

Course Handbook

Licensee Course

Copyright Notice

Version: 3.0
Date modified: 16 December 2022

© State of New South Wales through Liquor & Gaming NSW 2018.

Liquor & Gaming NSW (L&GNSW) has provided this work to certain training organisations for the purpose of training liquor licensees. Those training organisations may modify, update and use this work solely for that purpose. All other users must contact Liquor & Gaming NSW for permission to use this work, except as permitted by the *Copyright Act 1968* (Cth).



This work is licensed under a Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International License. See full terms and conditions at <https://creativecommons.org/licenses/by-nc-nd/4.0/legalcode>.

Attribution: You must always provide credit to Liquor & Gaming NSW.
Non-Commercial: You must not use the material for commercial purposes.
No-Derivatives: You must not distribute modified versions of the work.

You may freely link to the publication on a NSW Government website.

Disclaimer

This work has been produced by Liquor & Gaming NSW to support learning by providing knowledge requirements under NSW State liquor laws for employees in the sale or service of alcohol. The information is current at the date of writing (stated above). You are reminded that the relevant laws and policies will change over time, and that you must make your own enquiries before relying on information in this work.

This training course was developed by Liquor & Gaming NSW with the support of an industry working group. The contributions of the following organisations are acknowledged:

- Australian Hotels Association
- Club Managers Association of Australia
- Clubs NSW
- Retail Drinks Australia
- Restaurant & Catering Association
- NSW Police
- NSW Health
- Barrington Training Services
- Clear to Work
- Express Online Training
- Institute of Training and Further Education
- TAFE NSW
- Urban Global
- William Angliss Institute of TAFE.

Version control		
Version	Date Created	Created/Amended by
1.0	6 Dec 2018	Released to ATPs by L&GNSW
2.0	1 Oct 2021	Released by L&GNSW. Updates include: <ul style="list-style-type: none"> • Plain English review • Revision of the Leading a culture of compliance module • Legislative updates to the <i>Liquor Act 2007</i> and Liquor Regulation 2018 under the <i>Liquor Amendment (Night-time Economy) Act 2020</i>
3.0	16 December 2022	Released by L&GNSW. Updates include addition of drinking spiking information.

Contents

Contents.....	4
Introduction	9
Welcome to the Liquor & Gaming NSW Licensee training	9
Purpose of this training.....	10
Pre-requisites	11
Why do I need to complete Licensee training?.....	12
Who is mandated to complete Licensee training?	12
Information guides.....	15
Let's work together.....	15
Module 1: Overview of liquor regulation in NSW.....	16
1.1. Introduction	16
1.2. Cost of alcohol-related harms	17
1.3. NSW regulatory authorities and other stakeholders in the liquor industry	20
1.4. NSW liquor laws	23
1.5. Liquor Act 2007.....	23
1.6. Liquor Regulation 2018.....	42
1.7. Prescribed precincts	47
1.7.1. Cumulative Impact Assessment.....	52
1.8. Common law.....	53
1.8.1. Duty of care	54
1.8.2. Vicarious liability	54
1.9. Other relevant legislation	56
1.9.1. Gaming Machines Act 2001.....	56
1.9.2. Gaming and Liquor Administration Act 2007	57
1.9.3. Security Industry Act 1997	58
1.9.4. Anti-Discrimination Act 1977	58
1.9.5. Commonwealth Privacy Act 1988 and Australian Privacy Principles	59
1.9.6. Competition and Consumer Act 2010	61
1.9.7. Registered Clubs Act 1976	62
1.9.8. Industrial Relations Act 1996	62
1.9.9. Smoke-Free Environment Act 2000.....	63
1.9.10. Surveillance Devices Act 2007 and Workplace Surveillance Act 2005.....	64
1.9.11. Work Health and Safety Act 2011.....	65
1.9.12. Environment Planning and Assessment Act 1979 (EP&A)	66
1.9.13. Local Government Act 1993	67
1.9.14. Disability Inclusion Act 2014.....	68

1.9.15. Music Festivals Act 2019	68
Module summary.....	69
Module 2: Managing your liquor licence	70
2.1. Introduction	70
2.2. Who can hold a licence?.....	70
2.3. Which licence is best for you?.....	70
2.3.1. Primary purpose test	70
2.3.2. Common business activities and liquor licence types	73
2.3.3. When is a liquor licence not required?	74
2.4. Statutory licence conditions	75
2.5. Trading hours.....	78
2.6. Liquor licence fees.....	81
2.6.1. Annual liquor licence fees	81
2.6.2. Exemptions	84
2.7. Applying for a licence.....	85
2.7.1. Licence application	86
2.7.2. Community impact statement (CIS)	86
2.7.3. Licensed premises floor plans	91
2.7.4. Additional licence requirements	92
2.7.5. Assessment process	93
2.8. Applying for an interim authorisation	94
2.8.1. Interim restaurant authorisation	94
2.8.2. Interim small bars authorisation	94
2.9. Managing your licence	95
2.9.1. Making changes to your licence	95
2.9.2. Transferring your licence	97
2.9.3. Moving your licence	98
2.9.4. Cancelling your licence	98
Module summary.....	99
Module 3: Your responsibilities to manage alcohol- related harms.....	100
3.1. Introduction	100
Part A: Planning and prevention.....	100
3.2. Managing competencies	100
3.3. Advertising and promotions	102
3.4. Signage	104
3.5. Smoking areas.....	108
3.6. Emergency plans	110
Part B: Managing a situation	111

3.7. Intoxication.....	111
3.7.1. Intoxication laws	111
3.7.2. Prevention of intoxication on licensed premises guidelines	114
3.7.3. Monitoring liquor consumption	115
3.7.4. Managing intoxicated customers	119
3.8. Antisocial behaviour.....	121
3.8.1. Laws relating to antisocial behaviour	121
3.8.2. Managing antisocial behaviour	122
3.8.3. Outlaw motorcycle gangs	122
3.9. Minors.....	123
3.9.1. Laws relating to minors	123
3.9.2. Monitoring and preventing underage drinking	125
3.9.3. Managing underage drinking	126
3.9.4. Minors selling and supplying alcohol	127
3.10. Strategies to manage alcohol-related harms.....	128
3.10.1. Refusing entry	129
3.10.2. Ejecting patrons from premises	130
3.10.3. Fail to quit	131
3.10.4. Barring customers	131
3.10.5. Banning order	133
3.10.6. Place restriction order	134
3.10.7. Self-exclusion	134
3.10.8. Multi-venue strategies	135
Multi-venue exclusion.....	135
Multi-venue barring	135
Part C: Dealing with an incident	136
3.11. Mandatory incident register requirements	136
3.12. Reporting a crime.....	137
3.13. Preserving a crime scene	138
Module summary.....	139
Module 4: Best practice strategies to prevent alcohol-related harms.....	140
4.1. Introduction	140
4.2. Tools and templates.....	140
4.2.1. Risk management	140
4.2.2. House policy	141
4.2.3. Plan of management	142
4.2.4. Self-audit checklists	143
4.2.5. Voluntary incident register	144

4.2.6.	Voluntary signage	145
4.3.	Strategies to prevent specific issues	147
4.3.1.	Crowd control.....	147
4.3.2.	Security.....	147
4.3.3.	Amenities	148
4.3.4.	Customer behaviour	148
	Drink spiking	149
4.3.5.	Noise	150
4.3.6.	Complaints policy.....	150
4.3.7.	Closing / finishing / disembarking	151
4.3.8.	Transport	152
4.3.9.	Unforeseen events: COVID-19	152
4.3.10.	Additional strategies	154
4.4.	Working with your community	154
4.4.1.	Build relationships with police, council and your community.....	154
4.4.2.	Liquor accords	155
4.5.	Building a culture of compliance	159
	Module summary.....	160
	Module 5: Compliance and enforcement	161
5.1.	Introduction	161
5.2.	Compliance.....	161
5.2.1.	Liquor & Gaming NSW approach to compliance.....	161
5.2.2.	Inspections.....	162
5.3.	Enforcement	164
5.3.1.	What happens if I have been found non-compliant?.....	164
5.3.2.	Educate and engage.....	165
5.3.3.	Remedial action or official warnings	166
5.3.4.	Penalty notices	166
5.3.5.	Prosecution.....	166
5.3.6.	Administrative actions.....	167
5.3.7.	Short term closure orders	167
5.3.8.	Disciplinary action.....	168
5.3.9.	Incentives and Demerit Point System	169
	Module summary.....	173
	Licensee next steps.....	174
	Advanced Licensee training	174
	Other training	175
	Stay up to date	175

Join a liquor accord	176
Renew your competencies	176
References.....	177
Industry specific information guide	178
Hotel licence.....	179
Club licence.....	182
Packaged liquor licence	184
On-premises licence.....	188
Producer/Wholesaler Licence.....	191

Introduction

Welcome to the Liquor & Gaming NSW Licensee training

This course handbook includes an introduction, five detailed modules, and an explanation of the next steps you need to take to finalise your licence after completing this training.

Introduction

Module 1: Overview of liquor regulation in NSW

Module 2: Managing your liquor licence

Module 3: Your responsibilities to manage alcohol-related harms

Module 4: Best practice strategies to prevent alcohol-related harms

Module 5: Compliance and enforcement

Next steps

Purpose of this training

You have been granted, or are applying for the right to hold, a liquor licence in NSW. Licensees, approved managers, and club secretaries have significant responsibilities that extend far beyond what is included in the Responsible Service of Alcohol course.

This course is designed to:

- help you understand and carry out your legal responsibilities
- support you with compliance
- provide information to successfully run your business
- help you to contribute to your local community
- provide advice on reducing the risk of alcohol-related harms that may arise from your business activities.

For most of society, alcohol is consumed responsibly and safely. However, there are significant harmful effects when it is abused or misused. This can have wide ranging impacts on individuals, their friends and family, and our society as a whole. Embedding harm minimisation strategies in your operations will not only help your business thrive and enhance your reputation but will help you to operate within the law and remain compliant.

Businesses that are found to be non-compliant are those who haven't carried out their legal responsibilities. Non-compliance with the liquor laws can result in:

- the suspension or cancellation of a liquor licence
- licensees being banned from holding a liquor licence or having a financial interest in a licence for a significant period of time, or even for life.

The aim of this course is to equip you with everything you need to operate a successful business.

On completion, you should be able to manage the day-to-day requirements for a compliant licensed venue to the benefit of your staff, customers, and your wider community. Specifically, this course will enable you to:

- understand the relevant liquor legislation and regulations that will impact you as a licensee
- know your responsibilities in managing your NSW liquor licence
- understand your responsibilities as a licensee to manage alcohol-related harm related to your business
- implement best practice strategies to improve your business operations
- understand the impact and consequences of non-compliance and what that means for you as a licensee.

Pre-requisites

Before you complete this training, you will need to hold a valid NSW competency card or interim certificate issued by a Liquor & Gaming NSW approved training provider in the following course:

- Provide responsible service of alcohol (RSA) (SITHFAB002 or SITHFAB021, a new unit of national competency released on 10 June 2022) along with NSW specific modules.

Completing the RSA course will provide you with the foundational knowledge and a sound understanding of your requirement to serve alcohol responsibly, including:

- key provisions of liquor laws and regulations
- understanding of public interest reasons for responsible service practices
- effects of alcohol and the factors that affect individual responses
- identifying customers who should be refused sale or service of alcohol and those who are at heightened risk e.g. minors, intoxicated persons etc.
- responsible service practices for selling and serving alcohol
- standard drinks for different beverage types and acceptable measures of alcohol
- indicators of erratic drinking and ways of assessing intoxication, including assessing customers affected by the consumption of illicit and other drugs
- practical strategies to refuse service and refuse entry.

Other relevant training

Responsible Supply of Alcohol Training (RSAT)

From 1 December 2021, you, or your delivery agents intending to make same day alcohol deliveries to retail persons in NSW will need to hold a valid RSAT certification issued by Liquor & Gaming NSW.

To gain an RSAT certification, you must:

- complete the RSAT with Liquor & Gaming NSW or any same day delivery provider, delivery agent or Registered Training Organisation offering the training, and
- pass the Liquor & Gaming NSW online RSAT assessment.

Completing the RSAT provides you with guidance on:

- key provisions of liquor laws and obligations towards responsible delivery of alcohol
- how to recognise intoxication and reduce the risk of supply of liquor to minors ensuring personal safety when delivering alcohol.



More information

For more information on RSAT, visit:

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/training-to-work-in-the-industry/getting-trained/training-courses>

Why do I need to complete Licensee training?

Licensees, approved managers, and club secretaries are required to meet complex legislative requirements in relation to the sale, service and supply of liquor in your business. While your RSA course provided you with a basic understanding of this, your legislative responsibilities as a licensee go far beyond what that. Licensee Training provides further training to ensure you are:

- supported in your knowledge of these additional complex areas
- supported to meet compliance obligations
- able to successfully implement strategies to improve your business operations while providing safe and vibrant environments for your customers.

Additionally, if you work in a business that operates in potentially higher risk environments, including those trading after midnight, you carry added responsibilities that require further tailored training.

The NSW Government committed to the introduction of a training framework to strengthen and enhance liquor industry training standards by building on the existing RSA training. Liquor & Gaming NSW has worked closely with industry peak bodies, NSW Police, and select Registered Training Organisations to design this new course to ensure it meets your training needs.

The Liquor Regulation 2018 introduced the Tiered Industry Training Framework (TITF) which includes two new levels of training for licensees:

- Licensee training: designed for licensees, approved managers and club secretaries
- Advanced Licensee training: an additional course for licensees, approved managers, and club secretaries operating businesses in potentially higher risk environments.

Who is mandated to complete Licensee training?

The Liquor Regulation 2018 classifies liquor licence types into two tiers. Tier 1 licences are required to complete the Licensee training and Tier 2 licences are required to also complete the Advanced Licensee training.

- **Tier 1 licences include:**
 - hotels, packaged liquor, clubs, small bars and on-premises licences, and
 - licensee or business subject to a regulatory scheme or nominated by Liquor & Gaming NSW or the Independent Liquor and Gaming Authority (the Authority).
- **Tier 2 licences include:**
 - businesses authorised to trade after midnight or authorised to have extended late-night trading hours on more than 12 occasions in any 12-month period
 - certain on-premises business types, such as nightclubs, adult relaxation entertainment, and karaoke bars
 - licensees or businesses subject to a regulatory scheme or nominated by Liquor & Gaming NSW or the Authority.

Tier 1 licences

Tier 1 licences include:

1. **Hotel licence:** enables alcohol to be sold to the public for consumption on and off the premises. Subject to separate approval, it also enables gaming machines to be operated. A hotel licence operates at all times under the primary purpose of selling alcohol to the public.
2. **General bar licence:** a limited type of hotel licence known as a general bar licence allows alcohol to be sold for consumption on the premises but does not allow takeaway sales or gaming machines to be operated.
3. **Club licence:** allows registered clubs to sell alcohol to their members and guests for consumption on, and off, the premises. Where a registered club contains a standalone nightclub, a separate licence is required. Gaming machines may also be operated, subject to a separate approval. Types of businesses that use this licence include:
 - RSL and services clubs
 - bowling clubs
 - leagues clubs
 - golf clubs.
4. **Small bar licence:** allows the sale of alcohol for consumption on the premises but does not allow gaming machines. This licence allows for a maximum of 120 patrons during trading hours. Minors may be permitted until 10pm in the company of a responsible adult if sit-down meals are regularly served. A small bar can apply for a minors authorisation to allow minors on the premises between 10pm and midnight while meals are being served, or if they provide family-oriented services like book shops, record stores, or for certain events. Small bars are allowed to sell house-made cocktails for take-away consumption if in sealed containers.
5. **Packaged liquor licence:** allows alcohol to be sold through a bottle shop, home delivery, mail order, or via your website for consumption off your premises. However, certain liquor licences may allow tastings to be conducted at your venue, with or without charge, if proper planning approval is in place. These licence types include:
 - bottle shops and liquor stores
 - general stores selling packaged liquor, and
 - online shops with home delivery alcohol sales.
6. **Producer/wholesaler licence:** that are endorsed with a drink on-premises authorisation or a microbreweries and small distilleries authorisation.
7. **On-premises licence:** allows the sale of alcohol for consumption on the premises when another product or service, like food or entertainment, is sold, supplied or provided to customers. In most circumstances, an on-premises licence does not permit takeaway alcohol sales. Alcohol sold under this licence must be consumed on the licensed premises that relate to any of the following:
 - airports
 - adult relaxation entertainment venues
 - karaoke bars
 - public entertainment venues – other than cinemas
 - restaurants or cafés

- tertiary institutions
- vessels.

Licensees of other on-premises licences that will likely need to undertake this training include:

- caterers
- food and beverage outlets
- food halls
- food courts
- public arenas
- racing and sporting facilities.

8. Any licensee or business that is subject to a regulatory scheme or who has been nominated by Liquor & Gaming NSW or the Authority.

Tier 2 licences

Tier 2 licences include:

1. Businesses with any of the following licences that are authorised to trade after midnight or authorised to have extended late-night trading hours on more than 12 occasions in a 12-month period:
 - hotel licence
 - general bar licence
 - club licence
 - producer/wholesaler licence endorsed with a drink on-premises authorisation
 - on-premises licence that relate to any of the following:
 - public entertainment venues (other than a cinema)
 - restaurants or cafés (those with a primary service authorisation)
 - tertiary institutions
 - vessels
 - caterers
 - racing and sporting facilities

Note:

- a small bar licence is included in the Tier 2 classification when it holds an extended trading authorisation that allows the sale or supply of liquor on a regular basis between 2am and 5am.
2. Certain business types regardless of whether they operate after midnight:
 - **adult relaxation entertainment:** whose primary purpose is to provide entertainment in a potentially higher risk environment due to the type and style of entertainment offered and the extended trading hours that are available
 - **karaoke bars:** whose primary purpose is to provide entertainment, often trade past midnight and see peak trade after midnight.
 3. Any licensee or venue subject to a regulatory scheme as directed by NSW or the Authority.
 4. Any licensee as directed by Liquor & Gaming NSW or the Authority.



More information

For more information on the following, visit:

What type of training do I need?

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/training-to-work-in-the-industry/getting-trained/what-type-of-training-do-i-need>

Find an approved training provider –

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/training-to-work-in-the-industry/getting-trained/find-an-approved-training-provider>

Information guides

As you progress through the course content, you will see boxes that provide extra information, tips, discussion points, or highlight a key point to remember.

Recap sections

This training is aimed at licensees who have already completed their Responsible Service of Alcohol (RSA) training. Short RSA Recap sections throughout this course handbook serve as a reminder of the content covered in the RSA course. The recaps are for your information only; they won't be covered by the facilitator or included in the presentation slides.

Let's work together

The main objective of this training is to provide you with the tools and strategies you need to run a safe and responsible liquor business. As the person in charge of your business, we want you to be great managers and lead your staff to build a culture of compliance. This training provides you with a suite of resources to help you achieve this.

You are strongly encouraged to participate in group discussions during your course. Rigorous discussion enables everyone to learn from each other's experiences and discover new strategies and ideas that improve business operations, community harmony, harm minimisation and other positive outcomes.

Module 1: Overview of liquor regulation in NSW

1.1. Introduction

In NSW, you need a liquor licence to sell, serve, or supply alcohol as part of your business activity. With more than 17,000 licensed venues currently operating in NSW, licensees have an important role to play in the community in ensuring that your licensed venue or event provides a safe environment for people to enjoy alcohol.

Harm arises through irresponsible trading practices. When poor customer behaviour, excessive alcohol consumption or intoxication is left unchecked, the behaviour may escalate and manifest into serious crime. This could include brawls, disturbances, sexual assaults, property damage, and more.

Local communities expect licensees to act responsibly and ensure that appropriate standards of behaviour from both staff and patrons are adhered to in and around their venue or event. The aim is to minimise harm to individuals and reduce local area disturbances.

Licensed venues that are managed responsibly benefit the wider community by:

- reducing alcohol-related crime and violence in the area
- providing facilities for enjoyment, recreation, tourism, leisure and social activities – like restaurants, convention centres, entertainment venues, resorts and hotels
- creating employment opportunities within the community.

Responsible service in licensed venues can also help to:

- reduce health implications for customers and encourage a more positive social experience that is less likely to result in violence or injury
- improve the morale and safety of staff working within the venue by reducing the risk of violence and disorderly behaviour, which has the added benefit of reducing staff turnover and improving productivity
- improve the reputation and sustainability of the business by creating a safe and enjoyable environment for customers
- reduce legal costs and risk-based licence fees associated with poorly managed businesses.

At the end of Module 1: Overview of liquor legislation in NSW, you will be able to:

- summarise the reasons why the liquor industry is regulated
- identify the regulatory authorities and other key stakeholders within the liquor industry
- outline the NSW liquor laws relevant to licensees
- outline other laws that may be relevant to licensees
- understand the purpose and requirements of prescribed precincts in NSW.

1.2. Cost of alcohol-related harms

Alcohol consumption can have serious effects on individuals. A number of potentially fatal conditions, including several cancers, liver disease and major injury, can be linked to alcohol. There are both short- and long-term impacts:

- short-term impacts refer to the risk of harm associated with drinking on a single day, which include accidents, injury and violence
- long-term impacts refer to the health risks of drinking at harmful levels, which can be compounded by the effects of smoking, poor diet and other drugs.

Data from the National Drug Research Institute (NDRI) shows that between 1992 and 2001, nearly 32,000 Australians died as a result of high-risk alcohol use.¹

The National Alcohol Indicators (NAI) project conducted by the National Drug Research Institute (NDRI) at Curtin University published in 2018 found that nationally, trends in alcohol-attributed deaths appear to have remained stable or slightly decreased over time.²

The main causes of alcohol-attributable deaths in 2015 were:

- cancer
- liver diseases
- stroke
- lower respiratory infections
- suicide

The National Drug Strategy Household Survey 2016 found that alcohol-related fatalities extend beyond those deaths which are directly attributable to alcohol. This means that deaths occurred where alcohol was a contributing factor but not the sole cause³.

NDRI's NAI project found an estimated 5,821 Australians aged 15 and over, died from alcohol-attributable causes in 2019.⁴

Of these, 1,317 were directly attributable to alcohol, as determined by toxicology and pathology reports. While the number deaths directly attributed to alcohol in 2019 was greater than in 1997 (1,156), the rate of alcohol-induced deaths in 2019 (4.7 per 100,000 population) was lower than in 1997 (6.5 per 100,000 population).

¹ National Drug Research Institute: Australian Alcohol Indicators, 1990-2001, Patterns of alcohol use and related harms for Australian states and territories available at <http://ndri.curtin.edu.au/ndri/media/documents/naip/naipaaifullreport.pdf> [accessed 8 Sept 2021]

² National Drug Research Institute: National Alcohol Indicators, 2004-2015, Estimated alcohol-attributable deaths and hospitalisations in Australia, 2004-2015 at: <https://ndri.curtin.edu.au/ndri/media/documents/naip/naip016.pdf> [accessed 8 Sept 2021]

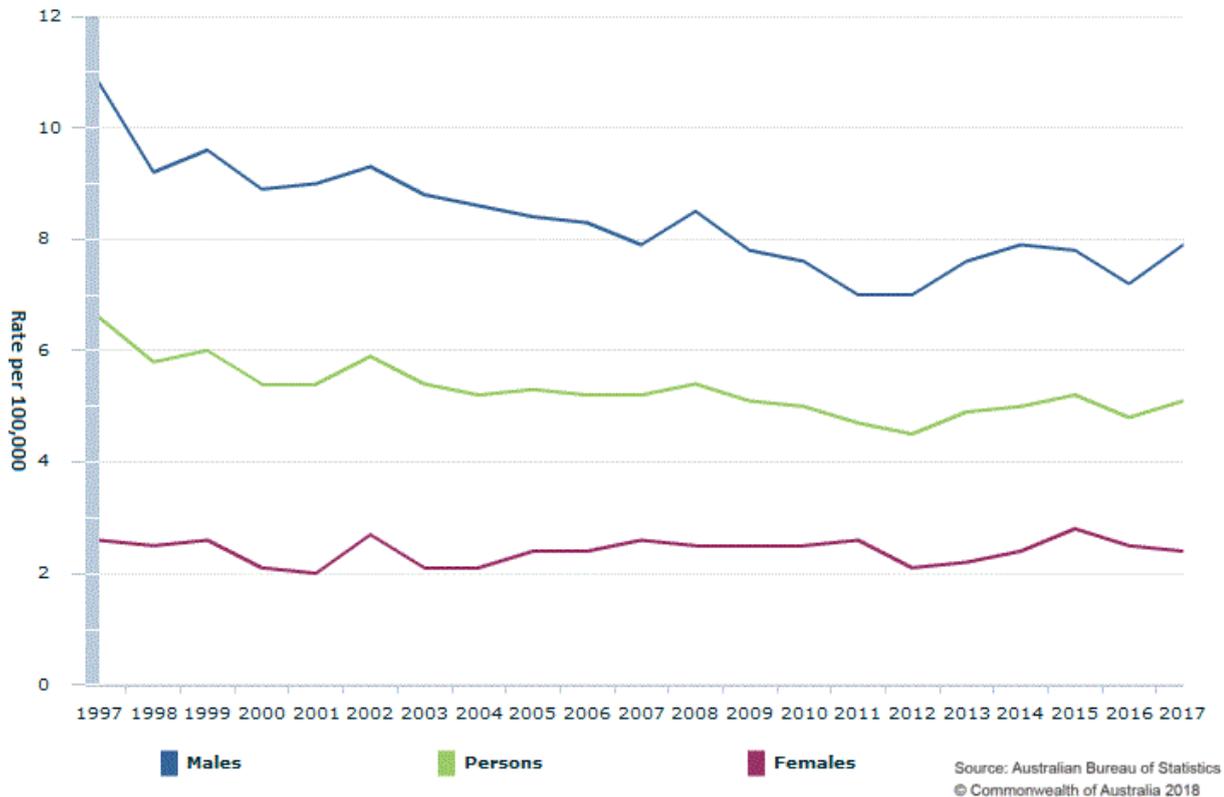
³ National Drug Strategy Household Survey 2016: detailed findings available at: <https://www.aihw.gov.au/reports/illicit-use-of-drugs/2016-ndshs-detailed/contents/summary> [accessed 8 Sept 2021]

⁴ National Drug Research Institute: National Alcohol Indicators, 2004-2015, Estimated alcohol-attributable deaths and hospitalisations in Australia, 2004-2015 at: <https://ndri.curtin.edu.au/ndri/media/documents/naip/naip016.pdf> [accessed 8 Sept 2021]

In addition, people were 2.4 times as likely to have alcohol certified at death as an associated cause (4,504 alcohol-related deaths) than to have died from alcohol-induced death (1,317). This has increased from 1.4 times as likely in 2010.⁵

HealthStats NSW data on impacts of alcohol consumption in NSW showed that in 2018 - 2019, there were 45,005 alcohol attributable hospitalisations, 2,955 presentations at emergency departments and 1,938 deaths attributed to alcohol consumption.⁶

Alcohol-induced deaths, standardised death rates, by sex, 1997-2017⁷



More people died from immediate alcohol misuse such as road accidents than long-term or chronic alcohol problems like cancer. This highlights a pattern of people drinking to intoxication.

The majority of deaths from immediate causes were among young people, particularly those aged 15–29. Chronic effects were more common in those 45 years and older.⁸

⁵ Australian Institute of Health and Welfare (AIHW) analysis of the AIHW National Mortality Database <https://www.aihw.gov.au/reports/australias-health/alcohol-risk-and-harm> [accessed 8 Sept 2021]

⁶ HealthStats NSW data available at <http://www.healthstats.NSW.gov.au/indicatorgroup/alcoholtopic> [accessed 8 Sept 2021]

⁷ Australian Bureau of Statistics: Deaths Due to Harmful Alcohol Consumption in Australia: detailed findings at: <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/3303.0~2017~Main%20Features~Deaths%20due%20to%20harmful%20alcohol%20consumption%20in%20Australia~4> [accessed 8 Sept 2021];

⁸ Ibid.

In 2019, the NSW Population Health Survey estimated that 26.7% of adults (34.7% of men and 19.1% of women) consumed more than four standard drinks on a single occasion in the last four weeks.⁹

While alcohol consumption at levels that pose a long-term health-risk has been in decline over the last ten years in NSW to 2015, since 2015 rates have increased.¹⁰

In this same year it was estimated through the 2017 NSW School Students Health Behaviours Survey (self-completed questionnaire)¹¹ that 13.7% of students aged 12-17 years (15.1% of boys and 12.3% of girls) consumed alcohol in the last 7 days.¹²

Prevalence estimates, although differing slightly between surveys because of differing sampling frames, participation rates and modes of collections (telephone versus self-completed questionnaires versus face-to-face personal interviews versus drop-and-collect) have remained constant over time for adults and fallen in school students.

Social implications

The misuse of alcohol can have a negative impact on individuals, which also effects their families, friends, and the broader community.

In 2010, the total monetary cost to the Australian society resulting from alcohol-related problems was estimated to be \$14.35 billion. This includes costs to the criminal justice system, health system, traffic accidents and reduced Australian productivity.¹³

Misuse and abuse of alcohol puts unnecessary pressure on NSW Police as they deal with the fallout caused by intoxicated persons. They are required to commit their resources to making arrests, attending court hearings, and processing extra paperwork.

Health services, including hospitals and emergency departments, are also stretched to capacity as they treat people who have been involved in incidents resulting from excessive alcohol consumption. Some examples of incidents include assaults and road traffic accidents. Hospital staff and paramedics are frequently subjected to threats and violence from intoxicated people.

Misuse and abuse of alcohol has a negative effect on our road authorities and local councils, who are often required to maintain public assets that have been damaged or vandalised by intoxicated people.

Funds are dedicated to developing and producing resources for publicly funded treatment agencies for alcohol and other drugs, such as counselling and withdrawal management.

⁹ Health Stats NSW: Alcohol drinking frequency in adults by category and year, available at: http://www.healthstats.nsw.gov.au/Indicator/beh_alcsor_age [accessed 8 Sept 2021].

¹⁰ Health Stats NSW: Alcohol consumption at levels posing long-term risk to health by adults by sex, NSW 2002-2019 http://www.healthstats.nsw.gov.au/Indicator/beh_alc_age/beh_alc_age [accessed 8 Sept 2021]

¹¹ Ibid.

¹² Ibid

¹³ The societal costs of alcohol misuse in Australia: Trends & issues in crime and criminal justice 2013: detailed findings at: <https://aic.gov.au/publications/tandi/tandi454> [accessed 8 Sept 2021]

In 2016–17, 836 publicly-funded alcohol and other drug treatment services across Australia provided just over 200,000 treatment episodes to an estimated 127,000 clients; the top drug that led clients to seek treatment was alcohol (32% of all treatment episodes).¹⁴

1.3. NSW regulatory authorities and other stakeholders in the liquor industry

Various authorities and organisations play a role in managing the liquor industry in NSW. In this section, you will learn the roles and responsibilities of the NSW regulatory bodies and other key stakeholders, and where you can go for support, guidance, and resources.

NSW regulatory authorities include Liquor & Gaming NSW, the Independent Liquor & Gaming Authority (Authority), and the NSW Police.

Stakeholders include other government departments, industry bodies and associations, local liquor accords and your community. As a licensee, it is important you understand:

- the role and responsibilities of each regulatory authority and other relevant stakeholders
- where you can go to get support, guidance and resources.

RSA Recap – Liquor & Gaming NSW

Liquor & Gaming NSW is responsible for the regulation of liquor, wagering, gaming, casinos, and registered clubs in NSW. It undertakes compliance, enforcement and licensing functions, and provides policy advice, program evaluation, and executive support to the NSW Government.

Liquor & Gaming NSW also provides support to the Independent Liquor & Gaming Authority (the Authority).

In practical terms, Liquor & Gaming NSW is responsible for decision making on licences, regulation, and enforcement of the NSW liquor laws, while the Authority determines the more complex licence applications and any disciplinary action.

Liquor & Gaming NSW is the government department you will probably have the most interaction with regarding your competency card. It provides a range of services, including:

- administering the RSA, Licensee and Advanced Licensee training framework
- managing the issue and renewal of competency cards
- working with NSW Police to investigate complaints in licensed premises, including interviewing staff and reviewing or seizing records

¹⁴ Australian Institute of Health and Welfare: National Drug Strategy Household Survey 2016: detailed findings: <https://www.aihw.gov.au/reports/illicit-use-of-drugs/2016-ndshs-detailed/contents/summary> [accessed 8 Sept 2021]; Health Stats NSW: 3 in 10 NSW adults drink alcohol at levels posing risk of long-term harm: detailed findings at: <http://www.healthstats.NSW.gov.au/indicatorgroup/alcoholtopic> [accessed 8 Sept 2021]; Audit Office of New South Wales: Cost of Alcohol Abuse to the NSW Government: detailed findings at: <https://www.audit.NSW.gov.au/publications/performance-audit-reports/2013-reports/cost-of-alcohol-abuse-to-the-NSW-government/cost-of-alcohol-abuse-to-the-NSW-government> [accessed 8 Sept 2021] and Liquor & Gaming NSW at: <https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/serving-alcohol-responsibly> [accessed 8 Sept 2021].

- providing regular updates and education via monthly e-news and industry engagement through local liquor accord groups.

Independent Liquor & Gaming Authority (the Authority)

The Independent Liquor & Gaming Authority's role is to promote fair and transparent decision making under the *Gaming and Liquor Administration Act 2007*. The Authority has functions under the NSW liquor laws relating to:

- determining contentious licensing proposals
- determining disciplinary action(s) taken against licensees and others, and
- reviewing certain delegated decisions made on its behalf by Liquor & Gaming NSW.

In undertaking its statutory functions, the Authority must:

- ensure it is accessible and responsive to the people and businesses it deals with
- promote fair and transparent decision making
- deal with matters in an informal and prompt manner
- promote public confidence in its decision making and the conduct of its members.

NSW Police

Together with Liquor & Gaming NSW Inspectors, the NSW Police Force are responsible for enforcing the liquor laws in the community.

NSW Police also provide information that helps Liquor & Gaming NSW and the Authority to make decisions on licensing applications. NSW Police have wide-ranging enforcement powers under the liquor laws and can:

- issue penalty notices for breaches of the liquor laws
- prosecute licensees, staff members or patrons for breaches of the law
- take disciplinary action against a licensee on certain grounds prescribed by the liquor laws
- impose short term closures of licensed venues to prevent serious alcohol-related problems escalating in a licensed venue
- investigate complaints about licensees and/or venues from the community and police. This may include interviewing staff, licensees, and reviewing or seizing of records.

Local councils

There are many ways that local councils are involved in decisions about liquor licensing, both through the planning system and the liquor regulation system.

