Subsections (1) and (2) do not apply to a person working on the licensed premises.

[The Commissioner for Licensing may designate areas of licensed premises to restrict or prohibit underage entry.]

Young person not to produce false evidence of identity

72A A person under the age of 18 years must not use a false document in order to do, or attempt to do, anything that a person under that age is prohibited from doing by or under this Act.

Penalty: Fine not exceeding 10 penalty units.

Liquor not to be purchased by young people

73 A person under the age of 18 years shall not purchase liquor.

Penalty: *Fine not exceeding 10 penalty units.*

Young person not to be sent to obtain liquor

74 A person shall not send a person under the age of 18 years -

- (a) to purchase liquor; or
- (b) to collect liquor from -
 - (i) licensed premises; or
 - (ii) premises specified in a special permit.

Penalty: *Fine not exceeding 50 penalty units.*

Young person not to be given possession or charge of liquor on licensed premises, &c.

75 (1) A licensee or a person acting on behalf of the licensee shall not give to a person under the age of 18 years possession or control of liquor on the licensed premises or allow a person under the age of 18 years to have or retain possession or control of liquor on the licensed premises.

Penalty: *Fine not exceeding 50 penalty units.*

- (2) Subsection (1) does not apply in respect of a person under the age of 18 years who -
- (a) has possession or charge of liquor in the course of work; and
 - (b) is working under the direct and personal supervision of a person who has attained the age of 18 years.

[Subsection 2 allows for genuine trainees / junior employees to carry out liquor service duties]

Young person not to consume liquor on licensed premises, &c.

76 A person under the age of 18 years shall not consume liquor on -

- (a) licensed premises; or
- (b) premises specified in a special permit.

Penalty: *Fine not exceeding 10 penalty units.*

Young person not to have possession or control of liquor on licensed premises, &c.

77 (1) A person under the age of 18 years shall not have possession or control of liquor on -

- (a) licensed premises; or
- (b) premises specified in a special permit.

Penalty: *Fine not exceeding 10 penalty units.*

(2) Subsection 1 does not apply in respect of a person who -

- (a) has possession or charge of liquor in the course of work and;
- (b) is working under the direct and personal supervision of a person who has attained the age of 18 years.

[Direct and personal supervision means physically in the same room.]

Liquor not to be sold to people appearing to be drunk

78 (1) A person must not sell liquor to a person who appears to be drunk.

Penalty: *Fine not exceeding 50 penalty units.*

(2) A licensee is guilty of an offence if a person authorized by the licensee to sell liquor on the licensed premises sells liquor to a person who appears to be drunk.

Penalty: *Fine not exceeding 100 penalty units.*

Liquor not to be supplied on licensed premises, &c. to people appearing to be drunk

79 A person shall not supply liquor to a person who appears to be drunk on -

- (a) licensed premises; or
- (b) premises specified in a special permit.

Penalty: *Fine not exceeding 50 penalty units.*

[This relates to the purchase of liquor by a person who then supplies it to another person who appears to be drunk]

Licensee to prevent offences on licensed premises

79A A licensee who knows or has reason to believe that an offence under this or any other Act is being, or is about to be, committed on the licensed premises must take reasonable action to prevent the commission of the offence.

Penalty: *Fine not exceeding 100 penalty units.*

[This is to ensure that licensees are accountable for the prevention of unlawful activities on their licensed premises; eg sale of drugs, sale of stolen property, entry of young persons contrary to a designation etc.]

Person to leave licensed premises when requested to do so, &c.

- 80 (1) A person shall leave licensed premises when required to do so by -
- (a) the licensee or a person acting with the authority of the licensee; or
 - (b) a police officer - acting in accordance with this Act.

Penalty: *Fine not exceeding 50 penalty units.*

- (2) A person who -
- (a) has left licensed premises in compliance with subsection (1); or
 - (b) has been removed from licensed premises by a police officer acting in accordance with this Act -
- shall not re-enter or attempt to re-enter those premises within the period of 24 hours immediately after leaving or being removed from the premises.

Penalty: *Fine not exceeding 50 penalty units.*

- (3) A police officer may -
- (a) arrest without warrant a person whom the police officer reasonably believes is committing, or has committed, an offence under subsection (1) or (2); and
 - (b) use such reasonable force as may be necessary to remove from licensed premises a person whom the police officer reasonably believes is committing, or has committed, an offence under subsection (1) or (2).