When a venue selling, supplying or serving alcohol is established, local councils are the first government agency to be made aware of this process. This is because a venue that is being fitted out or renovated for the sale of alcohol, or is changing its business to sell alcohol, needs to first go through the development application (DA) process. As local councils manage this process, they play a key role in determining whether the venue will benefit the community or contribute to increased levels of alcohol-related harms.

Members of the community can provide comment on DAs as part of the community consultation process. A sign at the premises and other consultation methods, such as mailing list

notifications and information posted on council websites, alert the local community of new applications.

When making decisions about approving venues for the sale of alcohol, under section 4.15 of the *Environment Planning and Assessment Act 1979*, local councils must consider ‘...*(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.*’

When assessing the social impact of a proposed licensed premises or a variation to the development consent conditions of an alcohol-related premises, local councils carefully consider the best available independent evidence and its implications for the particular proposal. With a view to prevent and reduce levels of harm and social disadvantage, local councils assess the likely risks and the additional impact that the application might have on the community, whether it is a new licensed premises or an existing venue seeking a change to their trading conditions.

Councils can then approve or decline an application or approve an application with various conditions. Conditions can include limitations on trading.

As licensee, it is important to have a clear understanding of the development consent that applies to your venue. Local council and NSW Police often test licensed premises to ensure the business is complying with consent conditions.

Industry associations

There are several industry associations within the liquor industry. These peak bodies are groups that represent a specific sector of the industry and can provide you with support, guidance and resources. The bodies typically work on providing members with:

- education, advice and support in the running of their business
- a central ‘voice’ for their sector in the media
- lobbying and consultation with government departments
- promoting the shared interests of the group
- meeting one-to-one with venue owners and operators on site to address local issues
- helping source expert assistance where needed.

You may find it helpful to join an industry association that is relevant to your specific licence and business type.

Community and local liquor accords

Working with the community is covered under module 4.4.1 and liquor accords are covered in module 4.4.2.

1.4. NSW liquor laws

In NSW, the *Liquor Act 2007* (the Act) regulates and controls the sale and supply of alcohol and certain aspects of the use of premises on which alcohol is sold or supplied.

Further information about sections of the Act that reference specific licence types is included in the industry specific modules in attachment A.

Relationship between the *Liquor Act 2007* and the *Liquor Regulation 2018*

The *Liquor Act 2007* is a set of laws passed by the NSW Parliament that provides high-level guidance on roles and responsibilities for the sale and supply of alcohol. The *Liquor Regulation 2018* is a secondary legislation that provides greater guidance on how the legal provisions of the *Liquor Act 2007* should be applied.

Regulations have the same statutory power and enforceability as their related Act.

For example, the *Liquor Regulation 2018* provides more specific detail on aspects of the *Liquor Act 2007*, including Community Impact Statement (CIS) requirements, Responsible Service of Alcohol (RSA) training and accreditation, management and control of licensed premises, specific regulations relating to Kings Cross and the availability of free drinking water.

In this section, we will work through the general obligations for licensees to ensure that you are fully aware of your responsibilities under the *Liquor Act 2007* and the *Liquor Regulation 2018*.



More information

You can find more information on licence-specific obligations under 'Industry Specific Information Guide' at the end of this handbook.

Penalty amounts outlined in this section are for licensees who breach the laws. They are based on a system of penalty units that are a set amount of money used for each fine.

Unit values are reviewed annually, and the current penalty unit value in NSW can be found at www.liquorandgaming.nsw.gov.au, or at:

<https://www.legislation.nsw.gov.au/#/view/act/1999/92/part2/div4/sec17>

1.5. Liquor Act 2007

As a licensee, you must operate your business within the parameters of the *Liquor Act 2007*. To do this, you will need a sound knowledge of the Act.

The objects of the *Liquor Act 2007* are:

- to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community
- to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality, and

- to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.

In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:

- a) the need to minimise harm associated with the misuse and abuse of liquor (including harm arising from violence and other antisocial behaviour)
- b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor, and
- c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.
- d) the need to support employment and other opportunities in the –
 - live music industry, and
 - arts, tourism, community and cultural sectors.



Key sections of *Liquor Act 2007* that cover your responsibilities and liabilities as a licensee

Section 91 – You are responsible for the conduct of your business

As the licensee or approved manager, you are in charge of your business and therefore responsible at all times. You are responsible for the personal supervision and management of the conduct of the business of the licensed premises under section 91 of the *Liquor Act 2007*.

This is a broad responsibility that requires you to undertake your business operations seriously and to not cause harm to patrons or the local community.

Section 149 – You are vicariously liable for your employees

As the licensee or approved manager, you are liable for the acts of your employees or any person acting on your behalf when selling and serving alcohol in your business.

Employees include a person engaged under a contract for services. This will include any security personnel, crowd controllers, or RSA marshals that you have engaged for your business.

This means that if any of your employees commits a breach of the *Liquor Act 2007* or the Liquor Regulation 2018 while they are on duty, you could be found liable for the offence.

Relevant sections of the *Liquor Act 2007* for you as a licensee

Part 2 of the *Liquor Act 2007*

Part 2 outlines the principal offences relating to the sale and supply of liquor.

Sections 7 and 8: prohibit the sale of liquor on unlicensed premises. If you, as a prospective licensee, are already in control of a premises that is not yet licensed, you are responsible for ensuring that liquor is not sold on that premises by any person unless they are authorised to do so by another licence.

Section 9: prohibits the sale or supply of liquor contrary to a licence. As a licensee (or an employee or agent of a licensee), you must not sell or supply liquor (or cause or permit liquor to be sold or supplied) in contravention of any of the conditions of your licence.

Maximum penalty:

- 100 penalty units
- imprisonment for 12 months
- or both.

Part 3 of the *Liquor Act 2007*

Part 3 outlines the provisions relating to liquor licences and includes the following subdivisions:

- Division 1 - preliminary
- Division 2 - hotel licences
- Division 3 - club licences
- Division 3A - small bar licences
- Division 4 - on-premises licences
- Division 5 - packaged liquor licences
- Division 6 - producer/wholesaler licences
- Division 7 - limited licences.

In this section, we will cover the general provisions relating to licence conditions, and Division 1 - preliminary.

Division 1

Section 10 outlines the types of licences that are available in NSW.

Section 11 covers the general provisions of all licence conditions. A licence is subject to:

- (a) such conditions as may be imposed, or are taken to have been imposed, by the Authority or the Secretary
- (b) such conditions as are imposed by the Act or prescribed by the regulations
- (c) such other conditions as are authorised to be imposed on the licence under the Act.

A licensee must comply with all conditions to which their licence is subject.

Maximum penalty:

- 100 penalty units
- imprisonment for 12 months
- or both.

Section 11A outlines the special licence condition ‘6-hour closure period’ for all licensed premises in relation to any licence granted on or after 30 October 2008.

Under this section, liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours during each consecutive period of 24 hours.

During the 6-hour closure period, you as the licensee are not authorised to sell liquor by retail for consumption either within or away from your licensed premises.

Section 12 outlines the standard trading periods for certain licensed premises, which are:

- every day except Sunday:** between 5am and midnight
- Sunday:** between 10am and 10pm

There can be variations to standard trading periods depending on your licence type.

Section 20A outlines provisions for a small bar licence to allow the sale of house-made cocktails for take-away consumption if sold in sealed containers¹⁵. House-made cocktails mean alcoholic beverages that are mixed on the licensed premises.



More information

For more information on licence conditions, visit:

<https://www.liquorandgaming.nsw.gov.au/resources/licence-conditions>

To apply for or manage a liquor licence, visit:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/applying-for-and-managing-your-liquor-licence>

Part 4 of the *Liquor Act 2007*

Part 4 covers licensing procedures (and related matters) and includes the following subdivisions:

- Division 1 - licence applications and granting of licences
- Division 1A - repealed
- Division 2 - miscellaneous provisions relating to licences and licence-related authorisations
- Division 2A - periodic licence fees

¹⁵ Introduced on 11 December 2020 under the [Liquor Amendment \(Night-time Economy\) Act 2020](#)

- Division 3 - licence removals and transfers
- Division 4 - special provisions relating to corporate licensees
- Division 5 – Cumulative impact assessments

In this section, we will cover the miscellaneous provisions relating to licence related authorisations and cumulative impact assessments. Processes relating to the applying and managing your liquor licence will be covered in Module 2.

Division 2

Section 54A outlines the requirements surrounding directions relating to ‘sale on other premises’ authorisations. The Department’s Secretary may give a licensee (or any employee or agent of a licensee), a written direction that relates to the operation of the authorisation. This could be a direction that prohibits or restricts the sale of liquor under the authorisation during certain times. As a licensee, you are responsible for ensuring all directions are complied with.

Maximum penalty:

- 100 penalty units.

Section 55 outlines the requirement to provide the Authority with information relating to any persons interested in the licensee’s business.

A person (other than the licensee or a financial institution) becomes interested in the business carried out on licensed premises if they are someone who is entitled to receive:

- any income derived from the business, or any other financial advantage from the carrying on of the business
- any rent, profit, or other income in connection with the use or occupation of the licensed premises where the business is carried out.

It is a condition of the licence that the licensee (or the interested person) provides the Authority with specific details about the interested person within 28 days.

This section does not apply to limited licences.

Section 56 mandates that if the sale or supply of liquor is authorised after midnight at least once a week on a regular basis, it is a condition of the licence that the licensee maintains an incident register in the form approved by the Secretary.

As the licensee, you must ensure details of violent incidents and non-voluntary exclusions are recorded in the incident register, as well as details of action taken in response to incidents.

The licensee must also:

- make an incident register available for inspection if requested to do so by NSW Police or a Liquor & Gaming NSW Inspector and allow a police officer or L&GNSW Inspector to take copies of or remove a register from the premises
- retain the information recorded in an incident register for at least 3 years.

[Section 58](#) outlines training requirements for applicants and licensees. As a licensee, you (or any employee or agent of yours) may be required to undertake and satisfactorily complete training courses as prescribed by the Authority.

For example: your staff may need to undertake Privacy training to operate ID scanners.

Division 5

[Sections 72A to 72H](#) outline a Cumulative Impact Framework that helps manage the density and impact of licensed premises in the Sydney CBD Entertainment and Kings Cross precincts.

From 1 May 2021, the Authority issues a Cumulative Impact Assessment for precincts under the framework to replace the liquor licence freeze in the precincts. It aims to open new business opportunities in suitable areas, while continuing to manage higher-risk locations. The assessments apply to higher impact premises in the precincts including hotels, registered clubs, nightclubs and bottle shops.

For more information on cumulative impact assessments refer to [Section 1.7.1 Cumulative Impact Assessments](#).

Part 5 of the Liquor Act 2007

[Part 5](#) outlines the provisions for the regulation and control of licensed premises and includes the following subdivisions:

- Division 1 - conduct on licensed premises
- Division 2 - exclusion of persons from licensed premises
- Division 3 - disturbance complaints
- Division 4 - closure orders
- Division 5 - late hour entry declarations
- Division 6 - general provisions relating to licensed premises

Division 1

[Section 73](#) outlines your responsibility in relation to the prevention of excessive consumption of alcohol on licensed premises. You must not permit intoxication, or any indecent, violent, or quarrelsome conduct on the licensed premises.

If an intoxicated person is on the licensed premises, you (and/or your employees or agents) must take decisive steps. The steps include:

- asking the intoxicated person to leave the premises
- contacting the police for assistance if the person refuses to leave the premises
- refusing to serve the person any alcohol after becoming aware that the person was intoxicated.

It is an offence for you (and your employees or agents) to sell or supply liquor to an intoxicated person on the licensed premises.

Maximum penalty:

- 100 penalty units.



More information

Read the prevention of intoxication on licensed premises guidelines developed by Liquor & Gaming NSW at:

<https://www.liquorandgaming.nsw.gov.au/documents/gl/gl4002-prevention-of-intoxication-on-licensed-premises-guidelines.pdf>

Section 74 outlines your responsibility in relation to the sale of stolen goods and possession, use or sale of drugs on licensed premises.

You must not permit your licensed premises to be used for the sale of any goods that the licensee suspects of being stolen, or any substance that the licensee suspects of being a prohibited plant or a prohibited drug.

You (and your employees or agents) must also not permit the possession or use of any substance that the licensee suspects of being a prohibited plant or a prohibited drug on the licensed premises.

Maximum penalty:

- 100 penalty units.

Section 75 outlines requirements relating to directions to licensees and staff of licensed premises.

The Secretary may give a licensee, or any employee or agent of a licensee, a written direction concerning any matter relating to the licensed premises. A licensee, employee or agent who, without reasonable excuse, fails to comply with a direction under this section is guilty of an offence.

Maximum penalty:

- 100 penalty units.

Division 2

Section 76 outlines the provisions for self-exclusion of patrons from licensed premises. A person may make a request to enter into a self-exclusion agreement with you and your licensed premises for a range of reasons.

If a request is made to enter into a self-exclusion agreement, you must enter into the agreement so long as the circumstances in which the request is made comply with the circumstances specified in the form approved by the Authority. You (and your employees or agents) must comply with the terms of the agreement.

Section 77 outlines the provisions for non-voluntary exclusion of persons from licensed premises.

- 2) An authorised person may refuse entry, or eject any person from the licensed premises, who is:
 - a) intoxicated
 - b) violent, quarrelsome or disorderly
 - c) smoking in a smoke-free area under the Smoke-free Environment Act 2000

- d) suspected of having or using illicit drugs on the premises
 - e) behaving in a way that causes the licensee to commit an offence under the liquor laws.
- 3) the authorised person, under the conditions of the licence or according to a term of a liquor accord, is authorised or required to refuse access to the licensed premises.

More details on section 77 are covered in module 3.7.1 Intoxication laws.

Division 4

[Section 82](#) outlines the provisions for short-term closure of licensed premises.

An authorised officer or the Authority may order the licensee to close the licensed premises from a time specified in the order until a later specified time. You as a licensee must comply with the order.

Maximum penalty:

- 50 penalty units
- imprisonment for 6 months
- or both.

A short-term closure might be ordered when a serious breach of the *Liquor Act 2007* has occurred (or is likely to occur), and closure is necessary to prevent, or reduce, a significant threat or risk to the public interest.

[Section 84](#) outlines the provisions for long-term closure of licensed premise.

The Authority may order the licensee to close the licensed premises from a time specified in the order until a later specified time. You as a licensee must comply with the order.

Maximum penalty:

- 250 penalty points for a corporation
- 50 penalty units
- imprisonment for 6 months
- or 50 points and imprisonment for an individual.

A long-term closure may be ordered when there is significant threat or risk to the public interest.

[Section 86](#) outlines the provisions for breach of the peace.

The local court may order a licensee to close the licensed premises for a period of time if there is, or is likely to be, a breach of the peace. You as a licensee must comply with the order.

Maximum penalty:

- 50 penalty units
- imprisonment for 6 months
- or both.

Division 5

[Section 88](#) outlines the requirements for effect of late hour entry declaration.

As a licensee of a licensed premises where a late hour entry declaration applies, you must not permit patrons to enter the licensed premises during the time the declaration applies.

Maximum penalty:

- 50 penalty units.

Division 6

[Section 91](#) outlines the responsibilities and liabilities in relation to licensed premises.

As licensee or manager of a licensed premises, you are responsible at all times for the personal supervision and management of the conduct of the business of the licensed premises under the licence.

[Section 92](#) outlines the provisions for the control of business conducted on licensed premises.

As a licensee or manager, you must not allow any person to run the licensed business for a period longer than six continuous weeks unless approved by the Authority.

Maximum penalty:

- 50 penalty units.

[Section 92\(1\) \(b\)](#) prescribes that the licensee must not lease or sub-lease the right to sell liquor on the licensed premises.

[Section 93](#) outlines the provisions for the cessation of trade.

If your licensed premises ceases trading during any continuous period of more than six weeks, you as the licensee, or manager, must notify the Authority in writing that the premises have ceased to trade.

Maximum penalty:

- 50 penalty units.

[Section 95](#) outlines the provisions for the name of a licensed premises.

As a licensee, it is your responsibility to ensure a sign is installed and maintained on the front of the licensed premises that specifies the name of the licensed premises, the type of licence for the premises, and any other particulars prescribed by the regulations.

Maximum penalty:

- 5 penalty units.

It is an offence to alter the name of the licensed premises unless the Authority has approved in writing the proposed new name and endorsed the change of name on the licence.

Maximum penalty:

- 5 penalty units.

[Section 97](#) outlines the provisions for breath analysis equipment.

As a licensee, you must display appropriate signage in close proximity to the breath analysis instrument in your premises – that is, if you have one.

Maximum penalty:

- 20 penalty units.

Part 6 of the *Liquor Act 2007*

[Part 6](#) outlines the provisions for miscellaneous offences and regulatory controls and includes the following subdivisions:

- Division 1 - general
- Division 1A - responsible service of alcohol training courses
- Division 1B – Same day liquor deliveries
- Division 2 - restricted alcohol areas
- Division 3 - repealed
- Division 4 - prescribed precincts

This section covers requirements of Divisions 1 to 3.
Division 4 – Prescribed precincts is covered in section 1.7.

Division 1

[Section 100](#) outlines the provisions for specified liquor products which may be declared as undesirable.

Where the regulations declare a specified liquor product, or class of liquor products, to be an undesirable product; you must not sell or supply through your venue.

Maximum penalty:

- 50 penalty units.

This circumstance may occur when the Minister identifies that a product or its packaging is:

- particularly attractive to minors
- offensive
- can be easily confused with non-alcoholic drinks.

[Section 101](#) prescribes that where the Secretary restricts or prohibits sale or supply of a specific liquor product in writing, you as a licensee must comply with the notice.

Maximum penalty:

- 50 penalty units.

[Section 102A](#) prescribes that where the Secretary restricts or prohibits promotions that encourage misuse or abuse of liquor, you as a licensee must comply with the direction.

Maximum penalty:

- 50 penalty units.

This circumstance may occur when the Secretary identifies promotions that are offensive, attractive to minors, or encourage irresponsible drinking.

[Section 107](#) outlines the requirement to produce the liquor licence on the premises.

As licensee, it is your responsibility to ensure that either yourself, or a responsible person, is able to produce the licence if requested to do so by a police officer or Liquor & Gaming NSW Inspector while on the licensed premises.

Maximum penalty:

- 5 penalty units.

[Section 108](#) prohibits the extension of credit for gambling.

As licensee, you must not extend, or offer to extend, a cash advance or any other form of credit to another person for the purpose of enabling them to gamble on the licensed premises.

Maximum penalty:

- 100 penalty units.

[Section 109](#) prohibits the misrepresentation or misdescription of credit transactions.

As a licensee, you must not describe or represent any credit transaction or cash advance as a lawful payment for goods or services if the person intends to use the cash advance to gamble on the licensed premises.

Maximum penalty:

- 100 penalty units.

[Section 110](#) prohibits a person from falsely indicating that premises are licensed or that a person is authorised to sell or supply liquor.

Maximum penalty:

- 50 penalty units.

[Section 114](#) outlines the provisions for the sale of liquor over the internet or through other communication media.

As a licensee who sells liquor by taking orders (over the telephone, by fax, or by mail order), you must display the licence number in any information or advertisement published in writing or electronically in connection with such sales. This could include paper catalogues in a letter box drop or a monthly eNewsletter.

Licensees who sell liquor online through an internet site must also ensure that the licence number is prominently displayed on each page of the website.

Maximum penalty:

- 20 penalty units.

Licensees who sell liquor by taking orders over the telephone, by facsimile, by mail order, or through an internet site or other electronic means must require the prospective purchaser to supply their date of birth and must give written instructions to the person responsible for delivery of the liquor, requiring that the liquor be delivered:

- to the adult person who placed the order
- to another adult person at those premises on behalf of the person who placed the order
- in accordance with the customer's instructions if the delivery is made on a day after the order is taken, or
- to another adult person nominated by the person who placed the order if the sale is made through an internet site or other electronic means.

Maximum penalty:

- 20 penalty units.

Division 1B

Sections 114H to 114R outline the provisions for same day alcohol deliveries

	<p>Meaning – same day delivery provider OR service provider</p> <p>Means a licensee or delivery agent authorised to make same day alcohol deliveries</p> <p>Includes:</p> <ul style="list-style-type: none">• licensed takeaway liquor providers that offer online sale and deliveries in NSW• food delivery providers that deliver alcohol in addition to, or as a part of food deliveries• individuals offering same day delivery of alcohol in NSW, and• any other businesses that deliver alcohol to the public.
<p>Delivery agent</p> <p>Delivery companies, couriers and drivers engaged by same day delivery providers to deliver alcohol.</p>	
<p>Delivery person</p> <p>Same day alcohol delivery provider, delivery agent or person making same day alcohol delivery in NSW.</p>	
<p>Delivery recipient</p> <p>An individual, over the age of 18, purchasing the alcohol or an adult nominated to accept delivery at delivery location, or at an alternative delivery location as per the written instructions provided by the provider.</p> <p>The delivery recipient is also referred to as the 'customer' in this handbook.</p>	

The following obligations under Division 1B apply to a person making same day delivery of alcohol to retail customers in NSW. This includes you as a same day delivery provider, your employees and delivery agents making same day deliveries.

<i>Liquor Act 2007</i>	Obligations for same day delivery	Maximum penalty for breaches
Obligations of same day delivery persons <u>and</u> providers		
Section 114I	At the time of delivery, your same day delivery persons must ensure that the identity and age of the purchaser, and any adult nominated to accept delivery is verified prior to delivery.	50 penalty units
Section 114J	Liquor must not be supplied to an intoxicated person Defence: If it can be proved that the delivery person who delivered the alcohol could not be reasonably expected to know that they were delivering alcohol.	100 penalty units 12 months imprisonment, or both
Section 117	Liquor not to be sold or supplied to a minor Defence: If it can be proven that the minor was over 14, and before the alcohol was sold or supplied the defendant was provided with an evidence of age document that could be reasonably accepted as being genuine and proving that the person was an adult, or if the delivery person did not know the package contained alcohol at the time of the alleged offence.	100 penalty units 12 months imprisonment, or both
Section 114K	Liquor must not be supplied in alcohol-free zones, alcohol prohibited areas or restricted alcohol areas	30 penalty units
Section 114L	Liquor must not be delivered by same day delivery between: - 11pm on Sunday or 12pm on weekdays, and 9am the following day	100 penalty units
Section 114M(1)	You must keep a record of refusals to deliver by same day delivery where the person proposing to accept delivery is: - a minor, or - an intoxicated person, or - the delivery person was unable to verify that they were the person specified in the written delivery instructions	30 penalty units

In addition, the following obligations apply to you as a same day delivery provider:

<i>Liquor Act 2007</i>	Obligations for same day delivery	Maximum penalty for breaches
Additional obligations for same day delivery providers only		
Section 114H	You must hold a licence to supply alcohol under a same day delivery arrangement where the products are stored in NSW	100 penalty units
Section 114HA	At the time of recording a same day alcohol sale ¹⁶ , you must ensure that the identity and age of the purchaser, and any adult nominated to accept delivery is verified using an accredited identity service provider. For subsequent occasions, an alternative form of authentication as provided by the liquor regulation may be used.	50 penalty units 50 penalty units
Section 114I	At the time of delivery, your same day deliver persons must ensure that the identity and age of the purchaser, and any adult nominated to accept delivery is verified prior to delivery.	50 penalty units
Section 114(3)(b)	You must provide written instructions to deliver the alcohol to the adult who purchased the alcohol, or another adult nominated by the purchaser to accept delivery of the alcohol at the delivery location.	50 penalty units
Section 114M(1)	You must keep a record of refusals to deliver by same day delivery where the person proposing to accept delivery is: <ul style="list-style-type: none"> • a minor, or • an intoxicated person, or • the delivery person was unable to verify that they were the person specified in the written instructions 	30 penalty units
Section 114M(2)	Records of non-delivery must be made available to a police officer or Liquor & Gaming Inspector, if requested.	30 penalty units
Section 114M(3)	Such records must be kept for at least 1 year from the date the refusal occurred.	30 penalty units
Section 114N*	You must ensure that your delivery person is not financially penalised for refusals to deliver in the circumstances detailed in Section 114M (1) *Note: A financial penalty includes any action that has a financial impact to a delivery agent or employee, including, for example, withholding or delaying payment or a loss of hours of employment.	50 penalty units
Section 114O	Should a delivery recipient ask to enter into a self-exclusion agreement with you, you must provide a process to do so. Where alcohol is sold online for same day delivery, you must ensure your delivery recipients are provided this service on your business' website.	30 penalty units 30 penalty units

¹⁶ The requirement to verify the identity and age of a customer purchasing alcohol by same day delivery at the time of sale applies from 1 June 2022

<i>Liquor Act 2007</i>	Obligations for same day delivery	Maximum penalty for breaches
Additional obligations for same day delivery providers only		
Section 114P	You must not allow a delivery person to make same day deliveries unless they have successfully completed this Responsible Supply of Alcohol training (RSAT) and the Liquor & Gaming NSW online RSAT test.	50 penalty units
Section 114Q	As a same day delivery provider, you are liable for the acts of your employees involved in same day sale and delivery of alcohol, including any penalty for associated breaches under the liquor laws. Defence: where you can provide records to prove that the delivery person has successfully completed the RSAT and the L&GNSW online RSAT knowledge test.	



More information

Access the *Liquor Amendment (Night-time Economy) Act 2020* here:

<https://legislation.nsw.gov.au/view/pdf/asmade/act-2020-40>

More information on same day alcohol delivery laws introduced on 1 July 2021 at:

<https://www.liquorandgaming.nsw.gov.au/resources/alcohol-delivery-laws>

Access a one-page overview of the same day delivery laws at:

https://www.liquorandgaming.nsw.gov.au/_data/assets/pdf_file/0009/991548/same-day-alcohol-delivery-overview.pdf

Same day delivery providers and delivery people self-audit checklist is available at:

https://www.liquorandgaming.nsw.gov.au/_data/assets/pdf_file/0009/993555/cl1017-self-audit-checklist-for-same-day-delivery-providers-and-delivery-people.pdf

Part 7 of the *Liquor Act 2007* outlines the special provisions relating to minors and includes the following subdivisions:

- Division 1 - underage drinking
- Division 2 - minors on licensed premises
- Division 3 - other provisions relating to minors
- Division 4 - repealed.

Division 1

Section 117 outlines offences relating to sale or supply of liquor to minors.

A person must not sell or supply liquor to a minor. Licensees must also not allow liquor to be sold or supplied to a minor on licensed premises.

Maximum penalty:

- 100 penalty units

- 12 months' imprisonment
- or both.

Section 119 prescribes that licensees are not to allow minors to sell or supply liquor on licensed premises.

A licensee must not cause or allow a minor to sell, supply or serve liquor on the licensed premises except with the Authority's approval.

Maximum penalty:

- 50 penalty units.

Section 4 Definitions prescribes that a 'responsible adult' is an adult who is:

- a parent, stepparent, or guardian of the minor
- the minor's spouse or de facto partner
- for the time being, standing in as the parent of the minor.

A person standing as a parent could include a relative such as a grandparent, aunt/uncle or person nominated to act as guardian.

Division 2

Section 124 prescribes that licensees are not to allow minors to enter or remain in certain licensed premises.

A minor is permitted in a small bar when:

- they are accompanied by a responsible adult for the purpose of enjoying a meal at the venue

An offence is committed when a minor:

- enters a small bar between 10am and 10pm, and
 - there is no minors authorisation in force, and the minor is not accompanied by a responsible adult and meals are not regularly provided between approved trading times, or
 - there is a minors authorisation, but the minor is present outside approved trading hours or purposes
- enters a small bar between 10pm and midnight, and
 - there is no minors authorisation in force, or
 - there is a minors authorisation, but the minor is present outside approved trading hours or purposes
- enters a small bar during between midnight and 5am on any day of the week, or during a time prohibited by the Authority.

Defence to the above offence is if the licensee can prove that they believed on reasonable grounds that a minors authorisation was in force at the relevant time to enable minors to enter or remain in the small bar without being in the company of a responsible adult.

A licensee also commits an offence:

- if a minor is in a bar area of a hotel or club premises
- enters a hotel in which a minors area authorisation is in force, but without a responsible adult
- enters a public entertainment venue, but without a responsible adult.

A licensee also commits an offence if a minor is in any of these venues under these circumstances unless the minor is immediately removed from the area or premises.

Maximum penalty:

- 50 penalty units.

Section 126 prescribes that minors must be refused entry to licensed premises.

As a licensee, you (and your employees and/or agents) must refuse suspected underage persons entry to the premises unless they are able to produce appropriate ID. Appropriate ID is an evidence of age document that proves they are above the age of 18 years.

Maximum penalty:

- 50 penalty units.

Part 8 of the *Liquor Act 2007* outlines the provisions for liquor accords.

Division 1

Section 136 prescribes that there is a requirement for licensees to contribute to costs of implementing local liquor accord.

The Secretary may give a direction to any licensee in the area to which a local liquor accord applies (including any licensee in the area who is not a party to the local liquor accord concerned) to contribute to the costs of promoting or giving effect to the accord.

The licensee is required to comply with any such direction under the law.

Part 9 of the *Liquor Act 2007*

Part 9 outlines possible disciplinary action and does not include any obligations or requirements for licensees. It outlines the following provisions:

- the Secretary may carry out inquiries and investigations in relation to a proposed (or potential) complaint
- grounds for making complaint
- procedure for taking disciplinary action
- disciplinary powers of the Authority
- procedure for implementing disciplinary action
- requirement for legal member of the Authority to be present
- administrative review by NSW Civil and Administrative Tribunal of decisions by the Authority under this part.

Part 9A of the *Liquor Act 2007*

On 1 January 2021, Part 9A the Demerit Points Scheme replaced the Violent Venues, Three Strikes and Minor Sanctions schemes. [Part 9A](#) outlines the incentives and possible disciplinary actions under the single integrated incentives and sanctions system and includes the following subdivisions:

- Division 1 preliminary
- Division 2 demerit points register
- Division 3 incurring and imposition of demerit points
- Division 4 remedial action for accumulation of demerit points
- Division 5 removal and reinstatement of demerit points
- Division 6 general provisions

The integrated scheme aims to reward well managed venues and reduce serious alcohol-related violence through tough sanctions imposed when operators continually breach the liquor laws, and/or there are concerns after violence or safety.

Under this scheme, a demerit point is automatically incurred where a licensee or approved manager commits one of the most serious offences or fails to provide a safe environment for patrons. Double demerit points attach to offences involving the sale or supply to minors, due to the seriousness of these types of offences.

For more information on the scheme and the offences that result in a demerit point, refer to [Section 5.3.9](#)

[Part 10 of the *Liquor Act 2007*](#) outlines the provisions for criminal proceedings and related matters.

[Section 149](#) prescribes that licensees and managers are liable for act of employees.

If an employee or agent of a licensee/manager, or a person acting or claiming to act on behalf of a licensee/manager, sells or supplies liquor on the licensed premises, the licensee/manager is guilty of an offence and liable to the punishment specified for the contravention.



More information

For a summary of changes to the NSW liquor laws introduced under the *Liquor Amendment (Night-time) Economy Act 2020* to support Sydney's night-life and to encourage a vibrant and safe 24-hour economy, visit:

<https://www.liquorandgaming.nsw.gov.au/news-and-media/24-hour-economy-liquor-reforms-whats-changing>

You can also access the *Liquor Amendment (Night-time Economy) Act 2020* for more information:

<https://legislation.nsw.gov.au/view/pdf/asmade/act-2020-40>

Part 11 of the *Liquor Act 2007* outline miscellaneous provisions including the Savings and transitional provisions on review of related Act and regulations.

Part 12 of the *Liquor Act 2007* outlines special provisions relating to COVID-19 pandemic.

Part 12 introduces temporary measures during the period of COVID-19 pandemic to allow local councils to encourage the use of outdoor space for outdoor dining and performance to assist with NSW Government introduced social distancing measures. This Part will be repealed within 12 months of its introduction.

Refer to section 4.3.9 Unforeseen events: COVID-19 for more information and links to a range of NSW Government COVID-19 and other related resources.

1.6. Liquor Regulation 2018

To operate a compliant business as a licensee, you must have sound knowledge of both the *Liquor Act 2007* and the Liquor Regulation 2018.

Relevant sections of the Liquor Regulation 2018 for you as a licensee

Part 2 of the Liquor Regulation 2018 outlines the provisions for fees and includes the following subdivisions:

- Division 1 – application fees and other fees
- Division 2 – periodic licence fees.

Part 3 of the Liquor Regulation 2018 outlines the provisions for applications and includes the following subdivisions:

- Division 1 – advertising requirements
- Division 2 – community impact statements
- Division 3 – general
- Division 4 – miscellaneous.

Part 4 of the Liquor Regulation 2018 outlines the provisions for licences and licensed premises and includes the following subdivisions:

- Division 1 – miscellaneous
- Division 2 – on-premises licences
- Division 3 – display of signs and notices
- Division 4 – licence conditions requiring notification of Authority
- Division 5 – industry shows and producers' markets or fairs
- Division 6 – wine producers.

Part 5 of the Liquor Regulation 2018 outlines the provisions for Responsible Service of Alcohol (RSA) and includes the following subdivisions:

- Division 1 – interpretation
- Division 2 – RSA requirements
- Division 3 – recognised competency cards
- Division 4 – provision of approved RSA training courses
- Division 5 – transitional provisions.

Division 2

Clause 63 outlines the RSA requirements to sell, supply or serve liquor by retail on licensed premises.

A staff member of licensed premises must not sell, supply or serve liquor by retail on the premises without a recognised competency card with current RSA endorsement.

As a licensee, it is your responsibility to ensure all staff members working in licensed premises hold a recognised competency card with a current RSA endorsement. You must not cause or

permit a staff member to sell, supply, or serve liquor by retail on the premises without the RSA endorsement.

Maximum penalty:

- 50 penalty units.

If you are the licensee or manager of a Tier 1 licensed premises, you must also hold a recognised competency card with a current licensee endorsement in order to:

- sell, supply or serve liquor by retail on the premises
- cause or permit liquor to be sold, supplied or served by retail on the premises.

Maximum penalty:

- 50 penalty units.

If you are the licensee or manager of a Tier 2 licensed premises, you must hold a recognised competency card with a current licensee endorsement and a current advanced licensee endorsement in order to:

- sell, supply or serve liquor by retail on the premises
- cause or permit liquor to be sold, supplied or served by retail on the premises.

Maximum penalty:

- 50 penalty units.

Note: licensees and managers of licensed premises that are not Tier 1 or Tier 2 licensed premises must hold a recognised competency card with a current RSA endorsement.

[Clause 64](#) outlines the RSA requirements for crowd controllers and bouncers.

A person must not, in the course of their employment, carry on activities as a crowd controller or bouncer on or about licensed premises unless they hold a recognised competency card with a current RSA endorsement.

As a licensee, you must not employ or engage someone as a crowd controller or bouncer for your licensed premises unless they hold a recognised competency card with a current RSA endorsement.

Maximum penalty:

- 50 penalty units.

You must also hold the licensee and advanced licensee endorsement (if required) before employing or engaging a crowd controller or bouncer if you are a Tier 1 or Tier 2 licensed premises.

Maximum penalty:

- 50 penalty units.

Note: Under the *Security Industry Act 1997*, a person who is employed to act as a crowd controller, venue controller or bouncer is also required to hold a class 1C licence under that [Act](#). It is your responsibility as a licensee to ensure people that you employ or engage hold the correct and relevant licences.

[Clause 65](#) outlines the RSA requirements for RSA marshals.

An RSA marshal must not carry out RSA supervisory duties unless the person holds a recognised competency card with a current RSA endorsement.

As a licensee, you must not employ or engage someone as an RSA marshal on licensed premises unless they hold a recognised competency card with a current RSA endorsement.

Maximum penalty:

- 50 penalty units.

You must also hold the licensee and advanced licensee endorsement (if required) before employing or engaging an RSA marshal if you are a Tier 1 or a Tier 2 licensed premises or have been directed by the Secretary to hold a recognised competency card with a licensee endorsement or advanced licensee endorsement (or both).

Maximum penalty:

- 50 penalty units.

[Part 6 of the Liquor Regulation 2018](#) outlines the provisions for harm minimisation.

[Clause 84](#) outlines the provisions for discount liquor promotions or advertisements.

The clause applies to any promotion or advertisement involving the discounting of liquor that is conducted or published by or on behalf of a licensee.

The Secretary may, by notice in writing, require you as a licensee to include a message that encourages the responsible consumption of alcohol as part of the promotion or advertisement if the promotion or advertisement:

- appears in the printed or electronic media
- is conducted on or in the vicinity of the licensed premises, or appears inside or in the vicinity of the licensed premises
- is made available for the public to participate in or view.

The Secretary may specify the content of the message, and the manner in which the message is to appear, including the size, colour and nature of the message and its placement in the promotion or advertisement.

Maximum penalty:

- 50 penalty units.

Clause 85 outlines the requirement for drinking water to be available free of charge where liquor is served.

It is a condition of any liquor licence that authorises the sale or supply of liquor for consumption on the licensed premises that drinking water must be made available free of charge to patrons at or near the point of service. Drinking water must be available at all times while liquor is sold.

Part 7 of the Liquor Regulation 2018 outlines the provisions for prescribed precincts and includes the following subdivisions:

- Division 1 – special licence conditions
- Division 2 – exemptions from special licence conditions
- Division 3 – patron ID scanning
- Division 4 – prescribed precinct scanner system.

Part 7A of the Liquor Regulation 2018 outlines additional details regarding the Demerit points systems in relation to:

- the Secretary maintaining a demerit points register
- applications for removal of demerit points
- matters that the Authority must consider when deciding to remove demerit points

Part 7B of the Liquor Regulation 2018 outlines additional requirements relating to same day deliveries in relation to:

- circumstances that are not same day deliveries
- evidence of age and identity check requirements
- self-exclusion agreements
- minimum training requirements to obtain the Responsible Supply of Alcohol Training (RSAT) certification mandatory for persons making same day alcohol deliveries in NSW.

Part 8 of the Liquor Regulation 2018 outlines legal definitions in relation to:

- evidence of age documents
- additional substances prescribed
- high alcohol-based food essences prescribed for certain purposes
- non-proprietary association
- person authorised to sell liquor
- tertiary institutions.

RSA Recap – Evidence of age

Only the following forms of identification (ID) can be accepted as evidence of age by licensed venues in NSW:

- a driver or rider licence issued by an Australian State or Territory or any foreign country
- NSW Digital Driver Licence (DDL)
- Australian passport or a foreign passport
- NSW Photo Card issued by Roads and Maritime Services (RMS) NSW
- proof of age card issued by a public authority of the Commonwealth or of another Australian State or Territory for the purpose of attesting to a person's identity and age
- Keypass (over 18) identity card issued by Australia Post
- Digital Keypass issued by Australia Post

More information



For more information on how each of the above sections have been amended or updated, visit:

<https://www.liquorandgaming.nsw.gov.au/news-and-media/liquor-regulation-2018-comes-into-effect-from-1-september-2018>

For a summary of changes to the NSW liquor laws introduced under the *Liquor Amendment (Night-time) Economy Act 2020* to support Sydney's night-life and to encourage a vibrant and safe 24-hour economy, visit:

<https://www.liquorandgaming.nsw.gov.au/news-and-media/24-hour-economy-liquor-reforms-whats-changing>

You can also access the *Liquor Amendment (Night-time Economy) Act 2020* for more information:

<https://legislation.nsw.gov.au/view/pdf/asmade/act-2020-40>



Tip

Stay up to date with changes to the NSW liquor laws by subscribing to Liquor & Gaming NSW's e-news, a monthly news bulletin. Subscribe now at:

www.liquorandgaming.nsw.gov.au/news-and-media

1.7. Prescribed precincts

Part 4 Division 5 and Part 6 Division 4 of the *Liquor Act 2007* and Part 7 Divisions 1 to 4 of the *Liquor Regulation 2018* relate to prescribed precincts:

1. Kings Cross precinct
2. Sydney CBD entertainment precinct.

These precincts were designated in the NSW liquor laws after experiencing higher levels of alcohol-related violence and antisocial behaviour.

Special licence conditions apply to most venues within the prescribed precincts to help make venues and the surrounding neighbourhoods safer.

Kings Cross Precinct	Sydney CBD Entertainment Precinct
<p>Stretches from:</p> <p>Ward Avenue in the east to Victoria Street in the west Manning Street in the north to Kings Cross Road in the south.</p>	<p>Stretches from:</p> <p>Parts of Surry Hills, Haymarket and Darlinghurst to the Rocks, and from Kings Cross to Cockle Bay.</p>
 A detailed street map of the Kings Cross precinct in Sydney. The precinct boundary is outlined in black, showing a roughly rectangular area bounded by Ward Avenue to the east, Victoria Street to the west, Manning Street to the north, and Kings Cross Road to the south. Major streets like Darlinghurst Road and Broadway are also visible.	 A map of the Sydney CBD Entertainment Precinct. The precinct is shaded in a reddish-brown color, covering a large area from the Rocks in the north to Cockle Bay in the south, and from parts of Surry Hills and Haymarket in the west. A legend in the top right corner identifies the precinct and includes a scale bar and a north arrow.

Special licence conditions in the precincts

There are approximately 100 venues with special conditions in the Kings Cross precinct, and more than 1,300 in the Sydney CBD entertainment precinct.

Part 7 of the *Liquor Regulation 2018* (Division 1) sets out most of the special licence conditions and the types of licensed venues they apply to.

Some special conditions apply to higher-risk licence types only, whereas others apply to all venues in the precincts. Special conditions that apply to both Kings Cross and Sydney CBD entertainment precincts include:

- 3:30am liquor sales cessation (many venues) - other services such as non-alcohol drinks, food or entertainment can continue. Such venues include hotels, general bars, registered clubs, public entertainment venues (except for theatres and cinemas) and karaoke bars.
- 4am extended last drinks for live music, arts and cultural events – to make use of the extra 30 minutes of trading venues must meet certain criteria and be specified on a list of eligible live music and performance venues
- 'round-the-clock' incident registers (most venues*)
- no promotions, discounts or freebies on shots or high-strength drinks
- per-person drink sale limits during late trading (all venues except small bars)
 - no more than 4 drinks or one bottle of wine can be sold to one person between 12am-2am
 - no more than 2 drinks sold to one person between 2am-7am
- crime scene preservation and notification of violent incidents to police (all venues)
- exclusion of persons wearing outlaw motorcycle gang colours or insignia (all venues)
- requirements on customers not to enter or attempt to enter certain premises where subject to temporary or long-term banning orders.
- licence conditions can also be applied to designated venues on a case-by-case basis, where there is a history of violence or a violent incident resulting in a serious injury to a person, including:
 - glasses prohibited during the late trading period on any day
 - requirements for RSA marshals during certain times
- discretionary conditions - licensed venues with a history of violent incidents resulting in serious injuries may be subject to additional conditions.

Conditions specific to the Sydney CBD prescribed precinct:

- exclusion of people approaching a venue in the Sydney CBD precinct if seen drinking or with open alcohol containers in an alcohol-free zone or an alcohol prohibited area.
- licensed vessels aren't permitted to drop off or pick up people from the Sydney CBD Entertainment precinct between midnight and 7am.

Conditions specific to the Kings Cross prescribed precinct:

- mandatory patron ID scanners and refusal of entry to customers who fail to produce a photo ID for scanning, with related staff privacy training for licensees and staff operating ID scanners – higher risk only.

* Round the clock' registers are not required for packaged liquor outlets, or for on-premises venues like standard restaurants and cafés, accommodation premises, cinemas and theatres (unless they hold a primary service authorisation).



More information

For more information on special licence conditions for premises in Kings Cross or Sydney CBD entertainment precincts, visit:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/liquor-licence-conditions-and-precincts/sydney-cbd-and-kings-cross-precincts>

You can also visit the NSW legislation website to review part 7 of Liquor Regulation 2018 here:

<https://www.legislation.nsw.gov.au/#/view/regulation/2018/473/part7>

ID scanners

ID scanners are machines that electronically read and store identification cards, such as a driver licence or proof of age card.

Even if an ID scanner is not a condition of your licence, a licensee can install ID scanners voluntarily, as an added security measure. Any venue using an ID scanner must comply with the *Privacy Act 1988*.

In the Kings Cross precinct, ID scanners are a special condition of some licensed venues. The objective of this measure is to:

- stop alcohol-fuelled violence
- stop troublesome customers at the door
- identify customers who break the law.

ID scanners operating in the Kings Cross precinct must be:

- in use between 10pm and the relevant lockout times that apply on the night – either 1:30am or 2am if extended live entertainment times are in operation
- under the immediate and personal supervision of a staff member when in use
- in a secure area recorded by CCTV and inaccessible to the public when not in use
- operated according to the conditions under section 116E (1)(f)(ii) of the *Liquor Act 2007*, and
- operated by licensees or staff who have completed the privacy training course.

Only ID scanners supplied by group security solutions are allowed for use in Kings Cross. Failure to operate an ID scanner under the conditions could result in:

- a fine up to 100 penalty units per offence.



More information

Learn more about approved ID scanner requirements:

<https://www.liquorandgaming.nsw.gov.au/documents/resource-centre/CP4464-Kings-Cross-approved-ID-scanner-requirements-guideline.pdf>

Privacy policy

Licensees and staff have certain privacy obligations when ID scanning.

Under the *Privacy Act 1988*, when a licensee or staff member collects personal information about an individual, they must take reasonable steps either to notify the individual of certain matters or to ensure the individual is aware of those matters.

It may be necessary for licensed premises to develop a privacy policy regarding their use of ID scanners. A privacy policy ensures that licensees and staff collect personal information by lawful and fair means in accordance with the *Privacy Act 1988*. The privacy policy may include:

- collection of information – what is scanned and other personal information you collect
- requirements under law – why you collect the information and the purposes for which you collect, hold, use, and disclose the information
- consequences under law – what may happen if customers refuse or do not allow their ID to be scanned
- storing information – how you hold the information, including any security measures you use to protect the electronically stored information, and how long the information is kept for
- access to information – how individuals can access their personal information and seek correction of it.

Privacy training

Under the *Liquor Act 2007*, licensees and staff of venues in the Kings Cross precinct operating ID scanners must complete Liquor & Gaming NSW's privacy training course.

While the course is free, there is a fee to add the privacy training to a photo competency card. Failure to complete privacy training when it is required can result in a fine for both licensees and staff.



More information

The Privacy Training course is available online at:

<http://olgr.learnflex.com.au/include/login.asp?Url=/users/index.asp>

For more information on training requirements, adding the endorsement to your NSW competency card, and obligations under the law, visit:

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/training-to-work-in-the-industry/getting-trained/privacy-training-and-id-scanners>

CCTV

Certain licensed venues in the Kings Cross Precinct are required under clause 95 of the Liquor Regulation 2018 to comply with specific CCTV conditions.

For businesses with CCTV conditions, the following system requirements need to be met:

- it must record continuously from opening time until one hour after closing, or continuously in the case of 24-hour trading venues
- from 1 September 2020 it must record in digital format at a minimum of ten frames per second (previously six frames per second)

- any recorded image must specify the time and date of the image
- the system's cameras must cover:
 - all entry and exit points of the premises
 - the footpath immediately adjacent to the premises
 - all publicly accessible areas on the premises – except for toilets.

You, the licensee, must:

- keep all CCTV recordings for at least 30 days
- ensure the system is accessible by at least one staff member at all times it is operating
- provide any recordings to police or a liquor inspector within 24 hours of being requested.

Exemption from a precinct related special licence condition

A licensee can apply for an exemption from certain special conditions.

The Secretary of NSW Department of Customer Service will only consider an application when satisfied that:

- the exemption is unlikely to increase alcohol-related violence, antisocial behaviour, or other alcohol-related harm in the prescribed precinct where the licence premises is located
- other measures are in place that will be effective in reducing the risk of alcohol-related violence or antisocial behaviour in and around the premises.

Licensees may also apply to the Secretary for an exemption to ID scanning requirements in limited circumstances.



More information

View a list of the exemptions that have been granted to venues in the precincts:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/liquor-licence-conditions-and-precincts/sydney-cbd-and-kings-cross-precincts>

Forms to apply for –

Exemptions from a precinct-related special licence condition

<https://www.liquorandgaming.nsw.gov.au/documents/fm/am0655-exemption-from-a-precinct-related-special-licence-condition.pdf>

Exemption from Kings Cross patron ID scanning requirements

<https://www.liquorandgaming.nsw.gov.au/documents/fm/am0899-exception-from-kings-cross-patron-id-scanning-requirements.pdf>

1.7.1. Cumulative Impact Assessment

On 30 April 2021, the NSW Government lifted the liquor licence freeze in the precincts as part of reforms to support Sydney's 24-hour economy.

In its place is a new evidence-based framework that is designed to help manage the concentration of licensed premises and their cumulative impacts in the precincts. Under the framework, the Authority may issue a Cumulative Impact Assessment.

Cumulative impacts includes both the positive and negative impacts that result from the clustering of licensed premises in the precincts. In issuing an Assessment, the Authority reviews and considers information on the number of licenced premises in the Precincts and their impacts, as well as the opinion of stakeholders.

The Authority has issued an Assessment that assigns four geographical areas in the precincts as 'Cumulative Impact Areas'.

The four key areas are:

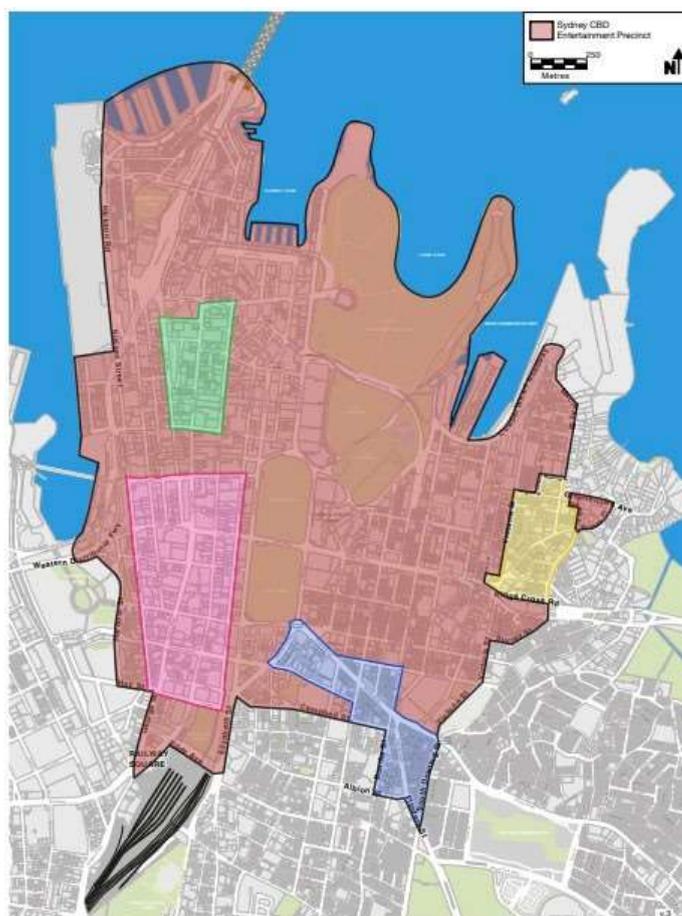
1. South CBD
2. Darlinghurst/Oxford Street
3. Wynyard Station and surrounds, and
4. Kings Cross.

These are areas where additional measures need to be considered before certain licence types, authorisations and approvals can be granted as they could have a negative overall social impact on the well-being of the local or broader community.

This approach aims to ensure that the risk of alcohol related harm continues to be carefully managed in these high-risk areas. While improvements in safety have been observed across these areas over the years, and alcohol-related assaults have reduced overall, it is important that measures are put in place to ensure that there is not a return to historical levels of violence seen in these areas.

Licence types affected:

- Hotel licence
 - except where the licence is used for operating a tourist accommodation establishment, as defined under clause 3 of the Liquor Regulation 2018
- Registered club licence
 - except where the licence is used for operating a tourist accommodation establishment, as defined under clause 3 of the Liquor Regulation 2018
- On-premises licence that relates to a public entertainment venue such as a nightclub, or a late-trading karaoke bar or strip club



The above areas include any premises located within the defined boundaries of each area on the map, including premises that front, back onto or abut the boundary markings.

- Area 1 - South CBD
- Area 2 - Darlinghurst/Oxford Street
- Area 3 - Wynyard Station and surrounds
- Area 4 - Kings Cross precinct

- except where the licence is for a cinema, theatre, or an excluded live music and entertainment venue as defined under clause 123A(2) of the Liquor Regulation 2018
- Packaged liquor licence

Licence types not affected:

All other liquor licences, that do not appear above, are not affected by cumulative assessment.

The intention is to encourage diversity in the range of establishments in cumulative impact areas, particularly premises that are lower risk or that strongly contribute to the local live music industry, or arts, tourism or community cultural sectors. Applications for these types of licences are subject to standard licensing and consultation processes.

Application considerations

When making an application for authorisations or a new licence in a cumulative impact area, the application would need to demonstrate that it would not have an overall detrimental social impact by showing how it would:

- contribute significant positive social impact on the local and broader community
- significantly add to the vibrancy or enhance the overall character of the area
- contribute diversity in the range of liquor premises
- the specific harm reduction measures you have in place that are in addition to what is required by legislation that work to reduce the risks of social harm, alcohol related violence, anti-social behaviour

Community Impact Statement (CIS)

If you intend to apply for a new liquor licence or extend trading hours of an existing licence, standard community consultation requirements apply. You will need to consult with the community about the impacts of your proposal and include benefits and costs and document the results as part of your application.

More information on how to prepare a CIS is covered in Section 2.7.2.



More information

Visit the L&GNSW website for more information on the Cumulative Impact Assessment at:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/applying-for-and-managing-your-liquor-licence/cumulative-impact-assessment>

Refer to the Authority's Cumulative Impact Assessment for the Sydney CBD Entertainment and Kings Cross precincts here:

https://www.liquorandgaming.nsw.gov.au/_data/assets/pdf_file/0010/980389/gl4028-cumulative-impact-assessment-sydney-cbd-and-kingscross-precincts.pdf

1.8. Common law

1.8.1. Duty of care

As a licensee, you need to be aware that you also have common law duties. Importantly, you have a common law duty of care to people on your premises.

A duty of care is a legal duty to take reasonable care not to cause harm that could be reasonably foreseen to another person. The duty of care exists where there is a relationship or proximity between two parties. The test for a duty of care is one of reasonable foreseeability.

So, a person owes a duty of care if it is reasonably foreseeable that an act or omission on their part might injure or harm another person.

What this means for you as a licensee is that you owe a duty of care to any person – staff, contractors or customers – on your premises at any time.

Things you need to think about to discharge your duty of care include:

- ensuring the work environment is safe for employees and all machinery and equipment is safe and properly maintained
- informing and training staff and contractors on policies and procedures in the workplace e.g. handling equipment
- designing your premises to be safe for everyone; for example, it is foreseeable that drinks will spill in a licensed premises and if the surface of the floor becomes unsafe when wet then this could result in a breach of your duty of care.

This duty of care should also be satisfied when conducting responsible service of alcohol practices. For example, when asking an individual to leave the premises due to RSA concerns, staff should provide them with information regarding options for safe transport home. This includes courtesy bus services, information about public transport options, or offering to call a taxi for them.

1.8.2. Vicarious liability

In addition to section 91 of the *Liquor Act 2007*, which outlines your vicariously liability under statute, you can also be held vicariously liable at common law. This liability is broader as it is not restricted to a breach of the Act when selling or supplying alcohol.

In the context of employment, vicarious liability at common law means the employer (licensee) is accountable for the harm caused to a third person by an employee who is under the actual or assumed authorisation of the employer. The legal term for the harm caused to a third person is called a 'tortious act'.

The tortious acts must be committed:

- in the course of employment
- while the employee is acting within the scope of their authority and performing the employment duties, or
- by acts incidental to their employment duties.

This means you, as licensee, can be held responsible for any of the actions of staff and contractors where they are working for you in your business.

You have overall accountability for the safety and wellbeing of all persons in or affected by your licensed business, so it is your responsibility to ensure your staff and contactors are able to undertake their role in line with the law. For example, you need to make sure they receive appropriate training to support their ability to act within the law.

You can be held liable under the principles of vicarious liability for your staff or contractor's actions if, in the course of their employment with you, they break the law or cause harm to any person including themselves, customers or other members of the public.



Consider this...

It is a busy Saturday night, and a member of your bar staff has repeatedly served a customer who is clearly intoxicated. At some point in the evening, the customer enters into an altercation with a person outside of your venue and both parties are seriously injured.

The member of staff who repeatedly served the intoxicated customer has not renewed their RSA endorsement on their NSW competency card and it is close to expiry. They have received no training in your venue about how to deal with intoxicated customers. There is also no house policy in place at your venue to explain the procedure for refusing service and you don't employ security personnel because your venue is quite small.

The bar staff member is liable for the harm caused to this customer – and the member of the public involved in the altercation – for continuing to supply them alcohol while they were intoxicated. However, you are also at fault, and therefore liable for the lack of information and training given to your staff member and the lack of policies and procedures in place to assist them with serving alcohol responsibly.

In order to minimise your liability, you need to demonstrate that you have:

1. taken all reasonable steps to prevent harm and unlawful conduct
2. responded appropriately to resolve incidents of harm or non-compliance with the law.

There is not a clear-cut definition of 'all reasonable steps' because what may be 'reasonable' for a large venue may not be 'reasonable' for a small business. Instead, it is determined on a case-by-case basis.

The key point is that licensees must take proactive steps to minimise risk of a tortious act happening. You can do this by ensuring compliance with your responsibilities and obligations under the law and implementing appropriate harm minimisation strategies, such as:

- take a risk-management approach to harm minimisation – implementing strategies that are relevant to your business
- implement a plan of management (POM) to document the actions you have taken to ensure compliance and minimise harm in your business
- develop a staff training program that ensures employees and contractors undertake training and development activities on an ongoing basis
- adopt responsible service practices e.g. no shots after midnight
- ensure advertising and promotions do not encourage irresponsible drinking
- employ security personnel to monitor and manage customers entering the premises.

1.9. Other relevant legislation

As well as meeting provisions of the *Liquor Act 2007* and the Liquor Regulation 2018, you may also have obligations under various state, territory and federal laws.

Specific responsibilities and obligations will depend on the type of licence you hold. For example, provision relating to gaming machines or security personnel. This section includes a brief overview of some key legislation that could impact you:

- *Gaming Machines Act 2001*
- *Gaming and Liquor Administration Act 2007*
- *Security Industry Act 1997*
- *Anti-Discrimination Act 1977*
- Commonwealth *Privacy Act 1988* and Australian Privacy Principles
- *Competition and Consumer Act 2010*, which contains the Australian Consumer Law
- *Registered Clubs Act 1976*
- *Industrial Relations Act 1996*
- *Smoke-free Environment Act 2000*
- *Surveillance Devices Act 2007* and *Workplace Surveillance Act 2005*
- *Work Health and Safety Act 2011* and Work Health and Safety Regulation 2017
- *Environment Planning and Assessment Act 1979*
- *Local Government Act 1993*
- *Disability Inclusion Act 2014*
- *Music Festivals Act 2019*

1.9.1. Gaming Machines Act 2001

The purpose of the *Gaming Machines Act 2001* is to:

- minimise harm associated with the misuse and abuse of gambling activities
- foster responsible conduct in relation to gambling
- facilitate the balanced development, in the public interest, of the gaming industry
- ensure the integrity of the gaming industry, and
- provide for an ongoing reduction in the number of gaming machines in the state by means of the tradeable gaming machine entitlement scheme.

It includes provisions for:

- limitations on gaming machine numbers – within the state as a whole and within individual hotels
- gaming machine entitlements and permits, including:
 - tradeable gaming machine entitlement scheme, including general requirements and exemptions
 - leasing of gaming machine entitlements, and
 - transfer of permits
- gambling harm minimisation measures, and responsible conduct of gambling (RCG) training requirements, including conditions of the:

- gaming machine threshold scheme
- mandatory shutting down of gaming machines, and
- specific provisions relating to minors
- administrative controls in relation to gaming machines
- gaming-related licences
- disciplinary actions
- authorised central monitoring systems (CMS), and
- linked gaming systems.



More information

Visit NSW legislation for more information:

<https://www.legislation.nsw.gov.au/#/view/act/2001/127>

1.9.2. Gaming and Liquor Administration Act 2007

The *Gaming and Liquor Administration Act 2007* establishes the Independent Liquor and Gaming Authority (the Authority) to fulfil liquor regulatory functions, including determining liquor licensing and disciplinary matters. It also provides for the probity of officials under the gaming and liquor legislation and grants investigation and enforcement powers for the purposes of that legislation. The purpose of the *Gaming and Liquor Administration Act 2007* is to:

- ensure the probity of public officials who are engaged in the administration of the gaming and liquor legislation
- ensure that the Authority is accessible and responsive to the needs of all persons and bodies who deal with them
- promote fair and transparent decision-making under the gaming and liquor legislation
- require matters under the gaming and liquor legislation to be dealt with and decided in an informal and prompt manner
- promote public confidence in the Authority's decision-making and in the conduct of their members.

It includes provisions for:

- constitution and functions of the Authority
- probity
- investigation and enforcement powers, such as
 - powers to require information or records
 - powers of entry and search of premises, and
 - power to question persons.
- additional functions of inspectors relating to a casino, and
- functions of persons appointed to carry out controlled purchasing operations for purposes of investigating whether a same day deliver provider, or an employee or agent of a provider is contravening Part 6, Division 1B and sections 114 and 117 of the *Liquor Act 2007* in relation to same day alcohol deliveries including offences relating to sale or supply to minors.



More information

Visit NSW legislation for more information:

<https://legislation.nsw.gov.au/#/view/act/2007/91>

1.9.3. Security Industry Act 1997

The *Security Industry Act 1997* outlines provisions for the licensing and regulation of persons in the security industry. Persons include (but are not limited to):

- a person acting as a bodyguard or acting in a similar capacity
- a person acting as a crowd controller, or acting in a similar capacity, by physical or electronic means
 - a person who, in respect of any licensed premises, public entertainment venue, public or private event or function, and as part of their regular duties, performs for remuneration any of the following functions:
 - controlling or monitoring the behaviour of persons
 - screening persons seeking entry
 - removing persons for behavioural or other reasons
 - any other function prescribed by the regulations, and
- a person patrolling, protecting, or guarding property by physical or electronic means.

It includes provisions for:

- requirement for licences, including
 - licence classification, and
 - licensing procedures and criteria
 - offences relating to licences, and
- enforcement.



More information

Visit NSW legislation for more information:

<https://www.legislation.nsw.gov.au/#/view/act/1997/157/full>

1.9.4. Anti-Discrimination Act 1977

The *Anti-Discrimination Act 1977* states that it is unlawful in NSW to discriminate against someone. To discriminate against someone is to treat them less favourably than another person because of the following characteristics:

- sex, including pregnancy and breastfeeding
- race, including colour, nationality, descent and ethnic, ethno-religious or national origin
- marital or domestic status — whether they're single, married, de facto, divorced or separated

- disability — physical, intellectual or psychiatric; past, current or future; actual or presumed
- homosexuality — actual or presumed
- age, including compulsory retirement; however, it is not against the law to exclude people aged under 18 from restricted areas of hotels, or to exclude a person under the age of 18 years who is found in the authorised area not in the immediate company of a responsible adult
- transgender status — actual or presumed
- carers' responsibilities.

There are two areas in which this can impact licensed premises:

- the goods and services your business provides
- your employment practices.

There are two types of discrimination under the *Liquor Act 2007*: direct and indirect discrimination.

Direct discrimination means treatment that is unfair or unequal.

Example of direct discrimination: a bar attendant refuses to serve someone because they are Aboriginal. This would be direct discrimination due to race.

Indirect discrimination means having a requirement, a rule, policy, practice or procedure that is the same for everyone, but has an effect that is unfair to particular groups. Unless the requirement is reasonable with regards to the circumstances, it is likely to be indirect discrimination.

Example of indirect discrimination: a hotel insists that customers can only use a driver licence as proof of age, even though the *Liquor Act 2007* allows for other forms of identification. It may meet the test for indirect discrimination because it affects a class of people, for example, people with a disability, and it is not reasonable as other forms of ID could serve the same purpose.



More information

Visit NSW legislation for more information:

<https://www.legislation.nsw.gov.au/inforce/f38c7dc7-ba45-ee6e-d61f-9c8e3cbd52cf/1977-48.pdf>

1.9.5. Commonwealth Privacy Act 1988 and Australian Privacy Principles

The purpose of the *Privacy Act 1988* is to:

- promote the protection of the privacy of individuals
- recognise that the protection of the privacy of individuals is balanced with the interests of entities in carrying out their functions or activities
- provide the basis for nationally consistent regulation of privacy and the handling of personal information

- promote responsible and transparent handling of personal information by entities
- facilitate an efficient credit reporting system while ensuring that the privacy of individuals is respected
- facilitate the free flow of information across national borders while ensuring that the privacy of individuals is respected
- provide a means for individuals to complain about an alleged interference with their privacy, and
- implement Australia's international obligation in relation to privacy.

It includes provisions for:

- information privacy
- credit reporting
- privacy codes
- functions of the information commissioner
- investigations and civil penalty orders, and
- dealing with personal information in emergencies.

Under the *Act*, if you have a turnover of greater than \$3 million, you are required to comply with the Australian Privacy Principles (APP) that restricts the collection and disclosure of personal information (schedule 3 to the *Act*).

Licensees with an annual turnover of \$3 million or less must 'opt in' with the Office of the Australian Information Commissioner (OAIC). Opting in enables your business to be treated as an organisation for the purposes of the *Privacy Act 1988* and therefore subject to the Australian Privacy Principles and any relevant APP code.

APPs relate to the collection, use, disclosure, and storage of personal information and require licensees to take steps to protect the personal information they hold from misuse, interference, loss, and from unauthorised access, modification, and disclosure.

Under the APPs, a licensee may only use personal information for the primary purpose for which it is collected i.e. identifying banned customers.

This means that you should:

- tell people when you collect personal information what you expect to do with it
- unless you have their consent, have given them an opportunity to opt-out, or the use is authorised by another law, only use personal information for the reason you collected it or in ways people would think reasonable
- pass on personal information only for the reason you collected it, or in ways people would think reasonable, unless you have consent or the disclosure is authorised by another law
- if people ask, give them a chance to see any information you hold about them and keep personal information secure, accurate, and up-to-date, and
- take reasonable steps to secure the information and destroy or de-identify the information when it is no longer required.

Where a multi-venue barring policy is in place, venues may be able to use and disclose an individual's details as long as the information was primarily collected in order to implement or

participate in this policy. To be clear and upfront and to comply with other aspects of the APPs, customers should be informed of this at the time of collection.

The OAIC's Privacy Management Framework can assist licensees in implementing practices, procedures and systems that ensure compliance with the APPs.



More information

Visit the Commissioner website for more information about the APPs and opting-in:

<https://www.oaic.gov.au/privacy/privacy-registers/privacy-opt-in-register/opting-in-to-the-privacy-act/>

Liquor & Gaming NSW offers an online Privacy training course to help licensees and staff understand:

- privacy laws
- legal requirements when scanning a patron's ID
- the importance of protecting personal information.

The online Privacy training course is mandatory for all staff working in the Kings Cross precinct and who operate an ID scanner, but the course is open to everyone who has a NSW competency card.



More information

For more information on privacy training and ID scanners, visit:

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/training-to-work-in-the-industry/getting-trained/privacy-training-and-id-scanners>

1.9.6. Competition and Consumer Act 2010

The Australian Consumer Law (ACL) is a national, economy-wide law that applies in the same way to all sectors and jurisdictions in Australia. This means that all Australian consumers enjoy the same rights, and all businesses have the same obligations, regardless of the state or territory they operate in.

The *Competition and Consumer Act 2010* (CCA) contains the ACL and creates general standards of business conduct by prohibiting a range of anticompetitive and unfair practices. It provides consumer with a range of rights and protections in the form of guarantees for goods and services and regulates the safety of consumer products and product-related services. The law also provides a number of rights and protections for small businesses, including a prohibition against unfair terms in standard form contracts.

The CCA and ACL is enforced by the Australian Competition and Consumer Commission (ACCC), state and territory consumer protection agencies and Australian courts and tribunals.



More information

Further information, including guidance and business or consumers rights and obligations is available at:

<http://www.accc.gov.au>

For information on consumer law enforcement in NSW, visit NSW Fair Trading:

<http://www.fairtrading.nsw.gov.au>

1.9.7. Registered Clubs Act 1976

The purpose of the *Registered Clubs Act 1976* is to outline rules and management requirements for registered clubs.

The Act includes provisions for:

- club requirements, amalgamations, de-amalgamations and certain authorities
- rules of registered clubs
- management of registered clubs
- offences in relation to clubs and associated disciplinary action, and
- criminal proceedings.

Under the *Registered Clubs Act 1976*, licensees who hold a club licence have additional obligations, including but not limited to:

- appointing a secretary, who is approved by the Authority, to be the chief executive officer of the club
- ensuring the person who is secretary or manager of the registered club (within the meaning of the *Liquor Act 2007*) does not also hold a hotel licence under the *Liquor Act 2007* or have any financial interests in a hotel.