Person to leave special permit premises when required to do so, &c.

- 80A (1) A person who has been required under this Part to leave premises specified in a special permit -
- (a) must leave those premises when required to do so; and
 - (b) must not re-enter or attempt to re-enter those premises during the period of 24 hours after the person so left those premises or was removed from those premises under subsection (2).

Penalty: *Fine not exceeding 50 penalty units.*

- (2) A police officer may -
- (a) arrest without warrant a person whom the police officer reasonably believes is committing, or has committed, an offence under subsection (1); and
 - (b) use such reasonable force as may be necessary to remove from the premises specified in a special permit a person whom the police officer reasonably believes is committing, or has committed, an offence under subsection (1).

Special permits to be displayed

- 81 The holder of a special permit shall display the permit in a conspicuous position on the premises specified in the permit during the time liquor may be sold on those premises under the authority of the permit.

Penalty: *Fine not exceeding 50 penalty units.*

Authorized officer not to be hindered, &c.

82 A person shall not -

- (a) hinder an authorized officer carrying out the authorized officer's duties under this Part: or
- (b) fail to comply with any requirement of an authorized officer made in accordance with this Part; or
- (c) fail to provide an authorized officer with reasonable assistance in the exercise of any power under this Part.

Penalty: *Fine not exceeding 100 penalty units.*

[Licensing Inspectors and Licensing Police Officers are Authorized Officers.]

Name, address and date of birth to be given to police if lawfully requested

83 A person shall give the person's name, address and date of birth if required to do so by a police officer acting in accordance with this Part.

Penalty: *Fine not exceeding 50 penalty units.*

Police may request name, address and date of birth if offence suspected

- 92 (1) If a police officer has reasonable grounds for believing that a person has committed or is committing an offence under this Act the officer may require that person to give the person's name, address and date of birth.
- (2) If a police officer, acting in accordance with the subsection (1) has requested a person to give the person's name, address or date of birth, the officer may arrest, without warrant, that person if -
- (a) that person refuses to give the person's name, address or date of birth; or
 - (b) the police officer reasonably believes any name, address or date of birth given by that person is false.

Power to restrict entry to licensed or special permit premises.

93 Licensees or persons acting with the authority of the licensee may prohibit entry or require a person to leave licensed premises.

[A licensee has the right to decide who is permitted to enter the premises or be served liquor. Reasons for the refusal of service or entry are not required to be given.]

Police Offences Act - Provisions as to underage

Section 13 of the Act includes the following provisions:-

- (2A) A person shall not, in a public place, supply liquor to a person under the age of 18 years.
- (2B) A person under the age of 18 years shall not consume liquor in a public place.
- (2C) A person under the age of 18 years shall not have possession or control of liquor in a public place.

A penalty not exceeding 10 penalty units or imprisonment for a term not exceeding six months applies on conviction in the case of an offence under (2A), (2B), or (2C).

Power to seize liquor -

A police officer may seize liquor in the possession of a person the police officer believes is committing an offence under section (2A), (2B) or (2C).

Removal of patrons from licensed premises

A licensee or a person acting with the authority of a licensee should be aware of section 41 of the *Criminal Code Act 1924* which allows for the removal of a person from premises, provided that any force used in removing a person is not intended and is not likely to cause death or grievous bodily harm.

Section 46 of the *Criminal Code Act* provides that any person should only use reasonable force, under the circumstances, to defend themselves.

[If required at a later date, the onus is on the licensee/employee to prove that any force used was reasonable and not excessive.]

GENERAL INFORMATION

- It is an offence under the *Police Offences Act* to have possession of an opened container of liquor in a public street.
- It is an offence under the *Police Offences Act* to consume liquor in a public street.
- The *Police Offences Act* provides for a person to arrest without warrant any person who attempts to make off without payment for goods or services.
- On duty police officers may enter licensed premises at any time and must not be hindered in the course of their duty.
- Laws relating to the sale and consumption of liquor apply during the conduct of private functions on licensed premises.
- It is an offence for a person to spike another person's drink. If convicted, the penalty can be a term of imprisonment not exceeding two years or a fine of 100 penalty units or both. A person could also incur civil liability in respect of their action.