More information

Visit NSW legislation for more information:

<https://legislation.nsw.gov.au/#/view/act/1976/31/full>

1.9.8. Industrial Relations Act 1996

The purpose of the *Industrial Relations Act 1996* is to:

- provide a framework for the conduct of industrial relations that is fair and just
- promote efficiency and productivity in the economy of the state
- facilitate appropriate regulation of employment through awards, enterprise agreements and other industrial instruments
- prevent and eliminate discrimination in the workplace and, in particular, ensure equal remuneration for men and women doing work of equal or comparable value

- provide for the resolution of industrial disputes by conciliation and, if necessary, by arbitration in a prompt and fair manner and with a minimum of legal technicality
- encourage and facilitate co-operative workplace reform and equitable, innovative and productive workplace relations.

It includes provisions for:

- employment awards and conditions
- enterprise agreements
- parental leave and leave for victims of crime
- part-time work
- unfair contracts and dismissals
- payment of remuneration, and
- industrial disputes and the industrial relations commission, including membership and procedures.

As a licensee, you may be responsible for ensuring your employment terms for venue staff meet the requirements of the *Industrial Relations Act 1996*.



More information

Visit NSW legislation for more information:

<https://www.legislation.nsw.gov.au/#/view/act/1996/17/full>

1.9.9. Smoke-Free Environment Act 2000

Smoking, including e-cigarettes, is banned in all enclosed public areas and certain outdoor public areas under the *Smoke-Free Environment Act 2000* and the *Smoke-free Environment Regulation 2016*.

Smoke-free laws aim to protect people from harmful impacts of second-hand tobacco smoke and promote public health by reducing exposure to tobacco and other smoke in all enclosed places and certain public places.

The smoke-free laws include provisions for:

- prohibition on smoking in smoke-free areas
- required signage
- duty to prevent spread of smoke
- exempt areas
- inspection of premises, and
- offences.

NSW Health inspectors conduct regular compliance monitoring and enforcement activity. They can issue cautions or on the spot fines of \$300 to people who break the smoking bans.

Inspectors can also provide education to the public and work with property and building owners to display smoke-free signage and remove butt bins where appropriate.



More information

Visit NSW legislation for more information:

<https://www.legislation.nsw.gov.au/inforce/95781173-caca-4df8-ef70-becf2171fbfe/2000-69.pdf>

1.9.10. Surveillance Devices Act 2007 and Workplace Surveillance Act 2005

The purpose of the *Surveillance Devices Act 2007* is to regulate the installation, use, maintenance, and retrieval of surveillance devices in NSW.

A 'surveillance device' means a data surveillance device, a listening device, an optical surveillance device, or a tracking device, which therefore includes CCTV and ID scanners.

The [Act](#) includes provisions for:

- the installation, use, and maintenance of surveillance devices
- instances when devices are prohibited
- warrants and emergency authorisations
- compliance and monitoring
- notice prior to surveillance of an employee
- signs notifying people that they may be under surveillance.

The relevant sections under these legislations include:

- section 7(1) of the *Surveillance Devices Act 2007*: a person must not knowingly install or use a listening device to overhear, record, or listen to a private conversation to which the person is not a party, or record a private conversation to which the person is a party. This does not apply to the use of a body-worn video by a NSW police officer in accordance with section 50A of the *Act*
- section 8(1) of the *Surveillance Devices Act 2007*: a person must not knowingly install an optical surveillance device on or within a premises to record or observe activity without the implied or express consent of the owner/occupier if the installation of the device involves entry onto or into a premises. Optical surveillance devices include video, still or smartphone cameras
- Part 2 of the *Workplace Surveillance Act 2005*: an employer must provide at least 14 days' notice to an employee before surveillance of the employee commences. If surveillance is already in place, the employee must be notified prior to starting work
- section 11(b) of the *Workplace Surveillance Act 2005* signs notifying people they may be under surveillance must be installed and clearly visible at each entrance to the premises. The use of surveillance devices in any change room, toilet facility, or shower is not permitted.



More information

Visit the NSW legislation for more information:

Surveillance Devices Act 2007

<https://legislation.nsw.gov.au/#/view/act/2007/64>

Workplace Surveillance Act 2005

<https://legislation.nsw.gov.au/#/view/act/2005/47>

1.9.11. Work Health and Safety Act 2011

In NSW, a ‘person conducting a business or undertaking’ or PCBU includes an employer, owner of a business, and sole trader. PCBUs must comply with Work Health & Safety laws to ensure the health and safety of workers and others who may be affected by work operations. A PCBU must provide an adequate work environment with safe systems of work, adequate facilities, and appropriate training.

During the 2016, 2017 and 2018 financial years, more than 18,000 workers were injured in the NSW hospitality industry.¹⁷ In the 2016-2017 financial year, 46 were permanently disabled and 7 died.¹⁸

The main object of this Act is to provide a balanced and nationally consistent framework to secure the health and safety of workers and workplaces by:

- protecting workers and other persons against harm to their health, safety, and welfare through the elimination or minimisation of risks arising from work or from specified types of substances or plant
- providing fair and effective workplace representation, consultation, co-operation, and issue resolution in relation to work health and safety
- encouraging unions and employer organisations to take a constructive role in promoting improvements in work health and safety practices, and assisting persons conducting businesses or undertakings and workers to achieve a healthier and safer working environment
- securing compliance with this Act through effective and appropriate compliance and enforcement measures
- maintaining and strengthening the national harmonisation of laws relating to work health and safety and to facilitate a consistent national approach to work health and safety in this jurisdiction.

The Work Health and Safety Regulation 2017 includes provisions for:

- **emergency plans:** PCBUs must have plans in place to respond effectively to health and safety incidents and other emergencies that might occur in the workplace

¹⁷ SIRA open data, filtering by “Accommodation and Food Service industry” and “yearly”:

<https://www.sira.nsw.gov.au/open-data/system-overview/claimsdata> [accessed 14 Aug 2020]

¹⁸ SIRA Statistical Bulletin 2016/17: https://www.sira.nsw.gov.au/data/assets/pdf_file/0006/386097/2016-2017-NSW-Workers-Compensation-Statistical-Bulletin.pdf [accessed 14 Aug 2020]

- **first aid:** PCBUs must make first-aid arrangements for the workplace so workers can get immediate help if they are injured at work
- **information, training and instruction:** PCBUs must provide information, training, and supervision to keep all people safe from any risks that might arise from the work
- **managing safety:** PCBUs are responsible for the health and safety of workers, contractors, and volunteers while at work and must eliminate or minimise the risks to health and safety so far as reasonably practicable
- **personal protective equipment:** Personal Protective Equipment (PPE) is anything used or worn by a person to minimise a risk to health or safety. If PPE is needed, then it's the responsibility of the employer or PCBU to provide it.

Beyond fulfilling your legislative requirements, you should ensure safety and hygiene measures are in place to keep your customers safe and prevent the transmission of communicable diseases.



More information

Visit the SafeWork NSW website for guidance on your legal obligations as an employer, business owner:

<https://www.safework.nsw.gov.au/legal-obligations/employer-business-obligations>

Visit NSW legislation to access the *Work Health and Safety Act 2001*:

<https://www.legislation.nsw.gov.au/#/view/act/2011/10/full>

1.9.12. Environment Planning and Assessment Act 1979 (EP&A)

Section 45 of the *Liquor Act 2007* states that the Independent Liquor & Gaming Authority (the Authority) must not grant a liquor licence unless a development consent is in force – where required under the EP&A Act.

In NSW, there are nine planning approval pathways for development. The size and scale of the development determines the most appropriate pathway. Local development is the most common type of development, which includes home extensions through to medium sized commercial, retail, and industrial developments.

Section 4.2 of the EP&A Act prescribes that a development is considered local development if a local environmental plan or State environmental planning policy states that development consent is required before the development can take place.

For local development, applicants must lodge a Development Application (DA) with the local council and include:

- a description of the development
- the estimated cost of the development
- a plan of the land
- a sketch of the development
- an environmental assessment, e.g., statement of environmental effects.

The application process for development consent, the level of assessment required, the notification required, and the appeal rights differ depending on how a development is categorised.

Most developments that require both planning approval and a liquor licence follow the local development pathway. Conditions for licensed premises can be imposed on development consents as well as liquor licences. Both sets of conditions must be complied with when running licensed operations and activities.



More information

Visit the Planning and Environment website for guidance on the DA process or planning approval pathways:

<https://www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Planning-Approval-Pathways>

Visit NSW legislation to access the *Environmental Planning and Assessment Act 1979* at: <https://www.legislation.nsw.gov.au/#/view/act/1979/203>

1.9.13. Local Government Act 1993

As a licensee, you may need to work with your local council for development applications or to resolve any neighbourhood grievances.

The purpose of the *Local Government Act 1993* is to:

- provide the legal framework for the system of local government for New South Wales
- set out the responsibilities and powers of councils, councillors and other persons and bodies that constitute the system of local government
- provide for elected governing bodies of councils
- facilitate engagement with the local community by councils, councillors and other persons and bodies that constitute the system of local government
- provide for a system of local government that is accountable to the community and that is sustainable, flexible and effective.

It includes provisions for:

- determination of applications for approvals, including revocation or modification
- orders affecting Crown land and commons
- imposition of rates and charges for certain things on, under or over public places
- prohibition on sale of Crown lands for unpaid rates and charges.

1.9.14. Disability Inclusion Act 2014

The objectives of the *Disability Inclusion Act 2014* are:

- to acknowledge that people with disability have the same human rights as other members of the community and that the State and the community have a responsibility to facilitate the exercise of those rights
- to promote the independence and social and economic inclusion of people with disability
- to enable people with disability to exercise choice and control in the pursuit of their goals and the planning and delivery of their supports and services
- to provide safeguards in relation to the delivery of supports and services for people with disability
- to support, to the extent reasonably practicable, the purposes and principles of the United Nations Convention on the Rights of Persons with Disabilities
- to provide for responsibilities of the State during and following the transition to the National Disability Insurance Scheme.

It includes provisions for support and services including:

- financial assistance for individuals, and eligible entities
- suspending and terminating financial assistance
- review of decisions by Civil and Administrative Tribunal
- Secretary to conduct probity check of particular departmental workers.

Consideration must be given to the *Disability Inclusion Act 2014* if you have any customers, applicants or employees who may have disabilities.

1.9.15. Music Festivals Act 2019

The objectives of the *Music Festivals Act 2019* are:

- to provide that the Independent Liquor and Gaming Authority (the Authority) may direct music festival organisers for high-risk festivals to prepare a safety management plan for the proposed festivals for approval by the Authority
- to make it an offence for music festival organisers for high-risk festivals to hold the festival unless there is an approved safety management plan for the festival
- to impose other obligations on music festival organisers for high-risk festivals, including to provide briefings for health service providers, to keep records relating to incidents that occur at festivals or in their vicinity and to make the approved safety management plan available to police officers and other persons if requested to do so.

It includes provisions for:

- obligations on music festival organisers including safety management plans and incident registers
- requirements to brief health service providers
- enforcement – Liquor & Gaming NSW inspector powers.

Licensees running music festivals should familiarise themselves with the requirements under this Act and the Music festival guidelines.



More information

Visit the Liquor & Gaming NSW website for guidance on music festival safety management plan:

<https://www.liquorandgaming.nsw.gov.au/independent-liquor-and-gaming-authority/music-festival-safety-management-plans>

Refer to the music festival guidelines for more information about who needs to submit a safety management plan to the Authority:

https://www.liquorandgaming.nsw.gov.au/data/assets/pdf_file/0003/283656/FS3157_Music_Festival_Guidelines.pdf

Module summary

Congratulations, you have completed Module 1: Overview of liquor legislation in NSW. You should now be able to:

- summarise the reasons why the liquor industry is regulated
- outline the regulatory authorities and other stakeholders within the liquor industry
- outline the NSW liquor laws relevant to licensees
- outline other laws that may be relevant to licensees
- outline the purpose and requirements of prescribed precincts in NSW.

Module 2: Managing your liquor licence

2.1. Introduction

As a licensee, it is critical that you have an in-depth understanding of the liquor licence process.

To sell, serve or supply alcohol in NSW as part of your business activity or at an event, you need a liquor licence. There are nine key liquor licence types available in NSW. Knowing which licence to apply for, and the conditions associated with your licence category, is important for a new licensee.

At the end of Module 2: Managing your liquor licence, you will be able to:

- explain who is able to hold a liquor licence
- identify different types of licences
- outline the process for obtaining a liquor licence
- understand the conditions associated with different licence types
- summarise the liquor licence fee requirements, and
- outline the requirements for making changes, transferring, moving or cancelling your licence.

2.2. Who can hold a licence?

Licences can be held by an individual person or an organisation. Individuals wishing to become licensees must:

- be over 18 years of age
- not have been suspended or disqualified from holding a liquor licence, or hold a suspended licence
- except in the case of a limited licence, declare that they will inform Liquor & Gaming NSW within 28 days regarding any party (other than the liquor licensee or a financial institution) who becomes interested in the business.

Organisations wishing to apply for a licence must provide details with their application, including:

- their Australian Business Number (ABN) and/or Australian Company Number (ACN)
- if it is a proprietary company, the names and birth dates of all directors and officeholders
- a current Australian Securities and Investments Commission (ASIC) extract, and
- details of an appointed approved manager.

2.3. Which licence is best for you?

Understanding and selecting the right licence for your business or event can be a complex and difficult process to navigate. Your business type and the activities offered in your venue may make you eligible to apply for more than one liquor licence type.

For example, a tapas restaurant could consider applying for an on-premises, small bar, or general bar liquor licence.

2.3.1. Primary purpose test

To help you find the most appropriate liquor licence type for your business or event, you can use the [licence selector tool](#) which asks questions about the business or event activities you intend to offer. Depending on your responses, the tool will direct you to the NSW liquor licence type that best fits your primary purpose.

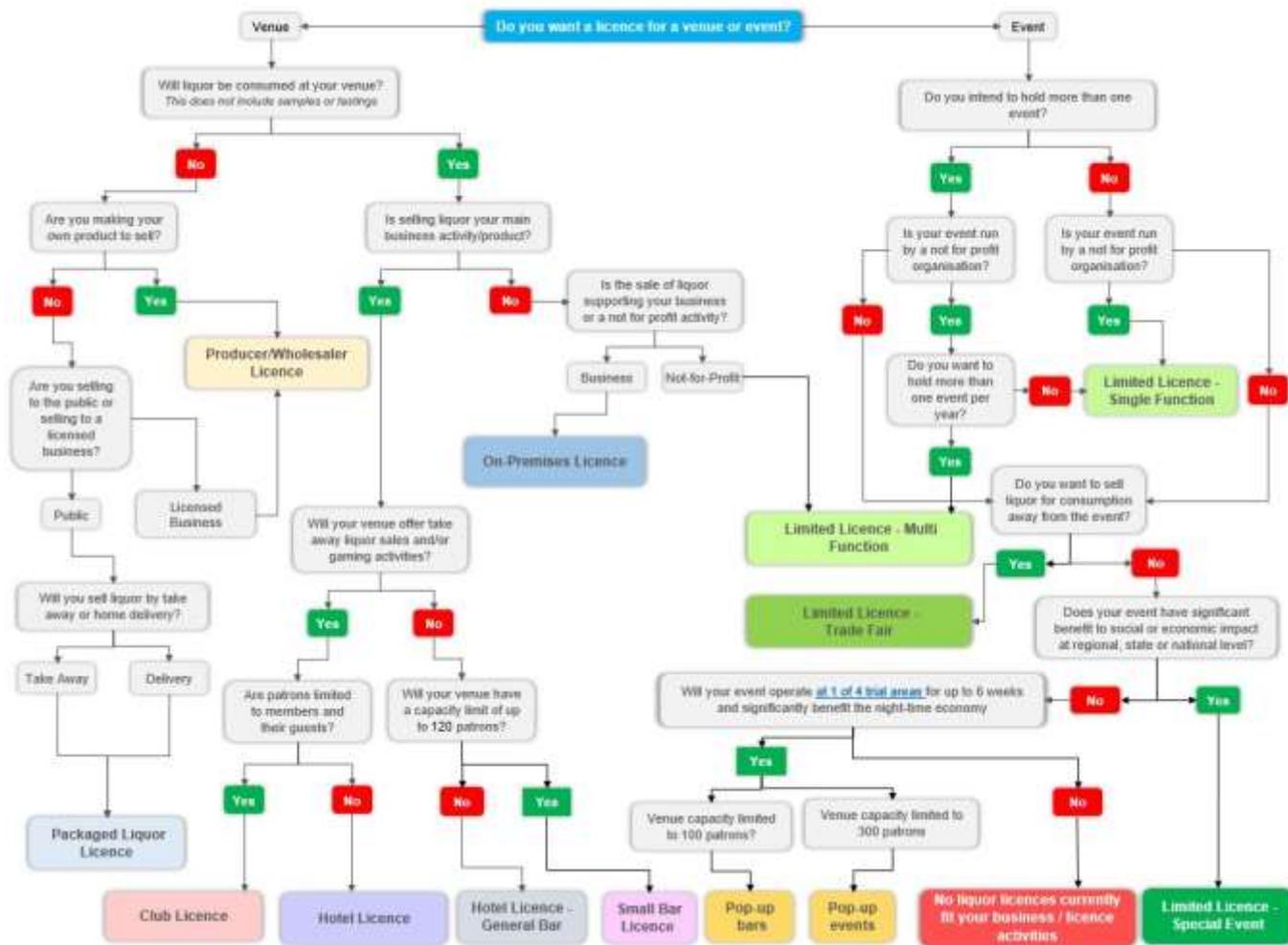
The primary purpose of a licence is the main function of the business. Under *Liquor Act 2007*, the licence type is determined by a primary purpose test. For example:

- an on-premises licence must not be granted if the primary purpose of the business or activity carried out on the premises is the sale or supply of liquor rather than the service of food
- for a packaged liquor licence, the principle activity carried out in any such liquor sales area must be the sale or supply of liquor for consumption away from the licensed premises.

In order to get the most accurate results out of the tool, it will be helpful to consider the following tips before you get started:

- have a clear understanding of what your business or event offers as the primary product or service – for example, will food or alcohol be the primary product?
- consider the needs of the business both now and in the future to ensure the licence type remains suitable as your business grows
- make sure you read the licence type page and any supporting information to confirm the liquor licence that the tool suggests actually fits your business requirements.

Let's take a look at the questions you will be asked to help you gather the right information before you get started.



More information

Contact Liquor & Gaming NSW if you find that no liquor licence currently fits your business activities or to discuss your specific business requirements:

T: 1300 024 720 Monday to Friday | 9am - 4pm or use the online form at:

<https://industrynsw.tfaforms.net/4634132>

Use the licence selector tool to discover the best licence for your business:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/liquor-licence-types/what-licence-type-do-i-need>

2.3.2. Common business activities and liquor licence types

Liquor licence type	Business activities
On-premises (restaurant class)	Café or restaurant where supply of food is primary purpose of the business
Hotel or general bar	Pub or large bar with more than 100 patrons
Small bar	Small bar with up to 120 patrons
Packaged liquor (bottle shop and delivery class)	Bottle shop, supermarket
Packaged - delivery only class	Online alcohol delivery
Producer/wholesaler	Winery, microbrewery, distiller, craft brewery
Club	Registered club, RSL or diggers club, golf club
Limited licence - single function	Single function such as a ball, convention, or sporting event held by non-profit organisation
Limited licence - multi-function	Multiple functions such as a ball, convention, or sporting event held by a non-profit organisation
Limited licence - trade fair	Selling or supplying alcohol at a trade fair such as a wine show or a food show
Limited licence - special event	Selling or supplying alcohol at a temporary or infrequent event. E.g. an annual 4-day arts festival, a v8 supercar race, a music festival or an international weekend conference
On-premises - catering class	Catering company, music festival
On-premises - vessel class	Vessel
On-premises - food court	Selling or supplying alcohol at a food court, which may require food to be available or a minimum number of food outlets to be open whenever liquor is sold or supplied under the licence.
On-premises – public entertainment	Nightclub
On-premises – other classes	Sporting facilities, accommodation, theatre, cinemas and live music, arts and cultural events venue
Pop-up bar and events and pop-up promotional events	<p>Small-scale pop-up bars and restaurants with up to 100 patrons at any time for a 12-week period</p> <p>Pop-up events such as art shows and live performances for up to 300 patrons at any time</p> <p>Pop-up promotional events such as craft brewers and wineries providing tastings and selling take-aways.</p>

NSW liquor laws allow businesses to customise their liquor licence to better fit their business model. This is done by applying for relevant authorisations and exemptions to allow for conditions like extended trading hours.

2.3.3. When is a liquor licence not required?

There are few circumstances when a liquor licence is not required.

Bed and breakfast establishments (B&B) do not require a liquor licence. They are defined as premises providing temporary guest accommodation that is not dormitory style accommodation. The establishment is operated by the permanent residents with meals provided for guests only as it does not operate as a public restaurant. Other conditions include:

- a liquor licence is not required at a B&B if no more than eight adult guests are staying at one time and the alcohol has been purchased by the establishment proprietor from a retail liquor outlet
- the sale and supply of alcohol must be ancillary to the provision of accommodation and food and anyone who serves alcohol to guests must have completed an approved RSA course and hold their NSW competency card
- the B&B proprietor must also notify the Authority that the establishment sells or supplies liquor to guests.

Retirement villages do not require a liquor licence for alcohol to be sold during gatherings to an adult who is a resident, or a guest of a resident provided:

- alcohol sold at the gathering must be purchased from a retail liquor outlet
- a resident's committee member or a committee nominee must be present at the gathering to supervise the sale and supply of alcohol and the general conduct of the gathering
- the gathering must not be organised or run by the operator of the retirement village. If a retirement village operator wishes to sell alcohol at gatherings or in any other circumstances, it must apply for an on-premises liquor licence.

Hospitals and nursing homes do not require a liquor licence to sell alcohol to an adult who is receiving care in a nursing home or is a patient in a public or private hospital or medical facility, provided the alcohol is provided by or on behalf of the person in charge of the facility.

Gift baskets and flowers designed to be delivered as a genuine gift to a person do not require a liquor licence provided:

- the alcohol included in the gift must be purchased from a retail liquor outlet and the maximum volume of alcohol in each gift cannot exceed two litres and must be part of a package, not sold on its own
- the gift must be packaged and presented in such a manner that it would be taken to be a gift and can only be delivered to another adult (who is not the purchaser) between the hours of 7am to 7pm.

Auctions conducted by an auctioneer, where the auctioneer is a person who carries out business or is employed as a professional auctioneer, do not require a liquor licence provided:

- the auctions are publicly promoted as an auction involving the sale of liquor and the Authority has been notified that the auctioneer auctions liquor
- the auctioneer complies with any direction issued by the Secretary Department of Customer Service, which may relate to the quantity or type of liquor that may be sold by auction or the manner or frequency in which liquor is sold.

Aircraft operators are not required to hold a liquor licence to sell alcohol to an adult on board their aircraft while in NSW. This exemption does not apply where a person or organisation that is not operating the aircraft sells or supplies alcohol.

Cruise vessels do not require a liquor licence to sell alcohol to an adult on board an interstate or international cruise vessel while it is engaged in a voyage within NSW waters, provided the vessel has sleeping facilities for at least 100 passengers and liquor is sold or supplied only to registered fee-paying passengers or crew members for consumption on the vessel – not to a minor or intoxicated person.

Breaches

Where liquor is sold unlawfully, either without a licence or outside the scope of these exemptions, maximum penalties and/or 12 months imprisonment may apply.



More information

For more information on when a licence is not required, visit:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/liquor-licence-types/when-a-liquor-licence-isnt-required>

2.4. Statutory licence conditions

Every liquor licence in NSW is subject to licence conditions that must be complied with. Some conditions are imposed automatically by the NSW liquor laws. These are known as statutory licence conditions and may differ depending on the type of licence.

For example, for all licence types, you need to ensure the primary purpose of your business is aligned with your liquor licence conditions, i.e. if you hold a hotel licence, the venue's principal activity must be the sale or supply of liquor not the use of gambling machines.

The following liquor licences are available in NSW:

- Hotel licence
- Club licence
- On-premises licence – restaurant, and interim restaurant authorisation
- On-premises licence – public entertainment venue (not cinema or theatre)
- On-premises licence – cinema or theatre public entertainment venue
- On-premises licence – catering services
- On-premises licence – commercial tour operator
- On-premises licence – local product promotion
- On-premises licence – airport
- On-premises licence – tertiary institution
- On-premises licence – accommodation premises

- On-premises licence – vessel
- On-premises licence – food court
- On-premises licence (others)
- Packaged liquor licence
- Producer/wholesaler – beer/spirits
- Producer/wholesaler – not beer/wine/spirits producer
- Producer/wholesaler – wine/cider/perry/mead products
- Limited licence – surf club
- Limited licence – not a surf club
- Pop-up licence – bars and events



More information

Review the statutory licence conditions for each of the licence types:

<https://www.liquorandgaming.nsw.gov.au/resources/licence-conditions>

Additional conditions

Each liquor licence has a set of standard conditions that apply to that particular licence. In addition to these standard conditions, Liquor & Gaming NSW or the Authority may impose other conditions during the assessment of your application. If you feel the proposed conditions should not be imposed you are encouraged to provide feedback and an explanation to support your position.

For example, all venues in the Kings Cross precinct or Sydney CBD entertainment precinct have special licence conditions to help reduce alcohol-related violence and antisocial behaviour in those areas (as covered in Module 1.7). Additional conditions may be added when you are granted a liquor licence or following a serious complaint or incident involving your venue.

There is a Service NSW licensing register available to allow anyone to check the conditions imposed on a specific venue licence. In addition to adhering to licence requirements, licensees must also ensure that staff have access to and are aware of the liquor licence and any related authorisations and conditions at all times.

If you're looking to apply for a new liquor licence and are unsure about the type you need for your business, the Liquor & Gaming NSW website has a licence selector tool to help.

Conditions for special precincts

Most venues in the Kings Cross precinct or Sydney CBD entertainment precinct have special licence conditions to help reduce alcohol-related violence and antisocial behaviour in those areas.

Changes to live music and entertainment conditions

NSW liquor laws have changed to support more live music, performance, arts and cultural event at licensed venues. The reforms aim to remove outdated conditions on entertainment and incentivise liquor businesses to hold live music and arts events, to support a vibrant and safe 24-hour economy and improve industry regulation.

The following live entertainment conditions are no longer in affect and cannot be imposed on licences in the future, and include conditions that:

- restrict the types of genres that can be played or performed at licensed venues
- restrict certain musical instruments being played
- restrict the number of musicians or acts that may be performed
- restrict the performance of original music
- restrict a stage/performer from facing a particular direction
- restrict decorations
- prohibits:
 - live music, entertainment, or
 - amplification of musical instrument
 - at all times across the entire premises
- prohibits or restricts a presence of a dance floor.

Incentives for live music, arts and performance venues

- 30 minute trading extension on performance nights
 - City of Sydney LGA or Special Entertainment Precinct established by local council
- 80% reduction in licence fees
 - Apply to the base fee and trading hours risk loading.

Special entertainment precincts

Councils have the option to establish ‘Special Entertainment Precincts’ following changes to local government laws.

These precincts are areas where councils can decide requirements for amplified music and adopt their own plans to encourage more live music and performance. They can include a single premise, or a precinct, streetscape or otherwise defined locality in the council’s area. Any requirements on amplified music that would normally be in place under the *Liquor Act 2007* will not apply in these precincts, including any licence conditions on amplified music.

Two key benefits for councils and their local communities include:

- more readily adopt comprehensive approaches to encourage and regulate amplified music at key live music and performance venues or across a broader area
- dedicated live music and performance venues in these Precincts can access 30-minute liquor trading extensions to recognise their contribution and support their viability From 30 April 2021, councils have the option to establish ‘Special Entertainment Precincts’ following changes to local government laws.

These Precincts are areas where councils can decide requirements for amplified music and adopt their own plans to encourage more live music and performance. They can include a single premise, or a precinct, streetscape or otherwise defined locality in the council’s area. Any requirements on amplified music that would normally be in place under the *Liquor Act 2007* will not apply in these Precincts, including any licence conditions on amplified music.

Some of the key benefits for councils and their local communities include:

- they can more readily adopt comprehensive approaches to encourage and regulate amplified music at key live music and performance venues or across a broader area

- dedicated live music and performance venues in these Precincts can access 30-minute liquor trading extensions to recognise their contribution and support their viability (see above section - Incentives for live music, arts and performance venues).



More information

Visit the Service NSW website to check the conditions imposed on a specific venue licence or use the link below if you are reviewing this information electronically:

<https://www.service.nsw.gov.au/check-licence>

For more information on the different licence types, visit:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/liquor-licence-types>

Find out the best liquor licence type for your business:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/liquor-licence-types/what-licence-type-do-i-need>

For more information on live music and entertainment reforms introduced since December 2020, visit:

<https://www.liquorandgaming.nsw.gov.au/resources/live-music-and-entertainment>

2.5. Trading hours

RSA Recap – Trading hours

All liquor licences in NSW have approved liquor trading hours, which is when a licensee is permitted to sell, serve or supply liquor. Liquor trading hours for most types of liquor licence include a standard trading period plus any extended trading granted by the Independent Liquor & Gaming Authority.

Venues

The standard trading period for most clubs, hotels, general bars, restaurants, cafés, nightclubs, producer/wholesalers, theatres, cinemas, motels, sporting facilities, tourist venues, universities, colleges, airports, and licensed caterers is:

- Monday – Saturday: 5am – midnight
- Sunday: 10am – 10pm

The standard trading period for small bars is:

- Monday – Sunday: Midday – 2am
- On restricted trading days: between noon and 10pm, and between midnight and 5am if authorised by extended trading hours¹⁹

Different arrangements apply to registered clubs that existed prior to the commencement of the *Liquor Act 2007* on 1 July 2008. These clubs have unrestricted trading rights and can

¹⁹ Introduced on 11 December 2020 under the *Liquor Amendment (Night-Time Economy) Act 2020*

trade up to 24 hours a day unless they have otherwise opted to limit their approved liquor trading hours.

Licensed vessels are different again, as they do not have a standard trading period. Rather, licensees can sell and supply liquor for consumption on board a vessel, from one hour before the vessel starts any voyage and until 30 minutes after the voyage has been completed. However, these trading hours may be revised where an applicant has requested specific liquor trading hours.

Takeaway

11pm restriction on takeaway liquor sales apply across NSW. This means that the standard trading period for packaged liquor licences – bottle shops, takeaway liquor stores, online and mail order businesses where customers do not attend licensed premises or conduct home deliveries – is limited to:

- Monday – Saturday: 5am – midnight*
- Sunday: 5am – 11pm *

Other licensees authorised to sell takeaway liquor can only do so until 11pm. For example, producer/wholesalers may only sell their liquor products by retail to the public until 11pm, as well as hotels who sell takeaway alcohol.

* Take away liquor sales trading times extended since 14 January 2020 following changes to Liquor Regulation 2018 for hotels, clubs, packaged liquor outlets and producers approved to sell take-away liquor and conduct home deliveries.

Businesses must check their Development Consent to ensure that your licence remains compliant with any general trading times and conditions specified on the consent.

Your trading hours

Depending on your business, the Authority may grant different approved liquor trading hours. These will be clearly outlined on your licence for reference.

Approved liquor trading hours for licensed functions and events are separately determined by the Authority and are outlined on a limited licence.

Extended trading hours

In many cases, licensees can apply under the NSW liquor laws to sell and supply liquor outside the standard trading period, which is commonly referred to as 'extended trading'. Extended trading hours may be approved for hotels and eligible registered clubs to coincide with significant special events, which may include the NRL grand final and rugby world cup matches.

Extended trading hours are subject to conditions such as:

- the approval allows the venue to remain open for on-premises sales and consumption; it does not permit takeaway liquor sales during the extended period
- the approval does not override any existing trading hour restrictions that have been imposed under the liquor laws
- the approval also does not affect restrictions on trading hours imposed by local councils under the planning laws.

Extended trading can occur:

- either before or after the standard trading period
- on a permanent or one-off basis.

Any extended trading granted is subject to a daily 6-hour closure period. The Authority or the Secretary NSW Department of Customer Service may also reduce the approved trading hours by imposing, varying, or revoking licence conditions relating to the trading hours of any licensed venue.

Special occasion extended trading hours

Licensees of club, hotel, on-premises producer/wholesaler, or small bar licences can also apply for an authorisation allowing extended trading hours for a special occasion on a specified date.

To qualify for this authorisation, the special occasion must be unique or infrequent, be of local, state, or national significance, and be relevant for persons independent of the licensee and premises owner/occupier.

6-hour closure period

From 30 October 2008, a daily 6-hour closure period applies to:

- all new liquor licences granted
- existing licences that have been granted extended trading, and
- existing licences that are removed to other premises after that date.

For these liquor licences, it is against the law to sell or supply liquor for consumption on or off the premises during the closure period.

Generally, the daily 6-hour closure period is 4am - 10am every day. However, the Authority can approve a different daily 6-hour closure period. Licensees can apply to change the daily 6-hour shutdown period on a temporary or permanent basis, or for different closure periods to operate on different days of the week.

Development consent

Most businesses in NSW will require local council approval whether they are building a new premises, changing the land use of a current premises, or adjusting the building during fit-out.

Approval is obtained by lodging a development application (DA) with the local council. The application will then be publicly displayed for comment and undergo assessment before a decision is made. Development consent may be required for a new liquor licence, or for any changes to a liquor licence, including licence related authorisations.

You should note that both the development consent and any potential liquor licence will outline your approved trading hours for the business and licence type. To remain compliant with both local council and Liquor & Gaming NSW, you must operate your liquor licence to whichever conditions are the more restrictive.

For example, if your development consent allows trading up to 11pm and your liquor licence allows trading up to midnight, you would need to finish your liquor sales and business operations by 11pm in line with the development consent.

Alternatively, if your development consent allows trading up to midnight and your liquor licence allows trading until 11pm, then you will need to cease liquor sales by 11pm.



More information

Review the statutory conditions, including standard and extended trading hours, for each licence type:

<https://www.liquorandgaming.nsw.gov.au/resources/licence-conditions>

2.6. Liquor licence fees

2.6.1. Annual liquor licence fees

Every holder of a NSW liquor licence is required to pay an annual liquor licence fee. This ensures that those who benefit from the licensed industry contribute to the cost of its regulation.

The fee is calculated using the following model:

- a base fee, plus
- risk-based loading where applicable.



More information

Find out more information on annual liquor licence fees:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/liquor-licence-fees/annual-liquor-licence-fees>

Risk-based loading

Risk-based loadings are used to encourage licensees to maintain safe and compliant 'low-risk' premises and contribute to the regulation of the industry. They consider:

- trading hours risk, and
- compliance risk, such as compliance history, customer capacity and location.

Trading hours risk loading

This risk loading is included in the calculation of the annual liquor licence fee if your premises is authorised to regularly trade after midnight. The loading must be paid whether the premises actually trade after midnight or not.

Who does this apply to?

- a very small number of regional premises who hold a multi-occasion extended trading authorisation
- premises authorised to trade up to 1:30am on a regular basis
- premises authorised to trade after 1:30am on a regular basis.

Who is exempt from this loading?

Some premises are exempt from the trading hours risk loading fee. These include:

- producer/wholesaler licence – unless it has a drink-on premises authorisation
- on-premises licence relating to a restaurant – unless it has a primary service authorisation
- on-premises licence relating to accommodation premises – an airport or catering service
- small bar licence
- limited licence (multi-function)
- hotel licence that was formerly a community liquor licence
- a hotel or club licence that meets the criteria for a tourist accommodation exemption
- licensed premises that meet the criteria for a remote population exemption.

Compliance risk loading

Compliance risk loadings may be included in the calculation of your annual liquor licence fee for a range of reasons, including:

- compliance history risk loading
- patron capacity risk loading, and
- location risk loading for venues in the Sydney CBD and Kings Cross precincts.

Compliance history risk loading

Compliance history risk loading is based on the compliance history of your liquor licence in the previous calendar year.

Under the incentives and demerit point system, licensees, approved managers and clubs committing prescribed offences or complaints will incur demerit points. Demerit points will automatically expire after three years but licensees can apply to have them removed earlier if they have a positive compliance history. Your compliance history risk loading will be based on the number of demerit points that are currently against your name as licensee.

Demerit points apply for:

- serious liquor law breaches such as permitting violence or intoxication or selling liquor to a minor
- serious or ongoing issues with violence, intoxication, risky drinking and incidents posing a serious risk to the health or safety of person such as drink spiking, or
- where serious indictable offences involving violence have been committed, where a prescribed complaint is made out by the Authority.

Double demerits apply for more serious offences, such as:

- selling liquor to a minor - due to the seriousness of this offence.
- multiple incidents involving serious violence or risks to public health and safety on or near a venue in a single 24-hour period.

Compliance history loading is based on a cost of \$4,000 for each current demerit point. These additional loadings are payable in the year after the demerit point is incurred.

As an incentive for venues with a good compliance history, discounts are also given on the base fee and trading hours risk loading of your annual liquor licence. Well-managed venues are rewarded with discounts after maintaining a clear record with no demerits for:

- three consecutive calendar years (5%)
- five consecutive calendar years (10%).

You can find more information on the Incentives and demerit point system in Section 5.3.9 in Module 5 Compliance and enforcement.

Patron capacity risk loading

Patron capacity risk loading applies if you need to pay a compliance history risk loading. Patron capacity risk loading is based on the number of people your premises is allowed to hold. Accommodation areas are not included in the patron capacity of a licensed premises.

If the patron capacity risk loading applies to your liquor licence, you need to tell Liquor & Gaming NSW what the current patron capacity of the premises is by submitting an online form. This number is used to calculate the correct patron capacity risk loading you need to pay. Licensees also need to provide evidence to support the number given, e.g. a copy of the development consent, advice from council, or annual fire inspection records from Fire & Rescue NSW.

If Liquor & Gaming NSW don't receive this information on time – which is usually March each year, or they determine that the number is not accurate, the Secretary has discretion to determine the patron capacity for your premises and this number will be used to calculate your patron capacity risk loading.

Some premises are exempt from the patron capacity risk loading, including:

- producer/wholesaler licence, unless a drink-on premises authorisation is held
- on-premises licence relating to accommodation premises, catering service or both
- packaged liquor licence
- limited licence (multi-function), and
- hotel licence that was formerly a community liquor licence.

Patron capacity risk loading is calculated based on the number of people your premises is allowed to hold, with a higher loading amount required for greater numbers of patrons as per the following categories:

- 60 patrons or less
- 61 – 120 patrons
- 121 – 300 patrons

- 301+ patrons

Note: accommodation areas are not included in the patron capacity of a licensed premises. No GST applies to fee or loading.

Location risk loading

Location risk loading applies if you need to pay a compliance history risk loading and your licensed premises is located in the Kings Cross or Sydney CBD precincts. Location risk loading does not apply to:

- a producer/wholesaler licence, unless a drink on-premises authorisation is held
- a limited licence (multi-function), or
- a hotel licence that was formerly a community licence

2.6.2. Exemptions

Occasional extended trading condition

Licensees that are permitted to trade after midnight can reduce their annual liquor licence fee by applying for an occasional extended trading condition (OETC) to be imposed on their licence. This means you can only trade past midnight or 1:30am on up to 12 occasions over any 12 month period.

An OETC will require a licensee:

- who occasionally trades after midnight to not pay trading hours risk loading, and
- who allows regular trading up until 1:30am, and occasional trading after 1:30am to pay a trading hours risk loading.

Licensees who have an OETC must submit an occasional trading notification form to Liquor & Gaming NSW at least 14 days before each late trading occasion.

Applications for the OETC are only open for a limited time each year.

Multi-occasional extended trading authorisation

Licensees in regional venues that are authorised to trade after midnight but rarely do can apply for a multi-occasion extended trading authorisation (MOETA).

A MOETA will enable the licensee to:

- reduce the trading hours risk loading
- have standard trading hours, and
- occasionally trade past midnight.

A MOETA attracts a reduced annual trading hours loading.

Tourist accommodation exemption (TAE)

A hotel or club that provides tourist accommodation does not pay trading hours risk loading if the hotel or club meets all of the following criteria:

- provides accommodation in at least 20 rooms or self-contained suites other than dormitory-style accommodation
- provides beverages, meals, and other associated services to residents and guests, and
- operates bars after midnight primarily to sell or supply liquor to residents and their guests or persons attending a function or conference by invitation only, e.g. weddings or conferences.

If the hotel or club is authorised to sell or supply liquor to the broader general public after midnight on a regular basis, a trading hours risk loading will apply.

Applications for the TAE are only open for a limited time each year.

Remote population exemption

If you are in a remote or regional location, you do not pay trading hours risk loading if the licensed premises meet all of the following criteria:

- in a regional locality of fewer than 1,000 people, with no large transient population
- more than 5km from a town of 1,000 to 5,000 people, and
- more than 20km from a larger town or city of over 5,000 people.

If you think you are eligible for a remote population trading hours risk loading exemption, you can apply for reassessment of your liquor licence fee.



More information

For more information on the liquor fees and loadings, visit:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/liquor-licence-fees>

2.7. Applying for a licence

In this section, we will discuss the different documents and information you may need to submit to obtain a NSW liquor licence. These include:

- licence applications
- community impact statements
- business model and Plan of Management
- licensed premises floor plans
- RSA, Responsible Supply of Alcohol Training (RSAT), Licensee and Advanced Licensee (where applicable) training certificates
- National Police Certificate
- Approved Manager application (if licensee is an organisation)
- additional licence requirements.

2.7.1. Licence application

You will need to submit the correct application form for the type of licence you wish to apply for together with the associated fee for Liquor & Gaming NSW to consider with your application.



More information

Application forms are found on the Liquor & Gaming NSW website:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/liquor-licence-types>

The fee schedule can also be found on the Liquor & Gaming NSW website:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/liquor-licence-fees>

2.7.2. Community impact statement (CIS)

Before you apply for a liquor licence, you may need to consult your local community and prepare a CIS. If you are not intending to apply for any of the licences mentioned in the following pages, you do not usually need to conduct a CIS. However, Liquor & Gaming NSW may ask for one when you lodge your application – decisions are made on a case-by-case basis. It's worth understanding what the process entails, as Liquor & Gaming NSW will not accept your application if you do not conduct the correct CIS process.

What is a CIS?

Simply put, a CIS is a written summary that describes the potential harm a new or modified liquor licence might have on a neighbourhood.

To develop the written statement, a 30-day period of consulting with the community and stakeholders must first occur to gather feedback, identify key issues, and assess if further consultation is required. After feedback has been gathered, you may need to negotiate with community members to resolve their concerns before submitting your application.

A CIS allows the Authority to be aware of, and understand, the impact that granting an application will have on a local community.

Carrying out a community impact statement will help you to:

- understand the views of your community before you commit to your application so that you can make a well-informed decision about whether to go ahead with, modify, or withdraw your proposal
- identify ways you can resolve important community issues and reduce negative impacts that can be addressed in your application.

This is important because the Authority:

- will assess the licensee's ability to resolve community concerns, and
- will not grant an application unless the licensee can show that the overall social impact of their licence will not be detrimental to the wellbeing of the local or broader community.

Examples of common community concerns include:

- disturbance to neighbourhood from venue or customers
- alcohol-related crime or antisocial behaviour
- alcohol-related health problems
- more pedestrian or motor traffic
- drink driving and drink walking
- more domestic violence linked to alcohol
- litter and other pollution generated by the venue.
- saturation of liquor sales outlets in the area.

Community benefits that you may wish to promote could include:

- new social and recreational choices
- more opportunities for live music and other performing artists
- jobs and economic activity
- competitive pricing.

What licence types require a CIS?

You need to complete a CIS if you apply for any of these licence types:

- hotel
- general bar
- packaged liquor licence – including bottle shops and online sales
- nightclub licence – on premises
- registered club licence
- most extended trading authorisations – if the licence is not already authorised to trade after midnight on a regular basis
- in some situations, a small bar licence application may also involve a CIS.

CIS categories

Different types of liquor licence applications require different types of CIS, either a Category A or a Category B.

The main difference is that a Category B CIS has additional bodies that need to be notified about the application and more stakeholder groups must be consulted.

A category A CIS is required in the following circumstances:

- a new packaged liquor licence limited to the sale or supply of alcohol via phone, fax, mail order or website – this also includes the removal of the above licence to another premises
- extended trading for an on-premises licence, provided that the authorisation allows liquor sales on a Sunday between 5am - 10am or 10pm - midnight. This doesn't include sales to residents of the licensed premises and their guests
- a primary service authorisation (PSA) under the *Liquor Act 2007*. For example, where a restaurant wants to sell liquor without meals

- an application for a multi-occasion extended trading authorisation
- any other application where the Authority thinks there is potential for community harm.

A category B CIS is required for the following circumstances:

- application for a new hotel or club licence
- application for a small bar licence – an exemption applies where development consent is required, and notice is provided to the local police and to the Secretary Department of Customer Service within two days of the development application
- application for a new packaged liquor licence – such as a bottle shop or retail liquor store
- application for a new on-premises licence for a public entertainment venue – other than a cinema or a theatre
- application for extended trading for each of the above licences, including small bars that apply for extended trading or vary an existing extended trading between 2am and 5am.
- application to remove each of the above licences to another premises
- an extended trading authorisation for an on-premises licence if the authorisation allows liquor sales at any time between midnight and 5am
- extended trading for a producer/wholesaler licence, if the authorisation allows liquor sales by retail between midnight and 5am – this doesn't include sales to residents of the licensed premises and their guests, and
- any other application where the Authority thinks there is potential for community harm.

If you are required to undertake a CIS, it should be the first thing you begin as it will take a minimum of 30 days consultation, starting with sending your notice of intention to apply for the liquor licence to relevant CIS stakeholders and community.

Once you have gathered feedback from the CIS consultation period you can complete the CIS form and lodge it with Liquor & Gaming NSW along with your liquor licence application.

Each application is placed on display and for public consultation through the online Liquor & Gaming Application Noticeboard for 30 days after lodgement before a decision is made. This is in addition to the 30-day pre-lodgement period for CIS consultation. This provides community and organisations the opportunity to make submissions about the application directly to the Authority.

Early consultation that you personally manage through the CIS process provides you the opportunity to advise stakeholders about your proposal, resolve concerns before the approval stage, and help to reduce negative reactions that may impact the success of your application when the Authority places it on the Noticeboard.

Who must be consulted?

As a potential licence holder, it is your responsibility to talk to your local community about any concerns they might have. They may be the local council, police, and local interest groups.

Part 3 of the Liquor Regulation 2018 (Clause 29) outlines the CIS consultation requirements. Applicants must provide each stakeholder with a notice containing information about the proposed application and explain how stakeholders can ask questions or voice concerns.

In the case of a category A CIS, the relevant stakeholders that must be consulted are:

- the local consent authority
- if the premises are within 500 metres of the boundary of another local government area, the local consent authority for that other area
- the local police
- other stakeholders as determined by the Authority.

In the case of a category B CIS, the relevant stakeholders that must be consulted are all of the above, plus:

- NSW Health
- NSW Department of Family and Community Services
- Transport for NSW
- recognised leaders or representatives of the local Aboriginal community (if any) in the area
- the occupier of any neighbouring premise – meaning any building situated on land that is within 100 metres of the boundary of the premises to which the application relates.

Additional notifications may also need to be undertaken within the community. These include:

- local police²⁰
- local council and the neighbouring council if the premises are within 500 metres of the council boundary²¹
- NSW Department of Planning, Industry & Environment if the premises are on Crown Land
- all neighbours within a 50 or 100 metre radius (depending on the type of application).

A site notice will also need to be affixed to the premises externally, so it is easily seen by passers-by. The site notice must remain until a decision is made on the application.

If your site notice is not displayed, is removed, or falls down throughout the assessment period, your applications may be refused.

How do I prepare a Community Impact Statement?

There are three steps to preparing your CIS:

- Notify the community (consultation period)
- Gather feedback and arrange further consultation (resolve community issues)
- Complete the CIS form using the consultation methods, conversations and outcomes.

You will need to:

²⁰ This notification happens automatically if an application is made online.

²¹ Ibid.

- consult all relevant community members
- describe how you conducted the consultation
- include details of the issues people raised, and
- include information on how you will deal with any concerns.

When considering community responses, think about these questions:

- what are the main issues?
- what are the negative responses?
- what are the positive responses?
- which issues need further discussion?
- how strongly does your community feel about these issues?
- do different stakeholders have similar issues?
- what relationships have been established with the community that could help resolve future issues?
- what outcomes (such as ideas and solutions) have been identified as a result of the consultation?
- are proposal changes required because of community feedback?

It may be helpful to seek professional advice when preparing and completing more complex or contentious applications.

The finished CIS must show how community issues will be handled. It must also describe any changes that have been made to the proposal after talking to the community. Best-practice is to include conversations, emails, minutes, evidence of negotiations etc. in your CIS report.

If a resolution about a particular issue could not be reached, the CIS must note the issues and include a brief description of attempts that were made to settle them. It is important to make sure all information in a CIS reflects actual community responses, because it will go on public display and be accessible for their review.



More information

For more information on CIS, visit:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/community-involvement/community-impact-statements-cis>

Download the CIS forms:

- [FM2009 Category A community impact statement form \(pdf, 212kb\)](#)
- [FM2010 Category B community impact statement form \(pdf, 272kb\)](#)

2.7.3. Licensed premises floor plans

A licensed premises floor plan shows a plan of the premises with an outline in red showing the area that is proposed to be licensed. They are an important part of licensing applications as they identify the premises boundaries and are considered in a range of licensing matters. Having up-to-date, good quality floor plans that meet Liquor & Gaming NSW requirements can help to speed up the assessment and processing of licence applications.

If the premises are more than one level, plans are to be provided for each level. Each level must be clearly labelled and each page must be numbered if the plans are multipage.

All internal parts of the premises need to be labelled, i.e. kitchen, amenities, gaming room, tab, lounge, bistro, bar areas, function room, office, etc.

If the premises has a footpath dining area on the proposed licensed area, the relevant approval by council must be provided. This will be verified with council; not providing the approval with the application may cause a delay in processing of the application.

On your plan you will need to outline the proposed licensed area in red. If you are applying for an authorisation, e.g. a minors' area authorisation, you will need to highlight these areas with an outline in a different colour.

The plan must include a key or legend that corresponds with the areas highlighted below:

- name and address of the proposed premises
- a compass direction showing north
- current licensed boundaries (in red)
- clear description of each area within the premises (e.g. kitchen, service area, toilets, storeroom, balcony/veranda)
- if the boundaries are changing, the proposed licensed boundaries (in blue)
- any existing or proposed authorisations in a different colour.

If your business is serving alcohol for consumption on the premises (most licences except packaged, producer/wholesaler), your plan must include all seating/patron areas. Some important things to note on your seating plan are:

- ensure your plan matches your DA application in terms of capacity/number of seats
- any outdoor seating must clearly show how the boundaries of the licensed area will be demarcated, e.g. will you be using barriers, planter boxes, gardens, walls?



More information

Download the Liquor & Gaming NSW fact sheet on how to prepare and submit a floor plan with a liquor licensing application:

<https://www.liquorandgaming.nsw.gov.au/documents/fs/FS3127-licensed-venue-floor-plans.pdf>

2.7.4. Additional licence requirements

Along with the documentation already outlined, the following additional information must be lodged with your application to Liquor & Gaming NSW:

- evidence of completion of all training that is mandatory for your licence type. For all licence types and applications, this includes:
 - current RSA certification
 - current RCG certification for premises with gaming machines
 - current RSAT for same day alcohol delivery providers intending to personally make same day deliveries in NSW
 - current Licensee training certificate – for new and existing licensees, approved managers and club secretaries applying to operate Tier 1 venues, and
 - current Advanced Licensee training certificate – for new and existing licensees, approved managers and club secretaries applying to operate Tier 2 venues.
- National Police Certificate issued within the last 3 months for each licensee and/or approved manager
- copy of your development consent or approval from the council may be required if you plan to build, demolish, alter or change the use of a property
- evidence of approval for outdoor seating from the council if outdoor seating is applicable
- an ASIC extract if an organisation or corporation is applying for a liquor licence
- for some applications, an industry experience profile for the licensee or approved manager will also be required to help Liquor & Gaming NSW assess their suitability to be a licensee or manager of a licensed venue.

When your application is lodged, Liquor & Gaming NSW will display it on the Liquor & Gaming Application Noticeboard. The public then has 30 days to make any comments about your proposal.



More information

A completed applicant declaration is also needed and available on the Liquor & Gaming NSW website:

<https://www.liquorandgaming.nsw.gov.au/documents/fm/tdec5-declaration-liquor-licence-application-by-proposed-licensee.pdf>

View on site:

<https://www.liquorandgaming.nsw.gov.au/resources/declarations-for-online-applications>

Download the application form and read additional information on police certificates:

https://www.police.nsw.gov.au/online_services/criminal_history_check/criminal_history/resources_and_fact_sheets

For more information on the RSAT training, visit:

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/training-to-work-in-the-industry/getting-trained/training-courses>

2.7.5. Assessment process

Liquor & Gaming NSW and the Board of the Independent Liquor & Gaming Authority (the Authority) assess each application on a case-by-case basis and consider the overall impact a licence decision will have on the community. The assessment uses the information provided within the application, including forms, supporting documents, submissions, and internal and external reports that are generated as a part of the assessment process.

Liquor & Gaming NSW and the Authority can grant a licence where they are satisfied that:

- the applicant is a fit and proper person to hold a liquor licence subject to probity checks
- the licensee will have practices in place to ensure liquor is served responsibly and that all reasonable steps will be taken to prevent intoxication in compliance with the *Liquor Act 2007*
- development consent allows for the intended business or activity to be conducted on the premises
- there will be no detrimental harm to the community as a result of the granting of a liquor licence.

When assessing applications, the following will be considered:

Licence type	<ul style="list-style-type: none"> • e.g. hotel, small bar, registered club, nightclub, take-away liquor store
Scale	<ul style="list-style-type: none"> • size and layout • maximum number of persons • entertainment provided and its nature
Trading Hours	<ul style="list-style-type: none"> • compliance with the six-hour closure period • if an extended trading authorisation is applied for and approved to allow trading beyond midnight, for how long and how many days
Location	<ul style="list-style-type: none"> • existing density of licensed premises in the local community • impact of additional licensed premises, for example, on transport, footpaths, pedestrian traffic, litter, noise pollution, antisocial behaviour, crime • demographic traits • proximity of health, worship, educational, homeless facilities, public parks, and alcohol free zones • residential or commercial/industrial nature of the area
Specific Measures	<ul style="list-style-type: none"> • will any specific measures be implemented over and above those required by legislation in order to reduce potential impact? For example: <ul style="list-style-type: none"> – plan of management – security management plan – focus on cultural or community development
Submissions Received	<ul style="list-style-type: none"> • local council • NSW Police • members of the public.

2.8. Applying for an interim authorisation

2.8.1. Interim restaurant authorisation

An interim restaurant authorisation allows you to begin serving liquor as soon as you have lodged a liquor licence application, provided you meet certain requirements.

To be eligible you must:

- apply online for an on-premises liquor licence for a restaurant
- seek standard trading hours -
 - Monday to Saturday: 5am to midnight
 - Sunday: 10am - 10pm
- have planning approval from the local council to use the premises as a restaurant or café, and have informed the community of the intention to serve alcohol as part of the public exhibition process
- not apply for authorisations including extended trading hours or primary service authorisation

Interim restaurant authorisations are exempt from CIS requirements under the liquor laws, as public consultation occurs as part of the development approval process with council.

The notification is forwarded to the applicant, police and council to confirm the approval is in place for a temporary licence until the permanent licence application is determined.

The interim restaurant authorisation processes provide for:

- stakeholders, including the public to have their say about the proposed sale of liquor at these restaurants and cafés, and
- venues that do not comply with the liquor laws to be prevented from continuing to supply liquor until a full determination of their licence application is made.

Once an interim restaurant authorisation is issued, the applicant is considered to be the licensee for that premises and must comply with the liquor licence conditions and the *Liquor Act 2007*. This includes completing the mandatory training (RSA), Licensee and Advanced Licensee Training (where applicable) and liquor law signage requirements.

2.8.2. Interim small bars authorisation

When you apply for a small bar licence, you can be issued with an interim small bar authorisation²² to allow immediate trading if you satisfy the following eligibility criteria:

- apply online
- seek trading hours no later than 2am
- Development Approval has been obtained

²² Introduced from 30 April 2021 under the [Liquor Amendment \(Night-Time Economy\) Act 2020](#)

- Development Approval was subject to a public consultation
- not apply for any authorisations at the same time as applying for a small bar licence, i.e. for extended trading or to allow minors on the premises in certain circumstances.
- the application is not subject to a Community Impact Statement.

Small bars may apply for ETA and/or minors authorisation after the liquor licence application has been finalised and a liquor licence has been approved.

2.9. Managing your licence

2.9.1. Making changes to your licence

Your aspirations or business conditions can change over time. As a result, you may need to change one or more aspects of your liquor licence.

Change of name

You must apply to Liquor & Gaming NSW if you want to change the name of your licensed premises. The new name for your liquor licence can't be objectionable, inappropriate, misleading, or a prohibited name. It must relate to the business you conduct on your premises.

For example, the word 'bar' can be misleading. Liquor & Gaming NSW will not approve a name that includes 'bar' unless the licence allows you to operate as a bar.

You can do this online and will need a copy of your record of registration of business name issued by the Australian Securities and Investments Commission (ASIC).

Change of boundaries

A change of boundaries modifies the footprint or size of the licensed areas of your premises. To change the licensed boundaries, you must apply to Liquor & Gaming NSW. You'll need a plan of your venue that outlines the current licensed area in one colour and the proposed licensed area in a second colour. You must also use a third colour to outline any authorisations on your licence, such as those for primary service, extended trading hours, or minors' areas.

Any footprint expansion may also be considered an intensification of use from a council perspective and will require a new DA.

Notes: New legislation outlines the provisional approval for application to change boundaries for outdoor dining purposes. Footpath dining approval is required for outdoor dining spaces.

When lodging your application, you will need:

- a complete application form and fee
- a plan of the current licensed area and any authorisations – outline the licensed area in red and show authorisations in another colour, and include a key to show the meaning of each colour, and
- a plan of the proposed licensed boundaries and any proposed authorisations; for extended trading hours, include a community impact statement.

Change of boundaries authorisations generally take around 16 weeks once all the required information has been submitted. When you lodge a complete application, it will appear on the Liquor & Gaming Application Noticeboard for community feedback. Following this 30-day community feedback period, Liquor & Gaming NSW works to determine your application within 8-12 weeks.

Change of conditions

Your liquor licence may have certain conditions that limit the operation of your business.

Conditions on your liquor licence are imposed by either the Authority or Liquor & Gaming NSW. The source of each condition is noted next to the relevant condition on your liquor licence.

You can apply to change your licence conditions to suit any change in your personal or business circumstances, such as trading hours or your 6-hour closure period.

Change of tenancy

In some circumstances, you can lease or sub-lease your premises or some parts of it.

You can lease or sub-lease:

- part of your licensed premises with Liquor & Gaming NSW approval
- a part of your premises where you normally sell or supply liquor only if you are located in a shopping centre and with Liquor & Gaming NSW approval.

You cannot lease or sub-lease:

- the right to sell liquor for consumption on the premises
- the parts of your licensed premises where you normally sell liquor or operate gaming machines.

Before you apply to Liquor & Gaming NSW to lease or sub-lease part of your premises, you'll need to notify local NSW Police and your local council. Liquor & Gaming NSW cannot approve your application unless they have been notified.

Manager approval and appointment

Corporate licensee

A corporation may hold a liquor licence just as an individual licensee can. However, the corporate licensee must appoint an approved manager to the licensed premises. An approved manager is responsible for supervising and managing the conduct of the business and licensed premises according to licence conditions at all times they are on duty.

There is a two-step process of approval and appointment by Liquor & Gaming NSW. Liquor & Gaming NSW accepts all applications on behalf of the Authority.

Step 1: Approval of manager – this step determines whether the proposed manager is a fit and proper person for the role. Each venue manager must be approved by the Secretary Department of Customer Service, who will consider:

- criminal records, probity inquiries, and advice from NSW Police

- relevant industry experience
- RSA and privacy competencies
- the Licensee training if managing a Tier 1 venue, as well as the Advanced Licensee training if managing a Tier 2 venue.

Step 2: Appointment of manager – once the proposed manager has been approved through the Step 1 process, they can be appointed as a manager of a licensed premises held under a corporate licence.

Notify interest in liquor licensed business

You can notify Liquor & Gaming NSW if you have an interest in a liquor licensed business/licensed premises, or if you'd like your interest removed from a business that holds a liquor licence:

- if you wish to notify interest as a premises owner, you will need to provide proof of ownership - this can be in the form of a title search and contract of sale or a rates notice
- if you wish to notify interest as a business owner, you will need to provide proof of purchase of the business such as a contract of sale, which includes the date of settlement. If you are setting up a new business, you will need to provide a copy of an extract from the Australian Business Register (ABR)
- if a trust has purchased the business, you will need to provide a copy of the trust deed and a copy of the contract of sale including the settlement rate or a copy of an extract from the ABR register.

Community impact statements (CIS)

On occasion, making changes to your licence might require you to consult your local community and prepare a CIS. A CIS is a written summary that describes the potential harm a liquor licence might have on a neighbourhood. See section 2.7.2 for more information on the CIS process. It allows the Authority to be aware of and understand the impact that granting an application will have on your local community.

2.9.2. Transferring your licence

You can transfer a liquor licence when you buy or sell a business, allowing a new business owner to trade under the existing licence. You also transfer a liquor licence when you want to change the licensee.

To allow a business to continue operating while Liquor & Gaming NSW considers a licence transfer, they usually give a provisional approval and confirm the transfer with you later. The licence transfer does not become effective until they give provisional approval.

There are four ways you can transfer a licence:

1. with written permission of the outgoing licensee
2. without written permission of the outgoing licensee
3. following the death, disability, or bankruptcy of a licensee
4. notice of licence transfer.

If you're applying to transfer your licence to a Tier 1 venue, you must complete the Licensee

training. If you're applying to transfer your licence to a Tier 2 venue, you must complete both the Licensee and Advanced Licensee training prior to confirmation of the transfer application.

2.9.3. Moving your licence

Liquor licences are attached to a premises, not a person. If you are moving your business to another location, you must apply to take your liquor licence with you. In the *Liquor Act 2007* this is referred to as 'removing a licence'.

An application to remove a liquor licence from one venue to another is treated the same as an application for a new liquor licence. The fee to remove a liquor licence is the same as the fee to apply for a new liquor licence of the same type.

Liquor & Gaming NSW might impose new conditions on your new licence, depending on how you want to operate your venue and any feedback they get about your proposed licence removal.

Any authorisation that applies to your liquor licence at its current premises, such as the primary service area, minor's authorisation area, extended trading hours, will no longer be valid. You must apply for any authorisations at the same time that you lodge your application to remove your liquor licence.

If you're applying to remove your licence to a Tier 1 venue you must complete the Licensee training. If you're applying to remove your licence to a Tier 2 venue you must complete both the Licensee and Advanced Licensee training prior to confirmation of the remove application.

2.9.4. Cancelling your licence

There are two ways to cancel your licence:

- 1) **Permanently** – this is called surrendering your licence and means that your licence will be officially cancelled.

You can surrender your liquor licence by completing a form and lodging it with Liquor & Gaming NSW. The written consent of the premises owner and business owner is required and must be included in the application form.

- 2) **Temporarily** – this is a good option if you'd like to renovate, transform your business model, or rebrand your business.

Less than 6 weeks: to temporarily cease trading for less than 6 weeks, apply to Liquor & Gaming NSW specifying the proposed dates for the suspension and the reasons.

6 weeks or more: to temporarily cease trading for more than 6 weeks, you must notify Liquor & Gaming NSW using a cease to trade notification and notify them again when you want to resume trading.

Liquor licences that cease to trade, or are suspended voluntarily, are still subject to the annual liquor licence fees.



More information

For more information on managing your licence, visit:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/applying-for-and-managing-your-liquor-licence/manage-your-licence>

Module summary

Congratulations, you have completed Module 2: Managing your liquor licence. You should now be able to:

- explain who is able to hold a liquor licence
- identify different types of licences
- outline the process for obtaining a liquor licence
- understand the conditions associated with different licence types
- summarise the liquor licence fee requirements
- outline the requirements for making changes, transferring, moving, and cancelling your licence.

Module 3: Your responsibilities to manage alcohol-related harms

3.1. Introduction

The range of licensed premises in NSW represents a vast array of business models. This module is about helping you understand your responsibilities to manage alcohol-related harms associated with your business.

We will discuss the mandatory requirements that you must adhere to so you're able to reduce risk and remain compliant. We'll also talk about the reality of running a licensed premise and the incidents and situations that can occur, such as intoxication, minors, violence, and antisocial behaviour.

These risks can be costly, both to your bottom line and to your reputation, so we'll look at ways to prevent them. There is a lot that you, as the leader of your business, can do.

Finally, we'll look at how to manage incidents and what to do if something does go wrong.

At the end of Module 3: Your responsibilities to manage alcohol-related harms, you will be able to:

- plan and implement prevention strategies to protect your business
- manage a difficult alcohol-related situation – understand your responsibilities under the law and apply strategies to deal with:
 - intoxication
 - antisocial behaviour
 - minors
- meet mandatory requirements when dealing with an incident
- know what to do when a crime has occurred.

Part A: Planning and prevention

The purpose of this section is to emphasise the importance of planning your business practices effectively in order to prevent alcohol-related harm and incidents before they occur.

We will discuss a variety of mandatory and best practice strategies that are designed to protect you and your business from the negative impacts of alcohol misuse.

3.2. Managing competencies

Whether you're selling or supplying alcohol, the Responsible service of alcohol (RSA) provides rules and strategies to minimise alcohol-related problems, such as intoxication, violence and disorderly behaviour.

RSA training is mandatory for everyone in NSW who sells, serves, and supplies alcohol. That includes you as licensee and all of your staff.

RSA Recap – RSA Training

RSA training is mandatory for everyone who is involved in the sale, supply and service of alcohol to the public in NSW. That includes:

- licensees
- approved managers
- staff who sell or serve alcohol
- staff who determine whether a patron is intoxicated, e.g. RSA marshals, door staff
- security staff.

There are two possible documents that can be used as evidence of RSA completion:

- Interim RSA certificate (valid for 90 days)
- NSW competency card with an RSA endorsement – either digital or physical card

The licensee and all staff who serve alcohol must have completed an approved RSA course.

Staff should have their competency card (or interim certificate) easily accessible and be ready to present the card or digital licence to Liquor & Gaming NSW inspectors or NSW Police when asked. Failure to produce a competency card to inspectors or police could result in a fine or suspension of the staff member's card.

Allowing staff to serve alcohol without an RSA could result in you being fined 100 penalty units.



Remember!

Just because your staff hold an RSA, this does not remove your responsibility as a licensee to ensure they have adequate knowledge, skill, and supervision to sell and serve alcohol compliantly.

Best practice for you as a licensee is to maintain copies of all your staff competencies. This will help you to keep on top of renewals and provide evidence of competencies if your business is inspected by Liquor & Gaming NSW inspectors or NSW Police officers.

Digital licences

You can access certain NSW government licences and permits digitally using a smartphone or tablet. This includes the NSW competency card with endorsements for:

- Provide responsible service of alcohol (RSA)
- Responsible conduct of gambling (RCG)
- Privacy training
- Licensee training
- Advanced Licensee training.

A digital licence is not just an electronic copy or photograph of a licence, it is an app that allows the holder to view, show, update and renew that licence electronically.

The digital version makes compliance easier for licensees as the digital card will provide an up-to-date, real-time copy of the card, so you can check if a card is current, suspended or revoked. It also provides a solution to the problem of staff forgetting to bring their competency cards to work.

The digital competency card also allows Liquor & Gaming NSW inspectors and NSW Police officers to conduct real time inspections of a card and card history on a compatible checker application.

Digital licences are free and can be accessed on smartphones via the Service NSW app.



More information

Find out more about fines relating to non-compliance of RSA requirements:

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/training-to-work-in-the-industry/for-trainers/rto-fines>

3.3. Advertising and promotions

The way you advertise and promote liquor can influence the way liquor is consumed and how customers behave, both in your premises, and in the community.

All licensees in the industry must be mindful of their responsibilities and obligations under the *Liquor Act 2007* around promoting and practicing responsible service of alcohol.

Promotions are a common tool used to attract customers. However, it is important that you consider and assess the risks the promotion may attract. Regularly auditing your liquor promotions is a best practice approach to managing a compliant business.

Liquor promotions and any advertising should be conducted with RSA guidelines in mind and ensure harm minimisation measures are in place to prevent intoxication or binge drinking during the promotion.

Fundamentally, liquor promotions should not:

- encourage irresponsible, rapid or excessive consumption of alcohol
- have special appeal to minors
- be indecent or offensive
- be out of step with general community standards.

All promotions or advertisements that offer discounted liquor must also include messaging that urges customers to consume alcohol responsibly.

Implementing harm minimisation measures as part of policy and procedure for conducting promotions can help you prevent unwanted incidents from occurring. However, it does not automatically provide you with the grounds to allow a restricted or prohibited promotion to occur. Instead, it provides a way to monitor and control the environment to ensure the safety of customers, staff, and the community as a whole.

In many cases, the risk that is raised by one element can be offset, or reduced, by adjusting another. Some things to consider include:

Risky promotions	Offset by
After 10pm, the risk of customers becoming intoxicated increases	Run the promotion at an earlier time.
Provide free samples	Limit the number per person.
Discounted liquor	Ensure the reduction in price is not extreme and would thus encourage rapid or excessive consumption.
Happy hour and regular promotional periods	Place reasonable limits on the duration of promotions. For example, happy hour should not extend for more than two hours.
	Limit the number of drinks that can be purchased by a single person in a single transaction. For example, two drinks per person per transaction during happy hour.
Challenges, dares, games	Avoid games, dares, challenges and competitions that may create an incentive for customers to drink more.

Unacceptable practices and promotions

Examples of liquor promotions that are unacceptable include the following:

- **appeal to minors:** because of the design, name, motifs or characters used
- **indecent or offensive:** through the use of images, including the human body, which may be considered offensive by a reasonable adult
- **non-standard measures:** for example, yard glasses, slammers, water pistols, etc. that encourage irresponsible drinking
- **emotive descriptions or advertising:** for example, the use of slogans that focus on the excessive consumption alcohol such as 'drink like a fish' or 'drink till you drop'
- **free drinks or extreme discounts:** that promote excessive consumption of alcohol. For example, 'all you can drink' or '\$50 voucher between 7pm - 8pm only'
- **irresponsible, rapid or excessive consumption:** such as a drinking game, for example, '60 shots in 60 minutes' or 'boat races', or sports event promotions such as 'free beer until first points scored' or 'half price drinks until half time', and
- **not in the public interest:** such as promoting unlawful activity, antisocial behaviour, allude to consuming alcohol with illicit drugs or associating liquor consumption with violent or aggressive behaviour towards other people.



More information

Find out more about liquor promotions:

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/serving-alcohol-responsibly/liquor-promotions>

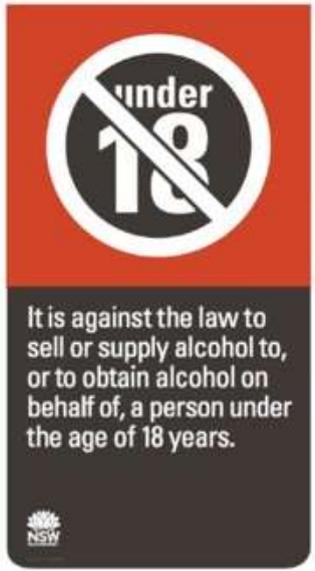
3.4. Signage

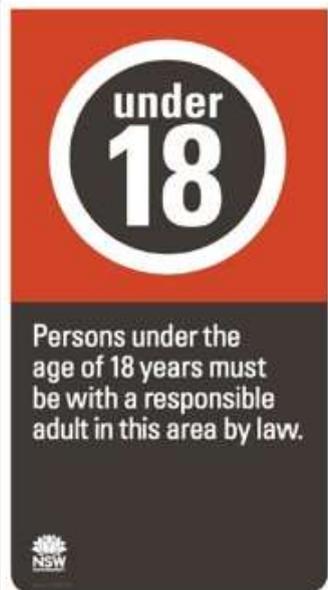
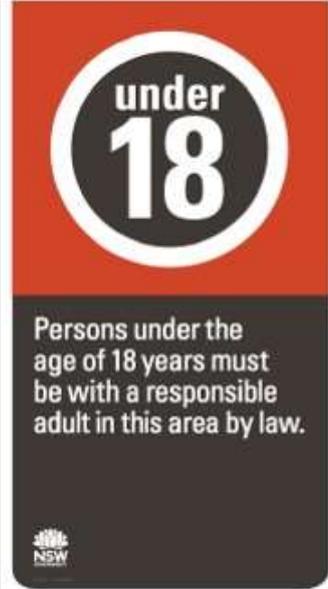
RSA Recap – Mandatory signage

The law requires that all types of licensed businesses display liquor signs. This includes a number of compulsory signs, depending on which licence and authorisations you hold, as well as a specific sign if you have a breath analysis machine.

Changes were made to liquor and gaming signage to increase flexibility, reduce cost and wait times for licensees, and better assist in minimising harm. All licensed businesses must transition to the new signs by 23 January 2022 except for online (web-based) liquor business who needed to transition to new wording by 19 July 2021.

Mandatory signs that have been changed:

Original sign	New sign	Requirement
		<p>Sign 1L – Under 18s not to be served alcohol</p> <ul style="list-style-type: none"> • This sign is required in all licensed premises • It must be displayed wherever alcohol is sold on the premises, such as at each bar and counter • Where there is no bar or counter, e.g. a small restaurant, the sign must be prominently displayed at or near every entrance
		<p>Sign 1C – Registered clubs</p> <ul style="list-style-type: none"> • This sign is required in all registered clubs • It must be prominently displayed so that anyone entering the club could reasonably be expected to see and read it.

Original sign	New sign	Requirement
		<p>Sign 2L – Under 18s not permitted in this area</p> <ul style="list-style-type: none"> • This sign is required in all hotels and clubs • It must be displayed in each bar area of a hotel or club where alcohol is served, but does not include areas where minors are allowed e.g. dining area, accommodation area in a hotel, authorised minors area, or a non-restricted area in a registered club
		<p>Sign 3L – Under 18 authorisation</p> <ul style="list-style-type: none"> • This sign is required in all hotels and licensed public entertainment venues • It must be displayed in areas of a hotel that have been approved for use by minors accompanied by a responsible adult. This may include a bistro, lounge area, or beer garden • For a licensed public entertainment venue, such as a nightclub, this sign must be displayed in any area where entertainment is provided • It must be prominently displayed so that someone entering the area that minors are allowed in the company of a responsible adult could reasonably be expected to see and read it.

Original sign	New sign	Requirement
		<p>Sign 6L – Under 18s not permitted during liquor trading hours</p> <ul style="list-style-type: none"> • This sign is required in all small bars • It is required for a small bar licence and must be prominently displayed so that a person entering the licensed premises would reasonably be expected to see and read it
		<p>7L – small bars (if authorised)</p> <ul style="list-style-type: none"> • This sign is required in all small bars that have a minors authorisation in place that is approved for use by minors accompanied by a responsible adult. It advises patrons as to what time the minor is permitted to be in the bar until • It must be prominently displayed so that a person entering the licensed premises would reasonably be expected to see and read it

New sign	Requirement	
	<p>7L – small bars (if authorised)</p> <ul style="list-style-type: none"> • This sign is required in all small bars that have been approved for use by minors accompanied by a responsible adult. • It advises patrons as to what time the minor is permitted to be in the bar until • It must be prominently displayed so that a person entering the licensed premises would reasonably be expected to see and read it 	
	<p>8L – small bars (if authorised)</p> <ul style="list-style-type: none"> • This sign is required in all small bars that have been approved for use by minors • It advises patrons as to what time the minor is permitted to be in the bar until • It must be prominently displayed so that a person entering the licensed premises would reasonably be expected to see and read it 	
<p>Original wording:</p> <p>IT IS AGAINST THE LAW TO SELL OR SUPPLY ALCOHOL TO, OR OBTAIN ALCOHOL FOR, ANYONE UNDER 18</p>	<p>New wording - mandatory from 19 July 2021</p> <p>NO ALCOHOL CAN BE SOLD OR SUPPLIED TO ANYONE UNDER 18. IT'S AGAINST THE LAW.</p>	<p>Online and web-based liquor businesses</p> <ul style="list-style-type: none"> • Wherever you sell alcohol online, you must display this wording • Your licence number should also be displayed prominently on the website and in any advertising you undertake • We recommend including this information in your website footer so it appears on all pages.

Mandatory signs that have not changed:

New sign	Requirement
	<p>Sign 4L – Breath testing sign</p> <ul style="list-style-type: none">• this sign must be displayed at all premises that provide breath testing facilities• it must be in good condition and positioned so that its contents can easily be read by a person using the instrument.
<p>THE BAR Hotel licence (General Bar) Licensee: John Smith</p>	<p>Entrance Sign (Sign 8L)</p> <ul style="list-style-type: none">• in NSW, a sign must also be displayed at the front of the premises that shows the name of the premises, the type of liquor licence held, and the name of the licensee• the sign must be displayed so that it can be read by a person from out front of the premises.



More information

Find out more about mandatory and voluntary signage specific to your licence at:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/running-your-business/signs-for-your-business>

The signage selector tool on the Liquor & Gaming website helps you to identify the signs you need to display.

You can choose to download and print the signs with your own professional printer, or you can order printed signage from the [Liquor & Gaming NSW online shop website](#).

3.5. Smoking areas

Smoking is banned in all enclosed public places and certain outdoor public areas under the *Smoke-Free Environment Act 2000*. An enclosed public space is defined as having more than 75% notional walls and ceiling.

In addition to enclosed places, smoking is not permitted in a commercial outdoor dining area, being:

- a seated dining area
- within 4 metres of a seated dining area on licensed premises, restaurant or café
- within 4 metres of a pedestrian access point to a restaurant, hotel, club or café
- within 10 metres of a food fair stall.

Many hotels and clubs have a designated outdoor smoking area. You must ensure it is not located within 4 metres of the seated dining area and that all other requirements of the Act are met.

Non-smoking signs should be clearly visible to customers and displayed in a way that would reasonably allow a person entering a particular area of the premises to be quickly alerted to the fact that it is a non-smoking area.

Under the *Liquor Act 2007*, the *Registered Clubs Act 1976* and the *Casino Control Act 1992*, you have the power to exclude a customer from your business if they smoke in a smoke-free area. If the customer fails to leave when asked, they are liable to receive an on-the-spot fine or a maximum penalty of 50 penalty units.

NSW Health provides a range of free smoke-free signage and resources for licensed venues including smoke-free facts sheets and posters.



Remember!

Electronic-cigarettes or e-cigarettes are treated the same as normal cigarettes and a person will be liable to a fine if smoking these in non-smoking areas.



More information

Find out more on the current penalties for RSA breaches and liquor fee schedule:

RSA fines:

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/serving-alcohol-responsibly/managing-under-18s/underage-drinking-fines>

Liquor fee schedule:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/liquor-licence-fees/liquor-fee-schedule>

For more information on smoke-free facts sheets, posters and other resources, visit:

<https://www.health.nsw.gov.au/tobacco/Pages/smoke-free-resources.aspx>

3.6. Emergency plans

No one can predict when an emergency is going to take place. One could arise due to a fire, explosion, chemical spill, medical emergency, natural disaster, bomb threat, violence, or terrorist attack.

There are specific laws that outline the steps you must follow when making an emergency plan.

If you manage a business, your plans and procedures will help staff in the event of an emergency. Your emergency plan must include:

- an effective response to a range of different types of emergencies, e.g. bomb threats and fires
- evacuation methods
- notifying emergency services at the earliest opportunity
- medical treatment and assistance
- effective communication with everyone at the workplace
- how often the emergency procedures are to be tested, and
- instructions and training about implementing the emergency procedures.

Emergency plans and procedures depend on:

- the type of work
- safety issues
- the size and location of your workplace
- the number of workers.

If you share a workplace with other businesses, e.g. in a shopping centre, you must consult with those businesses when preparing an emergency plan.

You must regularly test emergency procedures to ensure they are up-to-date and effective.

It is advisable to display emergency procedures in a prominent place. You must also train workers on how to implement the emergency procedures.

You can use this medical emergency plan poster, which was developed in conjunction with NSW ambulance, to help emergency services access an injured worker quickly and easily.

Download: NSW Ambulance Medical Emergency Plan:

https://www.ambulance.nsw.gov.au/data/assets/pdf_file/0007/552607/Medical-Emergency-Plan.pdf

Download: Safe Work Australia emergency plans fact sheet:

<https://www.safeworkaustralia.gov.au/doc/emergency-plans-fact-sheet>



Part B: Managing a situation

Under NSW liquor laws and at common law, licensees have rights and responsibilities to protect their licensed premises, their customers, and their staff.

These rights and responsibilities enable a licensee to refuse service, refuse entry, and remove customers who are troublesome. Licensees can take further action under these laws and bar the customer for an extended period of time or request a banning order.

You should always ensure that you are enforcing your rights while respecting the rights of customers and that you implement policies and procedures that are consistent with the *NSW Anti-Discrimination Act 1977* and NSW and Commonwealth anti-discrimination laws.

In this part, we will outline your rights and responsibilities and the strategies available to help you deal with:

- intoxication
- antisocial behaviour, and
- minors.

3.7. Intoxication

3.7.1. Intoxication laws

Liquor Act 2007

Under section 77 of the *Liquor Act 2007*, licensees have the right to refuse entry or remove people from their venue.

Section 77 (Division 2) Non-voluntary exclusion of persons from licensed premises

1. In this section:

authorised person means a licensee, an employee or agent of a licensee or a police officer

employee includes, in the case of a registered club, a person engaged under a contract for services

vicinity of licensed premises means within 50 metres of the boundary of the premises.

2. An authorised person may refuse to admit any person into a licensed premises or may turn them out of a licensed premises if:

- a) they are intoxicated, violent, quarrelsome or disorderly
- b) their presence on the licensed premises renders the licensee liable to a penalty under this Act
- c) they smoke while on any part of the licensed premises that is a smoke-free area within the meaning of the *Smoke-free Environment Act 2000*
- d) they use, or have in their possession while on the premises, any substance that the authorised person suspects of being a prohibited plant or a prohibited drug
- e) the authorised person, under the conditions of the licence or according to a term (of the kind referred to in section 134 or 136d) of a liquor accord, is authorised or required to refuse access to the licensed premises

(an example for an application under section 77 2(e) would be a multi-venue barring strategy known as a 'barred from one, barred from all' within a local liquor accord.)

3. If, under subsection (2), a person has been refused admission to or has been turned out of a licensed premises, an authorised person may refuse to admit that person to the licensed premises or may turn the person out of the licensed premises at any time.
4. If a person in respect of whom an authorised person is, under subsection (2) or (3), entitled to refuse admission to the licensed premises is on the premises, the person must, on being required so to do by an authorised person, leave the premises.
This means: If an authorised person has refused a customer admission to a licensed premises under subsection (2) or (3), that customer must leave.
Maximum penalty: 50 penalty units.
5. For the purposes of this section, reasonable force may be used to turn a person out of licensed premises if necessary.
6. A person who has been refused admission to or turned out of a licensed premises must not re-enter or attempt to re-enter the premises within 24 hours.
Maximum penalty: 50 penalty units.
7. After the 24-hour period ends in relation to any such person, an authorised person is not prevented from exercising the powers under subsection (3) in relation to the person.
This means: If a customer has previously been asked to leave a licensed premises under subsection (3), an authorised person can prevent them from entering the premises in future even after the 24-hour period ends.
8. Unless they have a reasonable excuse, a person who has been refused admission to or turned out of licensed premises must not:
 - a) remain in the vicinity of the premises
 - b) re-enter the vicinity of the premises within 6 hours.Maximum penalty: 50 penalty units.
9. A reasonable excuse in regard to subsection (8) above would be:
 - a) the person reasonably fears for his or her safety if he or she does not remain in or re-enter the vicinity of the premises
 - b) the person needs to remain in or re-enter the vicinity of the premises in order to obtain transport
 - c) the person resides in the vicinity of the premises.
10. If someone is prosecuted under subsection (8), the burden of proving they had a reasonable excuse for remaining in or re-entering the vicinity of the licensed premises is their responsibility.
11. An authorised person may only exercise functions under this section in relation to the licensed premises associated with their licence.
12. A reference in this section to turning a person out of licensed premises includes a reference to causing the person to be turned out.

13. Nothing in this or any other section of this Act operates to limit any other right a person has to refuse to admit a person to, or to turn a person out of licensed premises.

How can you use section 77?

A licensed venue may refuse entry or remove a patron if they are:

- intoxicated
- violent, quarrelsome or disorderly
- smoking in a smoke-free area
- suspected of having or using illicit drugs on the premises
- behaving in a way that causes the licensee to commit an offence under the liquor laws.

A person who has been refused entry or ejected from a licensed venue must:

- leave the venue and vicinity immediately (50 metres)
- not re-enter or remain in the vicinity for 6 hours
- not re-enter the venue for 24 hours.

Exceptions to the 50 metres vicinity rule include situations where the patron has a lawful excuse such as obtaining transport, residing in the area, or if they fear for their safety if they leave the vicinity.

Customers guilty of an offence can receive a penalty notice or a court fine of 50 penalty units.

Inclosed Lands Protection Act 1901

Note: In this context, read inclosed as enclosed.

The *Inclosed Lands Protection Act 1901* provides powers to the owner, occupier or person in charge of lands that are 'inclosed or surrounded by any fence, wall or other erection.' The Act makes it a punishable offence if a person is found to be guilty of unlawful entry on inclosed lands or unlawful re-entry on inclosed lands.

Section 4 Unlawful entry on inclosed lands

1. any person who, without lawful excuse (proof of which lies on the person), enters into inclosed lands without the consent of the owner, occupier or person apparently in charge of those lands, or who remains on those lands after being requested by the owner, occupier or person apparently in charge of those lands to leave those lands, is liable to a penalty.
 - a) 10 penalty units in the case of prescribed premises
 - b) 5 penalty units in any other case.

Section 4AA Unlawful re-entry on inclosed lands

1. a person who, without reasonable excuse, knowingly enters an event venue during an organised event in contravention of a re-entry prohibition given to the person is guilty of an offence.
Maximum penalty: 10 penalty units.

2. a re-entry prohibition is a direction given by a responsible authority for an organised event, after a person has been directed to leave the organised event, that directs the person
 - a) not to re-enter the event venue during the organised event
 - b) not to enter any other event organised by the same event organiser.

Common law

Your rights are not only recognised under the legislation, but also at common law. Common law recognises the right to revoke at any time a patron's 'implied common law invitation to enter the premises for any reason as long as it not discriminatory.' This common law extends to the refusal of entry or removal of patrons for reasons such as:

- barring/banning patrons for behaviour which occurred outside the venue
- violations of dress code
- voluntary lockouts.

Care should be taken to ensure that when a person is refused entry or ejected from the licensed premises, either under the liquor laws or by common law, it is consistent with the *Anti-Discrimination Act 1977*.

3.7.2. Prevention of intoxication on licensed premises guidelines

RSA has been part of the NSW liquor laws for more than 100 years and there have always been laws about not selling to minors, intoxicated, or disorderly customers.

As licensees, you have substantial responsibility to your staff, customers, and the overall community to proactively ensure RSA principles are met and adhered to within your venue by:

- ensuring compliance with responsible service of alcohol legislation
- implementing strategies that minimise harm associated with alcohol abuse and alcohol-related problems, including violence and antisocial behaviour
- encouraging responsible attitudes towards the sale and consumption of alcohol.

You, and your staff, must ask an intoxicated person to leave the licensed premises immediately. If an intoxicated person is found on the licensed premises, you are taken to have permitted intoxication, unless it is proven that you or staff:

1. refused to serve the intoxicated person any more alcohol
2. asked the intoxicated person to leave the premises
3. contacted (or attempted to contact) the NSW Police for assistance in removing the person if the intoxicated customer refused to leave the premises.

Alternatively, you would need to prove that:

- you took all of the steps set out in the prevention of intoxication on licensed premises guidelines issued by the Secretary Department of Customer Service
- the intoxicated person did not consume alcohol on the licensed premises.

If you or your staff are found guilty of an intoxication offence, the offence can lead to a demerit point being incurred under the incentives and sanctions system. Demerit points carry additional compliance history loading fees and will be published and made publicly available.



More information

Download the prevention of intoxication on licensed premises guidelines developed by Liquor & Gaming NSW:

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/serving-alcohol-responsibly/standard-drink-guidelines-and-preventing-intoxication>

3.7.3. Monitoring liquor consumption

As licensee, it's your responsibility to ensure the licensed premises is operating under your direct supervision or that of an appropriately experienced supervisory staff whenever liquor is being sold and supplied.

The licensee and staff must actively monitor liquor consumption to ensure that intervention occurs when a customer becomes noticeably affected, consumes liquor irresponsibly, or drinks in a manner likely to result in intoxication.

There must be steps in place to ensure staff can spot problematic consumption and intervene where necessary to prevent the person from consuming liquor and to request that person to leave the premises.

The amount of alcohol a customer has had to drink, or the amount of time spent at the venue, are not the only factors to be considered when determining whether they are intoxicated. The licensee and staff should also monitor for drink spiking which can result in similar signs to intoxication and lead to negative consequences such as assault.

The most effective general strategy a licensee or manager can put in place is to:

- ensure that staff are trained in RSA
- hold staff meetings to provide regular updates and discuss problems, such as drinking spiking
- display your house policy to clients at the venue
- ensure all areas are being assessed
- have a clear delegation of responsibilities
- ensure all staff are engaged and work as a team
- support the decisions of supervisors to refuse service
- ensure that a decision to refuse service is communicated with other staff
- use bans or patron barring where appropriate
- record all incidents in the incident register
- set a strong personal example.

Where appropriate, staff and security personnel should be equipped to actively monitor and assess customers for intoxication as they enter the licensed premises.

To ensure all staff are confident about what strategies are in place to actively prevent intoxication, it is best practice to have a written document such as a plan or house policy. This should outline:

- the measures in place to prevent intoxication on the licensed premises - such as procedures for banning a disorderly customer
- how staff are instructed and trained to prevent intoxication on the licensed premises.

The consequences for the sale and supply of alcohol to intoxicated customers extend to the licensee, employees of the licensee, and customers. To ensure that your business complies with NSW liquor laws, you must have a number of policies and procedures in place to:

- serve alcohol responsibly in order to help minimise alcohol-related harm and neighbourhood disturbances
- prevent intoxication from occurring on your premises, and employing responsible service practices - such as no shots after midnight
- provide a safe venue for customers and staff.



Remember!

Breaching the liquor laws and the conditions of a liquor licence can lead to fines, higher licence fees or the suspension or cancellation of a licence.

RSA Recap – Assessing intoxication: Intoxication guidelines

Under the *Liquor Act 2007*, a person is intoxicated if ‘the person’s speech, balance, coordination or behaviour is noticeably affected and it is reasonable to believe that the affected speech, balance, coordination or behaviour is the result of the consumption of liquor.’

This definition also considers the guidelines issued by the Secretary, which assist licensees and staff in determining whether a patron is noticeably affected, or intoxicated. The intoxication guidelines require that a reasonable belief must be established in determining an individual’s intoxication is the result of the consumption of alcohol. An individual may display signs similar to intoxication without being intoxicated.

While a pre-existing condition may emulate the signs of intoxication, if the individual has been observed consuming alcohol over a considerable period of time, it is reasonable to believe the signs of intoxication are the result of alcohol consumption.

Examples of the noticeable signs of intoxication may include:

- **speech** – the person is slurring words, talking in rambling or unintelligible sentences, incoherent or muddled speech
- **balance** – the person is unsteady on their feet, is stumbling or bumping into people or objects, is swaying uncontrollably or cannot stand or walk straight
- **coordination** – the person may be having difficulty in counting money or paying, may be spilling or dropping drinks or having difficulty in opening or closing doors
- **behaviour** – the person is rude, aggressive or offensive, is unable to concentrate or follow instructions, is boisterous, or is pestering other patrons.

Read the intoxication guidelines developed by Liquor & Gaming NSW:

<https://www.liquorandgaming.nsw.gov.au/documents/gj/gj4003-intoxication-guidelines.pdf>



Remember!

A person's medical condition or disability may cause signs or symptoms similar to intoxication. You, or your staff, must have a reasonable belief that alcohol has caused a customer to become intoxicated prior to refusing service in order to prevent a claim of discrimination based on the person's medical condition or disability.

RSA Recap – How alcohol affects people differently

Various factors that may influence an individual's response to alcohol in order to provide a safe environment and ensure responsible service of alcohol.

While people may be affected by alcohol in different ways, the common factors that influence intoxication include:

Gender: The physical differences between the male and female bodies cause alcohol to be processed more slowly by women than men, meaning a female's blood alcohol content will likely be higher than a male's after they have consumed the same amount of alcohol.

This is because women tend to have a smaller body size with a higher proportion of body fat than men. So a given amount of alcohol is distributed over a typically smaller body that has less capacity for absorption (as alcohol is not taken up by fatty tissues). In addition, the ability to break down alcohol is limited by the size of the liver, and women on average have a smaller liver than men.

Age: In general, the younger and smaller a person is, the less tolerant they are to alcohol. They also tend to have less experience with drinking therefore the effects are often magnified after excessive consumption. However, it is not only young people that are affected. Tolerance for alcohol also decreases as people reach older age and the risk of falls, driving accidents and adverse interactions with medications increases.

General health: People who are ill, tired or stressed may have a different reaction to alcohol than they normally would as their nervous system is under stress, meaning alcohol doesn't process as quickly and their level of intoxication may rise at a faster rate.

Specific health conditions that are made worse by alcohol: People who already have health conditions that are caused or aggravated by alcohol (such as dependence on alcohol, cirrhosis of the liver, alcoholic hepatitis or pancreatitis), are at risk of the condition becoming worse and the effects of alcohol being magnified if they drink alcohol because the conditions prevent the body from processing alcohol toxins as efficiently as it should.

Mental health: People who are prone to mental illnesses such as anxiety, depression and schizophrenia may aggravate their illness and increase the effects of the alcohol (which is a depressant) by drinking alcohol.

Weight: A larger, heavier or taller person's body contains more water than that of a person of smaller build. Water causes the alcohol to dilute more readily within the body's system so larger people may be affected less due to the increased volume of water. However, the makeup of a person's body also affects intoxication as muscle processes alcohol while fat does not. So, someone with more muscle who is slimmer or smaller is likely to be affected less than someone who is larger but has more fat.

Food consumption: Drinking on an empty stomach can cause intoxication more quickly as there is nothing to absorb the alcohol. This allows the alcohol to enter the system more readily and the effects of the alcohol will happen more quickly.

Rate of consumption: If a person consumes alcohol faster than one standard drink per hour, their Blood Alcohol Concentration (BAC) is likely to rise more rapidly as the human body can only process one standard drink each hour.

Other substances: Finally, mixing alcohol and the chemicals in other substances, such as prescription and illicit drugs, can impact the effect that alcohol has on the body and a person's behaviour.

RSA Recap – Erratic drinking patterns

Erratic drinking patterns are indicators that a person or group of people are becoming intoxicated. Picking up on these signs and acting on them early can help to prevent intoxication and possibly reduce the risk of harm to the affected customers and those around them.

Common erratic drinking patterns that indicate intoxication include:

- mixing a wide range of drink types
- drinking quickly and asking for more immediately
- ordering more than one drink for own consumption
- mixing alcohol with prescription or illicit drugs
- ordering 'triple shots' or extra-large drinks, or
- ordering multiple samples or large samples.

It is important that you actively watch out for erratic drinking patterns and take appropriate action to encourage responsible drinking.

RSA Recap – Standard measures

As licensee, you are responsible for ensuring staff who are selling and serving alcohol have access to the correct information and equipment to serve alcohol responsibly. Depending on the type of business, this may include:

- nip pourers that have full (30ml) and half (15ml) measures
- standard sized glassware, pre-mixed drinks, bottles and cans in original packaging stating the standard drinks/alcohol percentage

RSA Recap – Standard drinks

Understanding how standard drinks are used as a measure of alcohol content is critical to responsible service of alcohol. This is covered extensively in the RSA training but is worth revisiting.

A standard drink is one that contains 10 grams of pure alcohol. The measure of a standard drink remains consistent regardless of the size of the container.

While all staff involved in the sale and service of alcohol should understand standard drinks, as a licensee you need to make informed decisions about the products you offer to your customers.

For example, by providing more than one type of low and non-alcoholic beverages, you are supporting the responsible service of alcohol. If your venue offers cocktails, it is important to consider how many standard drinks each one will contain.

Understanding standard drinks can also help when keeping an eye on customers for signs of intoxication. While alcohol affects different people in different ways, it's likely that the customer drinking one or two light beers in an hour is less likely to cause issues than the customer doing Jägermeister shots or finishing a bottle of wine by themselves in 45 minutes.

Beer			Wine		Spirits
Full strength	Mid-strength	Light	Red/White	Champagne	Shot
					
4.6% Alc/Vol	3.5% Alc/Vol	2.7% Alc/Vol	12.6% Alc/Vol	12.6% Alc/Vol	40% Alc/Vol
285ml	375ml	425ml	100ml	100ml	30ml
1.0	1.0	1.0	1.0	1.0	1.0

3.7.4. Managing intoxicated customers

Developing a set of procedures in a house policy is best practice to assist your staff in managing refusal of service and compliance with the law. If it becomes necessary to refuse service to a customer or group of customers, staff members need to be trained in the expected processes and procedures.

Each venue approaches this issue differently with different strategies. You not only need to ensure policies and procedures exist, but you also must ensure staff receive adequate training so they're able to implement them when necessary. These policies and procedures, including effective strategies for refusal of service, may be included in your plan of management.

If there are reasonable grounds for you to form a belief that someone is intoxicated as a result of alcohol consumption, you must:

1. refuse service
2. ask the person to leave
3. contact police for assistance in removing the person from the premises if the person refuses to leave.

A person can be refused entry to licensed premises or as they attempt to purchase alcohol. Once refused entry or service, they should be asked to leave the premises. If they refuse to leave the licensed premises, contact NSW Police for assistance in removing them.

If the person believed to be intoxicated as a result of alcohol consumption is on a licensed vessel, then either you, or your employee or agent must:

1. refuse service
2. contact police for assistance in removing the person from the vessel and follow the police officer's instructions.

Care should be taken to ensure that when a person is refused entry or ejected from the licensed premises, either under the liquor laws or by common law, it is consistent with the *Anti-Discrimination Act 1977*.

Plan of management

Your plan of management (POM), which will be covered in detail in module 4.2.3, should include a section on how your venue will deal with intoxication. It should ensure procedures are in place for someone with experience managing people who are intoxicated to step in so less experienced staff are not on their own.

Your POM can include a range of strategies, such as a policy which details the procedure to follow for refusal of service. Such a policy can include:

- notifying the manager or security staff, who can ask the person to leave
- notifying other bar staff that service has been refused to the person
- providing training and information concerning appropriate communication techniques when refusing service:
 - using open and non-aggressive body language
 - using a number of strategies to diffuse a situation, such as taking the person away from an audience or blaming the refusal on the law
 - monitoring the reactions of other customers
 - picking up on early warning signs and intervening before the person is intoxicated
 - not using physical touch
 - remaining calm and using tactful verbal language
- having a policy in place to help customers who have been refused service, such as:
 - transport options
 - ability to make a phone call for a lift.

While all staff should be capable and experienced in refusing service, the venue's policy should detail management responsibilities and what actions they may take, including:

- if the person refuses to leave, management provides assistance and contacts NSW Police for assistance in removing the person from the premises
- if necessary, management may consider imposing a short-term ban
- always supporting staff who have followed the venue's policy for the refusal of service
- documenting details in an incident register.



More information

Learn more about the prevention of intoxication and read the guidelines:

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/serving-alcohol-responsibly/standard-drink-guidelines-and-preventing-intoxication>

Access the Liquor Plan of Management fact sheet here:

https://www.liquorandgaming.nsw.gov.au/data/assets/pdf_file/0019/1007029/fs3164-liquor-plan-of-management-guidance.pdf



Consider this...

You're managing at a tent that serves spirits at the country's largest annual music festival. A couple and their friend make it to the front of the line to order drinks. You notice that the friend is intoxicated, and on closer inspection the couple aren't looking so good either. Their eyes are glazed over, and they seem to be propping each other up. You suspect they've taken drugs and might be having a toxic reaction.

It's really busy, the queues are 10 people deep and the barman hasn't seemed to notice the friend's intoxication or the couple's situation.

- how would you handle this situation?
- what extra steps would you take for the couple?
- would a record need to be taken of this incident?
- what action would you take with the barman, if any?

3.8. Antisocial behaviour

3.8.1. Laws relating to antisocial behaviour

An important aspect of being a licensee is maintaining good relationships with the community and the immediate residential area surrounding your licensed premises. Part of this is ensuring customer behaviour is monitored and managed in the vicinity of the licensed premises.

A disorderly person is someone whose behaviour or language interferes with the safety and comfort of those around them. Disorderly people can also impact the community outside of the licensed premises, so it's important to handle any situation carefully.

A person does not need to be intoxicated to be disorderly. They could be sober or under the influence of another substance. Some outward signs of a disorderly person are:

- aggressiveness
- carelessness
- violence
- disruptive behaviour
- argumentative behaviour

- boisterous behaviour
- behaviour affecting customer's comfort or enjoyment level
- offensive to staff members.

It is an offence under the *Liquor Act 2007* to sell liquor, supply liquor or allow supply of liquor to a person who is disorderly.

3.8.2. Managing antisocial behaviour

You can have a significant influence on customer behaviour in your venues by setting rules to outline what is acceptable. It is important that rules and decisions are made based on the person's behaviour rather than their personal characteristics.

Once you identify a person acting in a disorderly manner, you can warn them about their behaviour or language. If they do not improve, you, your staff and NSW Police can refuse entry, refuse service of alcohol, or request they leave whether or not they have consumed any alcohol.

3.8.3. Outlaw motorcycle gangs

Licensees of premises subject to special licence conditions must refuse entry to or remove any person wearing any form of clothing, jewellery, or other accessory associated with a gang. This includes:

- any image, colour, club patch insignia or logo, whether it is 1% of the symbol or image
- any abbreviation, acronym or other form of writing that indicates membership.

Outlaw motorcycle-related organisations may include:

- | | | | |
|----------------------------|----------------|---------------------|------------------|
| • Bandidos | • Black uhlans | • Brothers for life | • Comanchero |
| • Finks | • Fourth Reich | • Gladiators | • Gypsy joker |
| • Hells angels | • Highway 61 | • Iron horsemen | • Life and death |
| • Lone wolf | • Mobshitters | • Mongols | • Mongrel mob |
| • No surrender and outlaws | • Nomads | • Odin's warriors | • Outcasts |
| • Phoenix | • Rebels | • Rock machine | • Satudarah |

Although this is a requirement for premises subject to special conditions, many liquor accords have adopted similar restrictions as 'terms of the accord'. Best practice is to ensure that OMCG in full colours are restricted access. Updating 'dress codes' in the business's house policy and plan of management will help support staff.

3.9. Minors

It is an offence to sell or supply alcohol to a person under 18 years of age (minors) on licensed premises in NSW. Significant penalties apply. In this module, we will review the laws, restrictions and strategies that are in place in NSW to protect minors from alcohol-related harm.

3.9.1. Laws relating to minors

While there are circumstances where minors may be present on licensed premises in NSW, there are strict controls to mitigate the inherent risks. Controls are put in place to allow minors on licensed premises but work to prevent them from accessing alcohol and to ensure a responsible adult is providing adequate supervision.

RSA Recap – Laws relating to minors

Significant penalties apply for anyone selling or supplying liquor to a minor in NSW, including:

- on-the-spot penalty notice of \$1,100
- court imposed fines of up to \$11,000
- 12 months' imprisonment
- the suspension or cancellation of your liquor licence.

RSA Recap – Responsible adult

Minors are allowed on licensed premises with a responsible adult.

There are some legal obligations in terms of a 'responsible adult' when they accompany a minor into licensed premises and in other situations.

The definition of a 'responsible adult' is:

- a parent, stepparent, or guardian of the minor
- the minor's spouse or de facto partner
- a person temporarily standing in as the parent of the minor.

A person standing in as a parent could include a relative such as grandparent, aunt or uncle, or person nominated to act as guardian.



More information

Find out more about underage drinking laws:

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/serving-alcohol-responsibly/managing-under-18s/underage-drinking-laws>

Let's take a closer look at the licence-specific restrictions that are in place.

Hotels

While minors are not permitted in the bar or gaming machine areas under any circumstances, there are some areas of a hotel where a minor can enter when certain conditions are met.

For example, an unaccompanied minor is permitted to be in the dining room and accommodation areas of a hotel. The hotel may also have an area where a minors area authorisation applies, such as a bistro or lounge area.

In summary, minors are not permitted to enter or remain in the bar area of a hotel. However, minors are permitted in:

- dining areas
- accommodation areas
- areas where the Authority has granted a minors area authorisation so long as they are accompanied by a responsible adult.

Registered clubs

Like hotels, there are circumstances where minors may be in a registered club when they are in the company of a responsible adult and if certain conditions are met. A registered club can obtain a:

- club functions authorisation – allows minors and non-members to attend certain functions
- junior members authorisation - allows junior members to attend sporting-related activities or prize-giving ceremonies associated with sporting activities
- non-restricted area authorisation - allows minors to enter a part or parts of the club.

Walk-through defence

A 'walk-through' defence exists where a minor walks through a bar area in the company of a responsible adult in order to access another area of the hotel or club that the minor is lawfully allowed to enter. Other defences also include where the minor:

- is an apprentice or trainee and was in the bar area receiving trade training
- is over 14 years of age and produced to staff identification evidence that could reasonably indicate that the minor was over 18 years of age.

Small bars

Like hotels and clubs, there are circumstances where minors may be permitted in small bars when they are accompanied by a responsible adult, and if certain time and food service conditions are met, or where a minors authorisation is in force. A small bar can apply to the Authority for a minors authorisation if they:

- regularly provide meal offerings, but want minors on premises between 10pm - midnight
- don't regularly provide meals but want minors on premises between 10am - 10pm to provide other family oriented services (e.g. books shops or record stores) or for certain events or functions

- want to allow minors who not accompanied by a responsible adult to enter and remain on the premises.

Where there is a minors authorisation in place appropriate signage must be displayed to show where minors are allowed on the premises, between what times, and in what circumstances.

On-premises licence

In most cases, no restrictions apply. The exception is where the on-premises licence relates to a public entertainment venue, e.g. a nightclub, where minors must be in the company of a responsible adult.

Other premises

No restrictions apply to packaged liquor licences, limited licences and producer/wholesaler licences.

3.9.2. Monitoring and preventing underage drinking

A proactive approach to preventing underage drinking is best practice. Basic steps that you, and your team, can take to stop minors gaining access to alcohol include:

- ensure mandatory and voluntary signage is displayed or published appropriately, including signage relating to the prohibition of selling, serving or supplying alcohol to minors.
- regularly monitor the licensed premises and the vicinity of the premises – if there is a group of people lingering outside, a quiet word will often be enough to encourage them to leave.
- be aware of anyone who might be ordering for others, whether it be in a liquor store or bar, ordering online or receiving deliveries. At a liquor store, you may notice someone discussing alcohol choices on their mobile or making bulk purchases of pre-mixed drinks, wine casks or other alcohol preferred by young people.
- at hotels or restaurants, take wine glasses away from young people at a dining table and offer non-alcoholic drinks - keep in mind that some food dishes may have alcohol in them.
- ensure your house policy clearly outlines the responsibilities and obligations of staff in the responsible sale, service and supply of alcohol, both on or off licensed premises.
- stand your ground: inform the customer that your business's liquor licence is at risk if alcohol is served to a minor. A refusal can embarrass a customer, so be tactful and professional. When faced with a group, move the person that is being spoken to away from the group.
- avoid blame: politely emphasise the legal obligations when refusing to serve someone or not allowing them on the premises. When asking for identification to establish a person's age, advise them that it is the policy of the premises to make this request where anyone's age is in doubt.

Second party sales

Second party sales, often referred to as 'secondary supply', is the definition of an adult buying alcohol on behalf of a minor. The adult supplying alcohol to the minor, either on licensed premises or elsewhere, is committing an offence. This offence can attract fines of:

- up to 100 penalty units
- 12 months' imprisonment (or a penalty notice)
- potentially both.

It is a defence if the person who sold or supplied alcohol to a minor is the minor's parent or guardian, or if that person has been authorised to do so by the minor's parent or guardian. However, this defence does not apply to the sale or supply of alcohol on licensed premises.

In NSW, adults cannot give permission for alcohol to be sold or served to minors even if they are a parent or guardian. Care must be taken to ensure that minors, in the company of a responsible adult, are not supplied with alcohol.

Spotting secondary sales

It is often difficult to establish the occurrence of secondary sales, therefore considerable care must be taken to ensure that alcohol is not served to minors by other parties. Signs that a secondary sale might be occurring could include:

- a customer placing repeat orders when accompanied by a young person
- an adult appearing to purchase liquor for a minor
- after you have declined to serve some minors, an adult enters your store and makes the same order they made a short time later
- you see a group of minors around your bottle shop and then an adult enters and orders various drinks popular with young people
- young people attending dinner with family or friends at a hotel or restaurant.
-



More information

Learn more about adding a minors area authorisation to your venue:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/liquor-licence-fees/liquor-fee-schedule>

Find the mandatory and voluntary signs you need for your business:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/running-your-business/signs-for-your-business>

3.9.3. Managing underage drinking

Your house policy, or plan of management, should cover your policies and procedures for managing minors in and around your business. It may include:

- requiring any person appearing under 25 years of age to produce proof of age identification
- close scrutiny to check the authenticity of identification produced
- only accepting forms of identification recognised by the NSW liquor laws
- identifying the responsible adult for any minor entering or already on the premises and informing them of their responsibilities under the *Liquor Act 2007*.

Fake evidence of age documentation

If you have concerns about the authenticity of an evidence of age document produced by a minor, you cannot confiscate the document. However, you can refuse entry and hold the document while you call NSW Police for assistance.

The main forms of fake evidence of age documentation include:

- fraudulent IDs
- 'look-alike' IDs, e.g. a minor using the ID of a sibling or another person over 18 years.

If you or your staff are found guilty of the sale or supply of liquor to minors on a licensed premises, the offence can lead to a demerit point being incurred under the Incentives and Demerit Point System. Demerit points carry additional compliance history loading fees and will be published and made publicly available.

To mitigate the risk of selling alcohol to a minor, staff need to be aware of your house policy and your policies and procedures, including how to escalate concerns to management.

An incident register should be maintained to record instances when minors were refused entry to the premises or when NSW Police were called because of concerns about the authenticity of the evidence of age produced.

Information in the register can then be used to determine how effective the premises' underage strategy is and what steps are necessary to strengthen it. Steps may include joining a liquor accord or, if the licensee is already an accord member, raising the issue at the next liquor accord meeting, or sharing information with licensees in the community through another channel.

3.9.4. Minors selling and supplying alcohol

In most cases, the law prohibits minors from selling, supplying or serving alcohol on licensed premises. A minor cannot take an order for or deliver alcohol to customers.

The law does not stop minors from doing other things within areas of licensed premises where minors are permitted. This can include stocking shelves in a bottle shop, serving meals or taking food orders in a restaurant.

The Authority can approve a minor to serve alcohol on licensed premises. However, approval would normally only be granted in very limited circumstances and would be subject to stringent supervisory conditions. For example, approval may be given for a 17-year-old to work with their parent or guardian at certain times in an area of a hotel where minors are permitted.

Maximum penalties of 50 penalty units apply to the licensee if a minor sells, supplies, or serves alcohol without approval.



More information

Visit the Liquor & Gaming NSW website for information on current penalties for RSA breaches in relation to underage drinking:

RSA fines: <https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/serving-alcohol-responsibly/managing-under-18s/underage-drinking-fines>



Consider this...

A restaurant in Lidcombe has become the fourth venue to have its liquor licence suspended.

The licensee was fined \$2,200 and had its liquor licence suspended for 21 days after NSW Police found a group of minors drinking alcohol in an outdoor area.

If you were the licensee, how would you have prevented this?

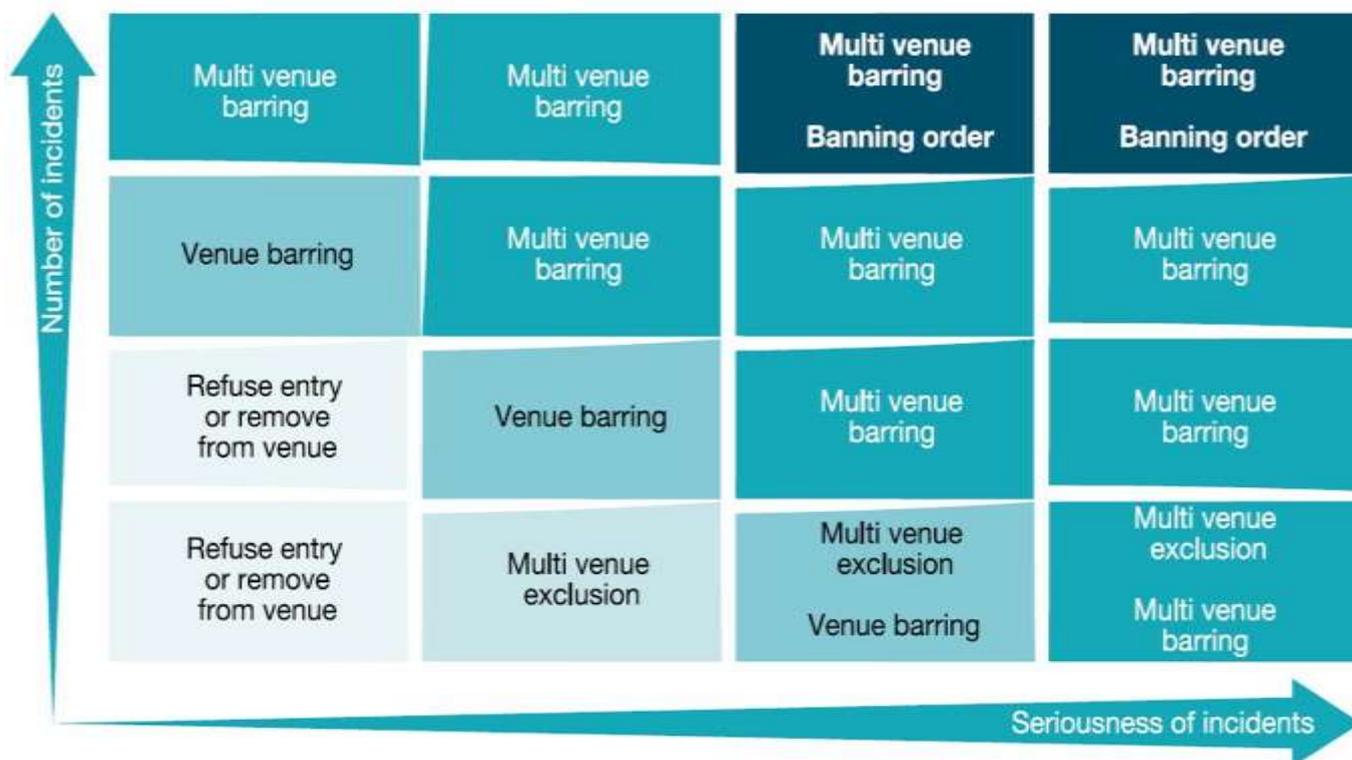
What strategies would you implement to prevent a reoccurrence?

3.10. Strategies to manage alcohol-related harms

You, your team, and your customers have a right to enjoy safe and responsibly managed licensed venues. This right is supported by the *Liquor Act 2007* by providing authority for venues and NSW Police to eject and ban troublesome customers.

There are a number of ways that you can deal with troublesome customers, including those who are intoxicated, disorderly, or under the age of 18. You can:

- refuse them entry
- remove them from the premises
- bar them for an extended period
- seek a formal banning order
- seek a place restriction order
- allow self-exclusion
- support multi-venue strategies.



3.10.1. Refusing entry

You have a common law right to refuse entry or evict people from your venue.

Under section 77 (Non-voluntary exclusion of persons from licensed premises) of the *Liquor Act 2007*, as a licensee you can refuse to admit to, or may turn out of, your licensed premises, any person who is:

- intoxicated
- violent, quarrelsome or disorderly
- smoking in a smoke-free area
- suspected of having or using illicit drugs on the premises, or
- behaving in a way that causes the licensee to commit an offence under the liquor laws.

Essentially, licensees can revoke a person's implied common law invitation to enter the premises for any reason so long as it is not discriminatory.

If a customer refuses to comply with a request under common law to leave a venue, they are committing an offence under the *Inclosed Lands Protection Act 1901* and could also be exposed to civil liability for trespass.

Criteria for refusal of entry

You can have a significant influence on customer behaviour in your venue by setting rules that determines what is acceptable.

It is important that the rules, and the decisions around them, are made based on the person's behaviour and not personal characteristics.

Care should be taken to ensure that when a person is refused entry or ejected from your licensed premises, either under the *Liquor Act 2007* or by common law, it is done within the bounds of the *NSW Anti-Discrimination Act 1977*.

Many licensees have developed house policies or customer codes of conduct to outline the rules that outlines acceptable customer behaviour. Any house policy or code should:

- focus on expected behaviour
- be applied equally
- be prominently displayed
- indicate that failure to behave in accordance with the policy or code will result in refusal of entry.

It is recommended that you display a sign near the entrance to your venue to the effect of:

[This venue has the right to refuse entry to any person, or to withdraw any person's permission to remain on the premises at any time.](#)

3.10.2. Ejecting patrons from premises

Under section 77 of the *Liquor Act 2007*, licensees, your staff, and NSW Police can refuse entry or remove any person who is:

- intoxicated
- violent, quarrelsome or disorderly
- smoking in a smoke-free area
- suspected of having or using illicit drugs on the premises
- behaving in a way that causes the licensee to commit an offence under the liquor laws.

As licensee, you must develop procedures to assist your staff in managing the refusal of service and compliance with the law. This is covered in further detail in sections 3.7, 3.8 and 3.9 in relation to managing customers who are intoxicated, disorderly or underage.

If there are reasonable grounds for you to form a belief that someone is intoxicated as a result of alcohol consumption, you must:

1. refuse service
2. ask the person to leave
3. if the person refuses to leave, contact NSW police for assistance in removing the person from the premises.

When removing a customer, staff should inform the person clearly:

1. the reason for their exclusion (using words that align with the *Liquor Act 2007* – for example, 'intoxicated', 'disorderly' etc.)
2. they are required by law to move more than 50 metres away from the premises
3. they must not re-enter the 50-metre vicinity within 6 hours
4. they cannot return to the premises for at least 24 hours
5. if they fail to comply, they are committing an offence.

Exceptions to the 50 metres vicinity rule include situations where the customer has a lawful excuse such as obtaining transport, residing in the area, or if they fear for their safety if they leave the vicinity.

Managers should record the incident in the incident register as soon as possible.

3.10.3. Fail to quit

Fail to quit refers to a customer who refuses to leave a licensed venue when asked to do so.

Fail to quit is an offence under section 77 of the *Liquor Act 2007* for failing to leave a licensed premises (of the vicinity of) when requested. If the customer refuses to leave, contact NSW Police for assistance in removing the person.

Police can issue the person found guilty of an offence for non-compliance with the direction to leave with an on-the-spot fine for each offence, with a maximum court fines of 50 penalty units.

NO EXCUSE!
\$550 on the spot fine

You will be refused entry or asked to leave this venue immediately if you are:

- intoxicated
- violent
- quarrelsome
- disorderly
- smoking in a smoke-free area
- using or in possession of prohibited drugs

If you are refused entry or asked to leave, you must:

- leave the vicinity of the premises (more than 50 metres)
- not re-enter or attempt to re-enter the premises within 24 hours
- not re-enter the vicinity of the premises for six hours

If you don't comply you're committing a crime.

Supplying alcohol to intoxicated persons
It is an offence for patrons to supply alcohol to an intoxicated person on licensed premises. Offenders face a maximum fine of \$1,100.

Failure to quit
Where a troublesome patron refuses to leave a licensed venue when asked by staff, the patron commits an offence. Grounds for ejection include the patron being intoxicated, violent, quarrelsome, disorderly, smoking in a smoke-free area, or using or possessing prohibited drugs. Offenders face an on-the-spot fine of \$550 for each offence and maximum court fines of \$5,500.

Attempt to re-enter or remain in the vicinity of premises
A patron who is refused entry to, or ejected from, licensed premises cannot re-enter or remain in the vicinity of the premises. The Act defines 'vicinity' as any area less than 50 metres from the licensed premises. The patron must not re-enter or attempt to re-enter the premises within 24 hours of being ejected or refused entry. They must also not re-enter the vicinity within six hours unless the patron reasonably fears for his or her safety, needs to obtain transport, or lives within the vicinity of the premises. Offenders face an on-the-spot fine of \$550 for each offence and maximum court fines of \$5,500.

LIQUOR ACCORDS
LIQUOR ACCORDS
LIQUOR ACCORDS

3.10.4. Barring customers

Most customers behave responsibly and are warmly welcomed back to venues, but there are a minority of people who demonstrate violent or highly inappropriate behaviour.

A customer can be temporarily banned from the premises for 24 hours under section 77(3) of the *Liquor Act 2007* for being intoxicated, violent, quarrelsome or disorderly, smoking in a smoke-free area, or for use or possession of a prohibited drug while on the premises.

As licensee, you can impose a longer or indefinite barring period under common law.

Make it effective

In order for the barring to be effective and have meaningful impact on customers' behaviour, you need to:

- establish clear guidelines for acceptable and unacceptable behaviour
- determine the consequences of unacceptable behaviour (i.e. customer barring terms)
- communicate these clearly to customers
- apply them resolutely and consistently.

The benefits of a barring strategy are:

- it sends a strong message to troublemakers
- it defines and reinforces acceptable standards of behaviour in local venues
- customers feel safer so are likely to spend more time at your venue
- less disruption for staff
- a safer work environment
- a more relaxing and enjoyable atmosphere.

Anti-discrimination guidelines

Any decision to remove or bar/ban a customer must be made in accordance with the *Anti-Discrimination Act 1977* (NSW).

The rules and decisions around barring and banning customers must be made based on the person's behaviour, and not their personal characteristics, such as race, gender, or any other characteristic.

Businesses must apply rules consistently and fairly. For example: if a customer is barred for six months for disorderly behaviour, all other customers should be barred for the same length of time for the same behaviour and not be given a heavier penalty for personal reasons or because they are part of a minority group.

Developing a strong set of procedures and strategies for refusal of entry for all staff to follow before barring/banning any customers is one way to help avoid discrimination. Check your procedures with a legal advisor to be absolutely certain they are enforceable.

Additional guidelines are also available for the hotel and accommodation industry, which outline the rights and responsibilities of licensees and their employees under anti-discrimination law.

Where possible, standard barring terms should be agreed upon and adopted by all members of the local liquor accord. The benefit of developing strategies through a local liquor accord is that it sets a consistent approach for all venues in the accord to follow. This helps customers understand the expectations from all venues in an area, making it easier for them to comply. The refusal of entry and patron bans/barring guidelines include step-by-step instructions and advice on the legal rights and obligations of licensees, including information on privacy and anti-discrimination issues.



More information

Learn more about the guidelines for the hotel and accommodation industry:

https://www.liquorandgaming.nsw.gov.au/documents/gl/hotel_anti-discrimination_guidelines.pdf

Find out about refusing entry banning patrons:

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/serving-alcohol-responsibly/ejecting-and-banning-patrons>

3.10.5. Banning order

A banning order is a formal order that is issued by the Authority and prohibits a specified person from entering or remaining on a licensed premises. Banning orders are appropriate when:

- a person repeatedly ignores a barring or banning period imposed by law
- there is no liquor accord in place to enforce multi-venue barring
- venues can't agree about barring/banning a customer
- the customer has been so disruptive to justify legal action.

An application for a banning order can be made to the Authority by:

- a licensee - who is party to a local liquor accord
- Secretary, NSW Department of Customer Service
- NSW Police.

A person subject to a banning order must not enter, attempt to enter, or stay on the licensed premises if they do enter. A maximum penalty 50 penalty units applies.

Under the *Liquor Act 2007*, authorities can ban a patron for up to 6 months, from multiple licensed venues, if they have been repeatedly intoxicated, violent, quarrelsome or disorderly on or in the immediate vicinity of licensed premises.

Sydney CBD and Kings Cross precincts banning orders

NSW Police can issue a person with a temporary banning order that applies for up to 48 hours, preventing them from entering most licensed premises in the precincts. Long-term banning orders can be issued by the Authority for up to 12 months in more serious cases.



More information

Learn more about Guideline 4 on Applications for Banning Orders:

https://www.liquorandgaming.nsw.gov.au/documents/ilga/guidelines/Authority_Guideline_4_FINAL.pdf

3.10.6. Place restriction order

As a last resort for serious matters that lead to prosecution, licensees can also consider requesting placement of a restriction order under the *Crime (Sentencing Procedure) Act 1999*.

This procedure involves the NSW police and seeks to ban a person from certain places for 12 months when that person is convicted for a minimum sentence of 6 months.

Further information on place restrictions orders can be sought from your local NSW Police licensing officer.

3.10.7. Self-exclusion

Section 76 of the *Liquor Act 2007* allows people with a drinking problem to voluntarily exclude themselves from a licensed premises. The person enters an agreement with the licensee that compels the licensee or a responsible member of staff to prevent the customer from entering the licensed premises.

Licensees are obliged to comply with a request for self-exclusion from licensed premises. However, while you can lawfully remove or prevent the person from entering the licensed premises, you cannot use any more force than is reasonable in the circumstances.

In the case of self-exclusion agreements, no civil or criminal liability is incurred by you, or a responsible person for the licensed premises, for any action or inaction made in good faith (and in accordance with section 76) to the person who wished to enter the agreement. There is also no civil or criminal liability on you if the self-excluded person succeeds in entering or remaining on the licensed premises.

However, section 76 does not limit or otherwise affect the civil liability of a person, including yourself and your employees, for negligence that causes personal injury to a person or the death of a person.

A person can also terminate their self-exclusion agreement at any time in writing by completing the form approved by the Authority.



More information

Download the self-exclusion form:

<https://www.liquorandgaming.nsw.gov.au/documents/fm/self-exclusion-from-licensed-premises-agreement-form.pdf>

Form for terminating a self-exclusion agreement:

<https://www.liquorandgaming.nsw.gov.au/documents/fm/Self-exclusion-from-licensed-premises-notice-of-termination-of-agreement.pdf>

3.10.8. Multi-venue strategies

Multi-venue strategies rely on cooperation between local venues to protect the safety and wellbeing of staff and customers and reduce alcohol-related violence. There are two strategies:

1. multi-venue exclusion: a customer is immediately barred from multiple venues for 24 hours
2. multi-venue barring: a longer term barring is put in place.

This will generally require an agreement and rules between an executive or the governing body, regular meetings, or communication channels. For these reasons, local liquor accords are the most appropriate to implement a multi-venue barring strategy as these governance aspects are already in place.

Multi-venue exclusion

Multi-venue exclusions occur after a person has been refused entry or removed for being intoxicated, violent, quarrelsome or disorderly in, or near, a venue. Licensed premises may then immediately notify all the surrounding venues who also refuse entry to that person.

This strategy aims to deal with the immediate risk posed by the customer and applies for a maximum of 24 hours. Longer periods of barring should be considered under a multi-venue barring policy.

Multi-venue barring

Under a multi-venue barring system, you can work in partnership through your local liquor accord and agree on a system where troublesome customers are barred from all venues in an area.

Multi-venue barring is not imposed for one incident in most cases unless that incident is particularly serious. It is usually the result of a series of incidents over a period of time. These are usually accompanied by repeated warnings from individual licensees.

More information



Find out about refusing entry banning patrons:

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/serving-alcohol-responsibly/ejecting-and-banning-patrons>

For case studies on how liquor accords have successfully implemented the multi-venue barring and other strategies, refer to section 4.4.2 Liquor Accords.

Part C: Dealing with an incident

Sometimes incidents occur despite our best efforts. These incidents are often minor, but sometimes they escalate to a criminal incident. In these situations, it is important to know what your obligations are to respond.

3.11. Mandatory incident register requirements

An incident register is a record of what happens at a licensed venue.

Some licensees are mandated to maintain an incident register. This section outlines the mandatory incident register requirements to ensure compliance with NSW liquor laws. Best practice recommendations relating to incident registers will be covered in Module 4: Best practice strategies to prevent alcohol-related harms.

When to use an incident register

Whether a minor incident (intoxication and removal from premises or refusing entry to a minor) or a crime (assault or drug supply) has occurred, you should record the details in an incident register.

You must maintain an incident register if you are the licensee of a venue that:

- is authorised to sell or supply liquor after midnight at least once a week on a regular basis, or
- it is a condition of the licence that the licensee maintains an incident register; this may include:
 - licences listed as a declared premises under schedule 4 of the *Liquor Act 2007*
 - limited licence that trades after midnight, or
 - licences located in the Kings Cross or Sydney CBD entertainment precincts.

Note: The requirement for licensees to maintain a mandatory incident register is independent to the requirement for contracted security staff to maintain an incident register. You must keep a licensee's incident register. It is sometimes incorrectly assumed that the security register will suffice.

What to include in your incident register

The *Liquor Act 2007* and the Liquor Regulation 2018 describe the types of incidents you must record in your register. These include any incident that occurs outside of your venue's standard trading hours or that occurs between midnight and 3am for a limited licence, including any incident that:

- involves violence or antisocial behaviour at your business
- involves violence or antisocial behaviour occurring in the immediate vicinity of your business and involves a person who has recently left or been refused entry to your premises
- results in someone being refused entry or asked to leave under section 77 of the *Liquor Act 2007*
- results in someone needing medical assistance
- includes possession or use of drugs on the licensed premises.

You might assign the duty of maintaining your incident register to managers or other key staff at your business. However, you should emphasise that maintaining the register is a requirement under law.

Liquor & Gaming NSW Inspectors and NSW Police review incident registers when they audit a licensed premises. You may face prosecution if you don't maintain your incident register properly.

Venues in the Kings Cross and Sydney CBD entertainment precincts

If you hold a liquor licence for a venue in the Kings Cross or Sydney CBD entertainment precincts, you must maintain an incident register at all times. You must also notify NSW Police immediately after becoming aware that a violent incident causing injury has occurred at your venue.

You must make sure that any incident information, including electronic data, is available to Liquor & Gaming NSW inspectors or the NSW Police.

Compulsory format

If your venue is in the Kings Cross or Sydney CBD entertainment precincts, your incident register must be in a format approved by Liquor & Gaming NSW.

If your venue is not in a precinct, you can use any of the following:

- the incident register format that is available from Liquor & Gaming NSW
- any bound book with pre-numbered pages and the same incident report content areas as the Liquor & Gaming NSW issued incident register.

The use of electronic incident registers for licensed venues across NSW has been approved, provided it complies with the content requirements applicable to the physical incident register and records the time and date of any data entered.

You can order a physical incident register from Liquor & Gaming NSW by:

- visiting the NSW government's online shop - Shop NSW
- using the Liquor & Gaming NSW product order form.

3.12. Reporting a crime

There are some circumstances where, despite having strategies to prevent and manage troublesome situations in place, things escalate out of control and a criminal incident occurs.

You and your team must follow the requirements of the law when a crime has been committed.

If your venue is in the Kings Cross or Sydney CBD precincts, and any violent incident has occurred on the premises that caused injury to a person, the licensee must take all reasonable steps to preserve the area where the incident occurred in line with the crime scene preservation guidelines developed by NSW Police (link on following page). Staff must immediately report the incident to the relevant Police Area Commander or Police District Commander.

Any crimes committed on licensed premises that are of a serious nature should be reported to NSW Police. Licensees and staff have obligations under section 316 of the *Crimes Act 1900* to report relevant information where they know or believe a serious offence has been committed on the premises.

As good practice, staff should:

- immediately contact 000 or their local NSW police station
- render any required first aid and immediately call an ambulance
- determine the crime scene and remove all persons from the area.

3.13. Preserving a crime scene

It is your responsibility, as licensee, to preserve a crime scene where necessary. NSW Police have developed a set of crime scene preservation guidelines for licensed premises to assist with compliance.

Remember there may be multiple crime scenes. Cordon off each area with things such as bar stools, tables or tape, or consider closing off areas such as toilets or hallways completely.

In order to preserve the scene, do not allow any persons to enter this area, and do not clean anything up within that area as you may be destroying vital evidence.

Some evidence, such as blood, semen, skin cells, saliva, hair or fingerprints, may not be visible to the naked eye. To ensure preservation of potential evidence, it is best practice to assign a member of staff to guard all crime scenes until the arrival of NSW police.

Do not move any items that may have been involved in an offence unless absolutely necessary, for example, if there is a chance the items could get wet. If you do need to move anything from the crime scene, use gloves to stop transference of your DNA or fingerprints and notify NSW police on arrival if any items have been moved or removed. These may include bottles, glasses, pool cues, clothing, furniture, weapons, or even cigarette butts.

You can take notes about the incident to help you relay it to NSW police officers. Include details of the time, date, location, description of offender(s), vehicle(s) involved, weapons used, last known direction of offender(s) and any movement of items involved in the incident.

Obtain any CCTV footage and the security sign-on sheets, as these could help with investigations. Obtain the contact details of witnesses and try to keep all witnesses separated to maintain the integrity of their evidence. It is helpful if the witnesses themselves are present to speak to the NSW police, so you should try to encourage them to stay until officers arrive and can take their statement.

You must hand all of this information to NSW Police on arrival and be prepared to make a statement regarding the incident.



Remember!

Interfering with evidence of a crime may constitute an offence, which could leave you liable to prosecution or disciplinary action. This could include the closure of your licensed premises.



More information

Visit the NSW Police website for more information about deterring crime and preserving a crime scene:

https://www.liquorandgaming.nsw.gov.au/documents/resource-centre/ALEC_CrimeScenePreservationGuidelines.pdf

Order an incident register online at Shop NSW:

<https://www.bspg.com.au/ive-liquorandgamingsw>

Module summary

Congratulations, you have completed Module 3: Your responsibilities to manage alcohol-related harms. You should now be able to:

- plan and implement prevention strategies to protect your business
- manage a difficult alcohol-related situation by understanding your responsibilities under the law and applying strategies to deal with:
 - intoxication
 - antisocial behaviour
 - minors
- meet mandatory requirements when dealing with an incident
- know what do when a crime has occurred.

Module 4: Best practice strategies to prevent alcohol-related harms

4.1. Introduction

'Best practice' refers to procedures, tools, methods, and techniques over and above what is mandated by the NSW liquor laws that can help your business reduce alcohol-related harms.

Creating a safer environment through a commitment to best practice RSA will not only lessen the risk of legal, health, and social concerns but may also improve the reputation of your business. If increased safety is assured, customers will want to spend more time at the premises, which means greater community confidence, more regular patrons, and a thriving business.

As a licensee, it is your responsibility to take all reasonable steps to ensure that:

- use of your premises does not adversely affect the amenity of the nearby area
- behaviour of people entering or leaving the premises does not adversely affect the amenity of the nearby area
- crime, violence and antisocial behaviour on or around the premises is prevented where you know or have reason to believe the offence is being or about to be committed.

In this module, we will work through some best practice methods and techniques that have been tried and tested and found to be successful in licensed venues across NSW, as well as discussing possible best practices that you think could be helpful to manage a safe and successful licensed venue.

At the end of Module 4: Best practice strategies to prevent alcohol-related harms, you will be able to:

- explain the meaning and purpose of best practice
- explain how as a leader you can build a culture of compliance in your business
- outline a range of best practice methods and procedures, and
- consider best practice methods and procedures that may be suitable for your business.

4.2. Tools and templates

A range of tools and templates have been developed to assist licensed premises to reduce alcohol-related harms.

4.2.1. Risk management

The potential harm the service of alcohol may cause has been well documented. Therefore, it is essential that you maintain a proactive approach to risk as licensee. This will ensure that, as far as is reasonably possible, any risk to your business is minimised and the safety and security of your employees, customers, neighbours, and assets is maintained at all times.

[Risk assessment based on harm minimisation](#)

Harm minimisation aims to address alcohol-related harm and violence by reducing its effects on individuals and society. While there are mandatory harm minimisation requirements and obligations in place for licensees and licensed venues, you can always do more to protect those who might be at risk.

Taking a risk-based approach is a smart way of minimising harm and ensuring your business is compliant with basic legislative requirements and licence conditions. A risk-based approach might include activities like:

- conducting ongoing safety audits and risk assessments to establish a risk profile, and
- determining appropriate control measures.

In most circumstances, 'harm minimisation' is the primary objective for licensees and it is essential to ask yourself:

- when, where, why and how are risks which could cause harm likely to happen?
- are the risks internal or external?
- who might be involved or affected if an incident happens?
- what can you do to control your risks and reduce the likelihood of their occurrence?



Remember!

Your risk management activities should be documented in a live document, meaning that it is maintained and updated on an ongoing basis. This will help you:

- ensure continual compliance
- outline the potential risks your business faces
- document controls that are in place so that they can be easily reviewed.

4.2.2. House policy

The best way to ensure your staff know how things are expected to be done in your business is to develop a robust house policy. It should outline all of your policies and procedures for the situations staff might encounter, such as dealing with intoxicated customers, checking ID and how to manage the specific issues faced at your venue. It should also include the venue's licence conditions.

A house policy not only outlines your commitment to harm minimisation and the responsible service of alcohol, it is an important way of communicating your expectations of behaviour directly to customers. You can display your house policy to clearly reflect your venue's commitment to best practice strategies of RSA.

Some house policy items could be:

- providing a safe and enjoyable place for your community to enjoy
- your commitment to minimise harm associated with misuse and abuse of liquor, including harm arising from violence and other antisocial behaviour
- acknowledging the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor

- your commitment to fostering strong community relations and proactively engaging with local stakeholders
- if you are a member of a liquor accord, acknowledging that you strive to ensure your actions reflect the essence of the liquor accord
- which customers are not to be served alcohol, e.g. minors and intoxicated persons
- drink limits, e.g. no more than two shooters to be served at a time.

Other suggestions that may apply to a range of licence types include strategies around:

- no BYO
- ID checking
- no excuses (for example, fail to quit)
- refusing entry if a patron is carrying open alcohol on approach
- barring
- zero tolerance
- staff training
- working with NSW Police.

It's a good idea for all staff to have input into a house policy. If everyone has the opportunity to contribute their ideas, they are more likely to always apply the principles of RSA in the premises.

4.2.3. Plan of management

A plan of management (POM) is a detailed document that specifies the policies, procedures and practices that you, as the licensee, use to operate your business. For guidance view the [Liquor Plan of Management fact sheet](#).

Your POM is an important document that demonstrates your intention to remain compliant with the law and outlines how you intend to do so. It can be used in staff induction training and to support development applications and applications for licence condition variations. A POM can provide an insight into the licensee's business practices and should address the scope of your responsibilities. A careful, thorough POM provides a guideline for best practice business operations and should also be viewed as a valuable risk management tool. Any licensee can create a POM for their premises.

The checklist provided in this section is a guide as to what should be included in your POM. The checklist is a valuable tool that will help you create your POM and maintain it through regular reviews.

A business's plan of management may include the following:

- the organisation's business structure, objectives and values
- the principal activity that will be conducted on the premises
- details of the operating environment
- details of the licence and any authorisations or special conditions imposed
- details of the services and products supplied
- the provision of food (types, when it will be available, etc.)
- details of the maximum number of customers to be permitted on the premises
- trading hours
- policy/procedures - the responsible service of alcohol

- policy/procedures - running responsible liquor promotions
- policy/procedures - managing intoxication
- policy/procedures - managing customer behaviour
- policy/procedures - managing minors
- policy/procedures - handling complaints
- policy/procedures - ensure the security and safety of customers, staff and the local community
- policy/procedures - manage employees, including details on how staff are trained
- procedures for emergency and evacuation
- details of security arrangements (how many staff, when, for how long etc.)
- a crowd management and dispersal plan
- transport options available to customers and staff
- a waste management plan - including processes for managing litter in and around the business
- details of participation in a liquor accord (if applicable)
- minimising the impact of amplified/outdoor entertainment on the surrounding locality
- any other factor that is unique to a business.

Overall, a POM should reflect an ethical approach to operating the business within its social and ecological environments.

The creation and presentation of a plan of management can form part of a condition placed on a licence by the Authority. In these situations, it becomes mandatory for the licensed premises to have a plan of management that is displayed and easily accessible by staff and general public.



Remember!

Your plan of management describes your management practices and the policies and procedures you have in place for your business. It should be updated regularly and provided to Liquor & Gaming NSW or NSW Police if required.

4.2.4. Self-audit checklists

Liquor & Gaming NSW has developed a variety of licence-specific self-audit checklists to assist you with regularly monitoring your compliance. Self-audit checklists can help your business comply with NSW's liquor and gaming laws. The checklists cover important legal requirements such as:

- signage
- advertising
- deterring crime
- noise
- incident register
- responsible service of alcohol
- responsible conduct of gambling.

Liquor & Gaming NSW inspectors use these checklists when they audit your premises. Address any areas in the checklist where you might check 'no', as you may be in breach of your obligations.

Access the individual checklists on the Liquor & Gaming NSW website:

<https://www.liquorandgaming.nsw.gov.au/resources/compliance-checklist>

- CI1001 producer/wholesaler licence
- CI1002 club licence
- CI1003 hotel licence
- CI1004 limited licence
- CI1005 on-premises licence
- CI1006 packaged licence
- CI1007 same day delivery providers and delivery people
- CI1008 small bar licence
- CI1010 on-premises licence (vessel)
- CI1011 Sydney CBD Entertainment precinct
- CI1012 racing and wagering licence, and
- CI1013 Kings Cross precinct.

4.2.5. Voluntary incident register

As noted, you must maintain an incident register if you are in a higher risk venue in a prescribed precinct or it is otherwise a condition of your licence. However, best practice is that every licensed business maintains an incident register and records any incidents as soon as possible after they occur. They are a useful compliance tool and can be part of your venue's responsible practice.

A register allows you to retain details of incidents that involve:

- intoxication
- violence on your premises
- antisocial behaviour on your premises or its immediate vicinity
- people being removed from your premises
- someone needing medical treatment
- complaints about noise disturbances
- work health and safety, public liability and regulatory issues.

Maintaining an incident register at all times should give you a better understanding of these events and how they affect the safety of your business and customers. It will also help you to develop appropriate strategies to reduce the risk of alcohol-related violence and antisocial behaviour at your business.

It is also useful to educate all your staff about the value of maintaining an incident register, so that they understand its importance in supporting a safe and responsible venue.

Regularly reviewing how you record incidents with staff will help you to be consistent and accurate.

4.2.6. Voluntary signage

Liquor & Gaming NSW provides a range of voluntary signs that may be useful for different types of licensed venues to assist with harm minimisation.

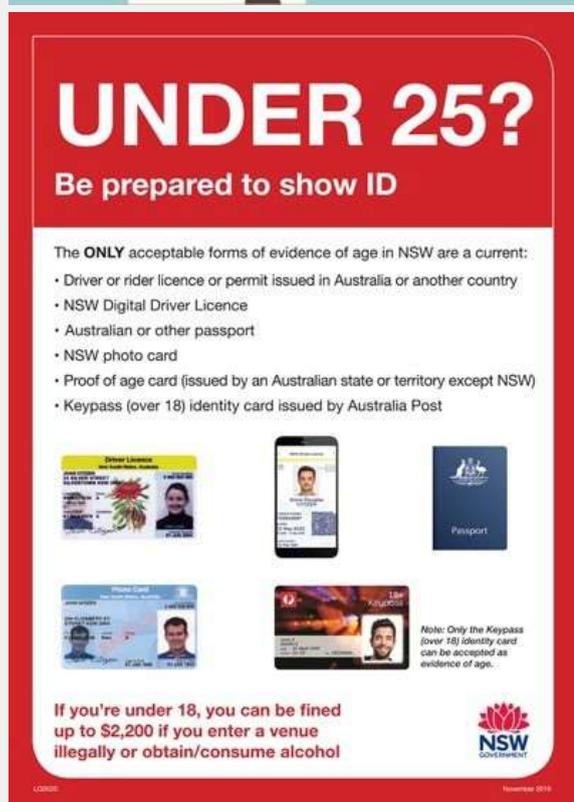
Voluntary signs are available for purchase through Liquor & Gaming NSW. There are also downloadable liquor accord signs. You may create your own versions of voluntary signs, but you can't reproduce or copy a sign purchased from Liquor & Gaming NSW.

Proof of age/sale to minors' signs – for customers



Under 18? Don't risk it! Sign

This sign tells customers what they risk if they try to buy alcohol if they are under 18.



Under 25?

This poster helps front of house or bar staff tell potential customers about photo ID requirements. It also warns younger customers that staff will check ids.

The poster includes images of the forms of photo ID that NSW venues can accept under the law.

Proof of age/sale to minors' signs – for staff

These signs are intended for behind the counter and remind staff of the risks involved for the licence and the staff member if alcohol is sold to minors.



ID checklist

✓ Accept only current photo ID

- **NSW Photo Card** (issued by NSW Roads & Maritime Services)
- **Driver's licence** (issued by an Australian State or Territory or another country)
- **Passport** (issued by Australia or another country)
- **Proof of Age card** (issued by an Australian State or Territory except NSW)
- **Keypass (over-18) identity card** (issued by Australia Post)

Look at the photograph. Does it look like the person in front of you?

✓ Dates

Check the date of birth. Are you satisfied about the person's age?
Check expiration date. Do not accept expired IDs.

✓ ID Appearance

Has the card been tampered with?
Is the font type and card thickness consistent?
Is the card surface shiny, peeling, wrinkled, bubbled or otherwise lifted?

Unsure?

Did the holder about details from the ID.
Ask for secondary ID.
Compare the person's signature with what appears on the ID.

Still unsure? **REFUSE TO SELL**

* A liquor licence can be suspended or cancelled when alcohol is sold to a minor.
A person's RSA certification can also be suspended or revoked when alcohol is sold to a minor.

January 2019



Underage checklist

The underage checklist sign is a handy guide for staff on how to check a customer's photo ID.

It's not worth the risk – refuse to sell

The refuse to sell sign is a quick visual guide for staff on the steps to take when checking customers' ID.

4.3. Strategies to prevent specific issues

In addition to the practices that are mandated by the NSW liquor laws, other best practice strategies can be used to improve your business and maintain safety and quality.

4.3.1. Crowd control

Managing the number of people in and outside your premises – whether a venue, vessel or event – will influence the ambience of your business and create an atmosphere where your customers will have a safe and positive social experience that is likely to result in repeat business.

Do not allow any area to become too congested with customers. In crowded areas, customers trying to socialise while standing are likely to get pushed and shoved and may have difficulty moving and being served. This kind of congestion makes it harder for security to observe patrons and may affect your ability to coordinate a safe and effective evacuation.

The spilling and slopping of drinks and an uncomfortably close proximity to other patrons can also create tension and conflict. By regulating the number of customers in an area, you can also ensure that staff serving alcohol have enough time and visibility to assess levels of intoxication and reduce patron frustration.

For vessels, be particularly mindful of the need for crowd control measures when customers are disembarking.

4.3.2. Security

In many circumstances, it is necessary for security to supervise the external surroundings of the licensed premises, event or vessel to ensure quiet and good order is maintained. To ensure that incidents are dealt with quickly and safely, it is also important to employ the right ratio of security staff to customers.

For vessels, this may be an additional security precaution to consider when passengers are disembarking.

When determining the necessity for external security supervision, it is essential that you consider factors that are associated with potential risks, such as:

- delays in customer entry to the venue, vessel or event, e.g. queues
- denial of entry to customers
- customers being requested to leave the premises
- congregation of large groups outside the venue, vessel or event
- departure of large groups from venue, vessel or event, i.e. crowding
- the proximity of neighbours to the venue, vessel or event
- environmental issues in the vicinity of the venue, e.g. areas with low visibility or lighting levels,
- electronic security presence, e.g. CCTV, in the nearby vicinity or on a vessel.

Security personnel must be fully aware of their powers to intervene with issues which occur outside the licensed premises and should act accordingly. They should be encouraged to contact NSW Police where the quiet and good order of the neighbourhood is compromised.

4.3.3. Amenities

Amenities can make a huge difference to the management of your business whether that is a hotel, bar, bottle shop, festival, event or vessel.

Consider:

- whether your premises are adequately lit and lighting outside is bright enough for security. This will allow monitoring of customer behaviour and intoxication levels, and will also discourage drug dealing, sexual harassment, and unwanted loitering
- maintenance of internal temperature, airflow, ventilation and space will influence the comfort levels- congestion may result in frustration and violence
- your responsibilities regarding the use of dangerous products, e.g. liquid nitrogen or banned products
- whether fire and other safety exits are designated with lit signs and are not blocked or locked from inside
- whether your venue, vessel or event is clean and in good repair to minimise unhygienic practices and potential safety risks.

4.3.4. Customer behaviour

Measures to help control customer behaviour could include:

- discouraging unsafe practices that are likely to cause harm
- ensuring staff regularly clear tables and surroundings of empty glasses and bottles to reduce incidences of broken glass and remove potential weapons should trouble arise
- serving alcohol in measured glasses so people can monitor their standard drinks
- supervising taxi ranks outside your premises or event and advising local taxi companies of your closure times. Fights tend to break out among people waiting in line.

To help keep customers safe, always have at least one staff member on duty with first-aid training to deal with injuries such as sprained ankles or cuts from broken glass, as well as emergencies such as heart attacks and heat exhaustion.

Customers should not be discouraged from leaving the premises with open containers of alcohol, such as subbies, cans or glasses, as:

- this could be interpreted as tolerating customer consumption of liquor in a public place, which may be prohibited, or tolerating drink driving
- allowing a customer to remove liquor may be breaching the *Liquor Act 2007* or a condition of your licence
- it could result in complaints from neighbours, which could end up affecting your reputation and licence conditions.

Drink spiking

Drink spiking is when someone deliberately adds alcohol or another drug to someone's drink without their knowledge.²³ This can lead to negative consequences such as assault.

It is important to be aware of signs that someone's drink has been spiked. These include the person:

- feeling dizzy or faint
- feeling ill or sleepy
- feeling drunk even if they've only consumed a small amount of alcohol
- appearing incoherent and confused.

These signs may be similar to intoxication, so it is important that staff members talk to the affected person to ensure they understand the situation and manage it appropriately.

Measures to help identify and prevent drink spiking could include:

- Providing training to staff so they are aware of the signs or behaviours associated with drink spiking and how to manage the situation.
- Updating your workplace policies and procedures to include strategies on managing drink spiking on the premises. Your venue's house policy should reinforce the expected standards of behaviour from customers, including that drink spiking will not be tolerated, and be visible to customers and staff.
- Encouraging staff to monitor the environment and report any suspicious behaviour.
- Ensuring staff regularly clear unattended glasses from the bar area and surrounds, as well as other areas like bathrooms.
- Responding to requests for assistance from customers who report feeling unsafe. Assessing the situation and work out the best course of action.
- Encouraging staff to trust their instincts and report situations that they are unable to manage.

Maintaining a list of local services for quick reference will be handy in the event of a drink spiking. These can include:

- Police include Triple Zero (000)
- Police Assistance (131 444)
- Crime stoppers (1800 333 000)
- Your local Police station's direct number: Ph:
- Local taxi services
- Counselling services like 1800RESPECT

If you or your staff witness a drink spiking at your venue:

- Call police if the perpetrator(s) can be identified.
- Record incidents of drink spiking in your venue's incident register including the date and time when this occurred, name and description of the customer/s and staff members involved, description of the incident and the actions taken by you and/or your staff members.

²³ Alcohol and Drug Foundation, 2019. Drink spiking. <https://adf.org.au/insights/drink-spiking/>

4.3.5. Noise

Under section 79 of the *Liquor Act 2007*, you have an obligation to ensure the quiet and good order of the neighbourhood is not disturbed due to the running of the licensed premises or by persons after they leave the licensed premises.

Your neighbours can be impacted by the behaviour of customers or the noise coming from your venue, event or vessel. If left unchecked, these things can damage community goodwill towards your business.

Small changes can make a difference when managing noise and disturbances:

- undertake hourly monitoring of entertainment noise and sound levels both inside and outside, and consider what your neighbours (or the community more broadly in the case of vessels) have to deal with
- turn down the amplified music on your PA system
- close the doors or windows facing residential areas
- discourage groups of people from lingering after closing the premises, finishing the event, or disembarking the vessel to keep noise levels to a minimum
- obtain an acoustic test.

Disturbance complaints may also arise from situations you haven't considered, including:

- noise associated with the use of plant and equipment, e.g. air conditioning
- noise associated with business operations, e.g. garbage disposal or cellar operations
- vehicle traffic.

If you receive a complaint like this, or a neighbour raises it as a concern, you may need to engage noise consultants, acoustic experts or traffic volume experts. Independent advice can also be sought from the Environment Protection Authority (EPA), who is the primary environment regulator for NSW.

4.3.6. Complaints policy

Given there is no obligation for a complainant to consult with the business before making a complaint under section 79 of the *Liquor Act 2007*, it is wise that you, as licensee, put in place a mechanism that encourages potential complainants to raise any concerns about the impact your business is having on them. This allows for any complaint to be resolved or a negotiation to be had before statutory notification to the Secretary Department of Customer Service.

It's important that any complaints policy includes provision of the following:

- complaints register
- points of contact
- adequate response times
- commitment to conciliation/resolution
- protection of complainant's disclosures
- confidentiality

- chain of command when the complaint is unable to be resolved, i.e. escalation to owners, executive management or board of directors
- independent arbitration.

Managing complaints effectively when they do occur is also important for building good relationships between your licensed venue, customers, and the community. Complaints can also provide you with useful feedback that helps you improve your business.

Formal complaints can result in serious sanctions being imposed on you, including special licence conditions or, in serious circumstances, licence cancellation.

Establish your own complaint-handling process:

- have a dedicated staff member available to talk to residents about their concerns
- set up a dedicated hotline or provide a dedicated mobile phone number for your duty manager
- prominently display information about the complaints process, including contact details, in the venue and on your website
- initiate community meetings to discuss any disturbance issues
- share concerns and the details of the complaint with your local liquor accord members.

4.3.7. Closing / finishing / disembarking

Closing a venue is not a simple matter of shutting the doors. If it isn't managed well, it can lead to unhappy customers and potential conflict. Implementing strategies for closing, finishing, or disembarking will reduce problems for staff and neighbours.

Key responsibilities are to close and finish selling or supplying alcohol according to the trading hours specified in the licence conditions and to ensure customers do not linger in the vicinity well past approved trading hours.

Strategies a licensee can implement include:

- encourage customers to finish drinks and make plans to leave
- bring the bill to the table
- offers to call a taxi
- avoid selling multiple drinks or a bottle of wine in the lead up to closing or finishing – it not only encourages rapid consumption but also makes it more difficult to remove customers who only have a short time to consume their drinks
- towards the end of your trading hours, tell customers the closing time as you are serving drinks or collecting glasses
- call last drinks 30 minutes before closing and inform customers when the bar is closed
- gradually increase the lighting, choosing songs of a slower pace and reducing the music volume to wind things down prior to closing or finishing time – at many country hotels, regulars know a particular song is always the last, signalling an end to the evening
- staff should move away from behind the bar and ensure customers can see that the bar is closed
- call last games for any pool table or other competition or activity at least half an hour prior to closing; consider the time required for the game to finish and players to shout the winners.

4.3.8. Transport

Your responsibility does not end when a customer leaves the venue, event, or vessel. You have a responsibility to ensure they do not cause a disturbance outside of the business.

If customers are harmed or cause problems for others after they leave, you can be held partially or fully responsible. Ensuring that your customers leave the licensed premises and get home safely is part of good practice.

Strategies to prevent disturbances can include:

- offer courtesy buses
- make taxi ranks available
- call for taxis ahead of disembarking passengers from vessels
- provide contact information for taxis or other car share services.

4.3.9. Unforeseen events: COVID-19

The NSW Government works with industry to ensure that customers and the community can be safe from the global coronavirus pandemic (COVID-19).

Liquor & Gaming NSW in collaboration with various NSW Government agencies and NSW Health has created [guidelines](#) to provide direction to industry and to support you with the management of this unforeseen global event and remain compliant with the COVID-19 rules.

These include FAQs and links to a range of COVID-19 resources. For the most up-to-date advice on COVID-19 rules and restrictions, please visit the [NSW Government COVID-19 web page](#).



More information:

Visit the Liquor & Gaming NSW website to access the COVID-19 guidelines and links to a range of NSW Government COVID-19 and other related resources:

NSW Government COVID-19 (coronavirus) information

<http://www.nsw.gov.au/covid-19>

NSW guidelines to industry on COVID-19 compliance

<https://www.liquorandgaming.nsw.gov.au/news-and-media/covid-19-coronavirus-faqs-for-the-liquor-and-gaming-industries>

NSW Health (COVID-19 restrictions on gathering and movement) Orders under the *Public Health Act 2010*

https://gazette.legislation.nsw.gov.au/so/download.w3p?id=Gazette_2020_2020-113.pdf

Safety plans under the Public Health Orders:

<https://www.nsw.gov.au/covid-19/covid-safe>

Statement of Regulatory Intent in regard to the *Liquor Act 2007*

<https://www.liquorandgaming.nsw.gov.au/resources/statement-of-regulatory-intent-in-regards-to-covid-19-coronavirus>

Statement of Regulatory Intent in regard to the *Register Clubs Act 1976*
<https://www.liquorandgaming.nsw.gov.au/news-and-media/statement-of-regulatory-intent-in-regards-to-clubs-covid-19-coronavirus>

4.3.10. Additional strategies

Consider what other RSA best practice measures you could employ on or off premises.

Some RSA best practice measures might include:

- service limits
- drinks restrictions: removing high strength drinks and shots after a certain hour
- tempered glass after a certain hour
- regular training for staff on how to refuse service/refuse entry/remove customers
- RSA marshals to assist with supervising and ensuring responsible service within your venue
- engage security personnel or crowd controllers on licensed premises, vessels or at events
- voluntarily install ID scanners as an added security measure.

RSA marshals are dedicated staff whose role it is to monitor RSA practices and customer behaviour, providing you with a dedicated pair of eyes to ensure that strategies are at work at any given time. By wearing easily identifiable clothing, customers know that RSA marshals are around and are there for a unique purpose. As such, RSA marshals may be perceived in a more non-threatening way and are able to resolve situations before they escalate.

4.4. Working with your community

4.4.1. Build relationships with police, council and your community

Collaborating with the right people, groups, and stakeholders and maintaining support is vital to the success of your licensed business. You are all affected by issues in the local area and working together can help you tackle these issues in a more effective way.

You can work with particular agencies and groups such as:

- **NSW Police, particularly local licensing police** – who can assist you when an incident occurs or provide helpful information on how you can remain compliant and on trends and issues in the area
- **local council** – who can connect you with local neighbourhood groups, assist in the development of local community initiatives, and provide resources to support your business
- **neighbours** – keeping them informed of any upcoming events and inviting them to provide you with their feedback can build your reputation in the neighbourhood
- **other licensed premises and businesses in your area** – who can collaborate with you by sharing operational tips, assets, resources, and even staff during periodic fluctuations, increasing the integrity of the wider business community; a good way to meet other licensed premises in your area is by joining your local liquor accord.

4.4.2. Liquor accords

One of the best ways for your business to improve compliance with the liquor licensing laws and reduce harm caused by the misuse of alcohol is to join your local liquor accord.

RSA Recap – Liquor accords

A liquor accord is a voluntary, industry-based partnership reached between local stakeholders who are committed to minimising harm associated with alcohol abuse, including improving safety and reducing alcohol-related violence and antisocial behaviour.

Liquor accords are underpinned by the responsible serving principles of the liquor laws and provide another means, beyond regulatory measures, of addressing alcohol-related issues in a community. They reach agreements on ways to improve the operation and safety of licensed premises. Liquor accords include representatives of licensed premises, as well as local councils, police, government departments and other community organisations.

The purpose of an accord is to address issues facing the industry and the community as a collective. Accord members make decisions in cooperation with the other stakeholders in their local area. Strategies to address these local issues are developed to create positive changes, and this benefits each member's business.

Problems with antisocial behaviour, misuse of alcohol, crime, alcohol-related violence, and safety concerns are often the key reasons for starting an accord. Concerns from local residents regarding trading hours or excessive noise from licensed premises are also cause to form a liquor accord. Each liquor accord is unique and tailored to address issues specific to the local area.

A liquor accord provides its stakeholders with a forum to discuss their views, concerns and expectations and works towards solutions. The main benefits of having a liquor accord in your local area include:

- reduced antisocial behaviour in and around licensed premises in your community
- reduced crime and alcohol-related violence
- reduced underage drinking
- reduced alcohol-related road trauma
- increased staff awareness and practice of responsible service of alcohol
- improved understanding of and compliance with legislative obligations for licensees, approved managers and staff
- enhanced reputation as a compliant venue
- enhanced community understanding of the roles of government agencies and the availability of government resources
- collaborative and supportive relationships between licensees, local councils, patrons, residents and police
- increased engagement from the community in strategies planned for their benefit
- improved standard of customers in and around licensed premises
- access to customised materials and resources tailored to meet your requirements
- access to the latest news, industry updates and information on regulatory changes.

Strategies that liquor accords have adopted to support a responsible and safe entertainment industry include:

- creating effective transport options to move people away from a precinct
- developing a communication network between licensed premises to help them provide notifications of incidents or warnings about troublesome customers who may be moving between venues
- ensuring venues provide a safe and secure environment for customers and staff
- minimising antisocial behaviour, including destruction of property and violence, arising from excessive alcohol consumption.



More information

Liquor & Gaming NSW can assist with connecting you to your local liquor accord group:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/running-your-business/liquor-accords>

Examples of popular strategies include

Eastern Suburbs Liquor Accord - Enjoy@Home campaign

The Enjoy@Home campaign was launched in August 2021, designed to reduce the number of patrons gathering near venues, posing a risk under the COVID-19 Public Health Orders. In collaboration with NSW Police, the Accord developed a series of custom stickers designs to be placed on take-away vessels sold to patrons, to remind them to consume their beverage at home. 5,000 stickers and associated posters were given to businesses providing takeaway liquor in the Bondi Beach area.

As a result of the campaign, Police observed a significant reduction in street drinking and people breaching the Public Health Orders.

The campaign was a great example of how local issues can be addressed through collaboration of the Accord and local Police, to help minimise alcohol related harms. It was also an example of how quickly accords can respond to a changing industry environment.

The campaign materials were then adapted and promoted by Liquor & Gaming NSW to be used across the state by venues offering take-away liquor to patrons.

Ask for Angela Campaign

Ask for Angela is a simple concept that originated in the United Kingdom and has quickly spread around the world. In NSW, a number of regional and metro liquor accords have launched the campaign.

This patron safety campaign will assist in promoting your venue as a safe place for any social interaction or dates to take place.

Patrons at venues in liquor accords who find themselves in an unsafe or uncomfortable situation can approach staff and 'ask for Angela'. By asking, 'is Angela working?' patrons can discreetly let venue staff know that they need help to leave the situation. Venue staff can then provide assistance to remove the patron from the situation subtly and without escalation.

Collaboration between the liquor accord, licensed venues, NSW Police and local council is integral to the successful implementation of the campaign.



More information

Liquor & Gaming NSW has developed a campaign kit that guides staff on how to respond when a patron uses this approach to ask for assistance.

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/running-your-business/liquor-accords/liquor-accord-resources>

Multi-venue barring strategies – Kings Cross scanners and the barring guidelines

Multi-venue barring or a 'barred from one, barred from all' policy has been a very popular liquor accord strategy. Venues are better able to protect the safety and wellbeing of their staff and patrons by eliminating or reducing occurrences of violent and antisocial behaviour.

ID scanners in Kings Cross were upgraded on 1 April 2019 to allow all venues using the Kings Cross ID scanner network to share certain information with each other about patrons they have banned, subject to strict privacy controls. This will help venues prevent known troublemakers from entering their premises.

The system has been reconfigured so that when a patron banned by one venue using the ID scanner network to attempts to enter another venue in the network:

- staff will be alerted via the ID scanner
- the alert will include why the patron has been banned
- the venue can then make an informed decision about whether to admit the patron.

This upgrade to the ID scanning systems supports the Kings Cross Liquor Accord's 'barred from one, barred from all policy'.

No Outlaw Motorcycle Gang (OMCG) Policy

This strategy is suitable for liquor accords in an area that has an increased presence of outlawed motorcycle gang activity. The accord works with their local police who can issue a barring notice to known OMCG members, barring them from all licensed venues within the accord area with the aim of reducing OMCG activities in licensed venues and increasing venue safety. This campaign has been rolled out in Sydney suburbs Mount Druitt, Camden, Campbelltown and Blacktown.

Other strategies

In February 2019, the Office of Responsible Gambling offered over \$120,000 in funding to local liquor accords to run and promote initiatives to boost public safety and minimise alcohol-related harm. Grants of up to \$15,000 per application were available to support local initiatives to bring positive improvements to public safety and amenity in and around licensed premises and in other public and private spaces. Initiatives included:

- education, awareness and early intervention programs, especially those targeted at school students and school leavers
- signage, posters or brochures to improve patron safety

- programs and initiatives that encourage positive patron behaviour – for example, encouraging patrons to take responsibility for the behaviour of their mates
- road safety awareness and initiatives
- late night transport options
- measures to improve community or public safety, for example, extra lighting around town centres and/or licensed premises.

These strategies can be used as model strategies to consider implementing in your Liquor Accord.



Case study: Brisbane Water liquor accord, Central Coast, NSW

One of the Central Coast's most popular night spots has joined anti-violence campaign banned from one banned from all.

Banned from one banned from all was the initiative of members of the Gosford liquor accord — including NSW police and operators of many pubs and clubs in the Brisbane Water police command area.

The aim was to stamp out violent drunken behaviour at Gosford venues by ensuring that once a person was barred from one drinking establishment, they would also be banned from other participating venues.

In partnership with NSW Police, a local bar also limited its operating hours to close at 1am rather than the former 2am close time. An hour earlier lockout time of midnight meant no additional patrons can enter after this time.



More information

Find more case studies on successfully implemented liquor accord strategies at:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/running-your-business/liquor-accords/liquor-accord-case-studies>

4.5. Building a culture of compliance

As licensee, you are responsible for working with your staff to build a culture of compliance. This is not just about achieving compliance but inspiring your teams to create a great working environment and a safe, thriving business.

We want you to build and then lead a positive, compliant and sustainable culture in your business.

Being a leader involves far more than just telling others what to do. Being an effective leader means understanding how to motivate, encourage and inspire your staff to work better and strive for higher standards and achieve overall business success.

Not all 'managers' are leaders. An employee will likely follow the direction of a manager because they have to, but an employee will voluntarily follow the directions of a leader because they believe in the leader as a person – what they stand for, what they are trying to achieve, and the manner in which they work towards the goal.

Ongoing communication with your staff is key to a successful, compliant business. This may be by way of regular team meetings, at staffies or training.

Consider spending time connecting with your staff on an interpersonal level. Go beyond simply 'managing their tasks' for the day and think about ways you can motivate and encourage them to do better or be more productive every day. When staff feel valued, listened to and recognised they are likely to do more than is expected of them.

Staff training and development

Continual improvement and development through staff meetings, training and both informal and formal conversations with your staff will ensure they are actively involved in the day-to-day maintenance of the business.

When it comes to staff training, think about:

- planning what message, information, knowledge, or skills you want to deliver
- organising your resources and what you will need to deliver or facilitate on the day of training
- using effective and confident communication to get your point across so that your staff believe in you and what you're saying
- reviewing your delivery, materials and the outcomes of your training to ensure the message is right and you're getting what you want: better skilled workers!

Run regular staff meetings to discuss issues that have occurred, such as how staff have dealt with difficult customers. Ensure staff not only *understand* their roles and responsibilities, but also *take* responsibility.

Staff who are informed and well trained will be less likely to place you at risk of losing your licence. Staff who are friendly and well-mannered create an atmosphere that customers respond positively to, which can decrease the risk of customer and staff assaults.

Working as a team

Each member of your staff has a role to play in ensuring RSA practices are upheld in your venue and in creating an ambience that customers enjoy and feel safe in. This increases the likelihood

that they will return with their friends and family. As licensee, you want your entire team working towards that goal as a unit.

As a leader, you play a key role in instilling these principles in your staff. To set the scene for a successful team who cares about compliance, you should:

- define your goals
- create, review and monitor the impact of your plans and policies
- organise how to implement these plans and policies
- lead, motivate and inspire your staff to understand and achieve the change you are after.

This is the first step towards building a culture of compliance in your venue.

Building a culture of compliance

We all know what can happen if you slip up on compliance, so let's think about what it means to have a 'culture of compliance' and how you, as a leader, can build that environment within your business.

Creating a culture means it becomes second nature; it is no longer a behaviour that takes conscious effort.

When you create a culture of compliance, it means that you as a business are subconsciously compliant in everything you do because that's your way of doing things.

Developing a culture of compliance goes beyond conducting mandatory training once a year. It includes:

- having a clear vision for your business, with clear goals and objectives and inspiring your team to achieve these goals in an environment of compliance
- developing policies and practices that embed compliance into your everyday work
- inspiring staff to take ownership and being accountable for their decisions and actions
- setting the foundation and expectation for individual behaviour within the business from the word go – we do things the right way.

Creating a culture of compliance might not solve all of your problems, but you should be able to show that you have done all that is reasonably possible to ensure you are running a safe and compliant business.

Module summary

Congratulations, you have completed Module 4: Best practice strategies to prevent alcohol-related harm. You should now be able to:

- explain the meaning and purpose of best practice
- outline a range of best practice methods and procedures
- consider best practice methods and procedures that may be suitable for your business
- explain how you can inspire your staff to build a culture of compliance in your business.

Module 5: Compliance and enforcement

5.1. Introduction

Liquor & Gaming NSW is responsible for the regulation of liquor, gaming and registered clubs in NSW. Some of these responsibilities, in particular operational compliance and enforcement, are shared between Liquor & Gaming NSW and NSW Police.

The liquor industry is regulated to ensure safe and responsible trade and to minimise the risk of alcohol-related harms. It is recognised that most businesses are compliant with NSW laws. Where non-compliance is detected, and particularly where there are serious, repeated or sustained contraventions of the law, the community expects that action will be taken.

Liquor & Gaming NSW promotes and encourages self-regulation and voluntary compliance while applying escalating levels of enforcement action where non-compliance is detected. Enforcement action targets licensed businesses which demonstrate more serious, repeat or sustained breaches, or other misconduct inconsistent with the public interest.

At the end of Module 5: Compliance and enforcement, you will be able to outline:

- the Liquor & Gaming NSW approach to compliance and enforcement
- the consequences of non-compliance
- the regulatory schemes and other potential enforcement mechanisms that are in place to ensure licensed venues across NSW operate safely and responsibly.

5.2. Compliance

5.2.1. Liquor & Gaming NSW approach to compliance

Most staff within the Compliance Operations Unit of Liquor & Gaming NSW are inspectors appointed under the *Gaming and Liquor Administration Act 2007*. This Act provides appointed inspectors with a range of powers that allows them to enforce gaming and liquor laws. The powers are similar to those that would be exercised by NSW Police during a criminal investigation, including:

- having free and unimpeded access to and search of licensed premises
- compelling persons to answer questions
- issuing formal demands for information or records
- seizing items for use as evidence.

Like Police, Liquor & Gaming NSW inspectors are issued official identification in the form of a badge and ID, which they must show you on request. Both Police and Liquor & Gaming NSW inspectors carry out overt and covert inspections of licensed premises.

Liquor & Gaming NSW applies a graduated approach that is proportionate to the non-compliance detected, with the aims to secure future compliance, signal general deterrence and instil public confidence in its regulation of the industry. Risk is assessed by taking into account a range of factors, including:

- the seriousness of the non-compliance and associated harm

- public interest or public safety considerations
- compliance history
- cooperation of the licensee with investigators
- the steps taken by the licensee to address the offending conduct
- community expectation of that behaviour.

Risk-based escalating approach

Using a risk-based and intelligence-led approach, Liquor & Gaming NSW regularly conducts inspections of regulated entities, engages with industry, provides face-to-face education and support, and monitors compliance.

Interactions are targeted based on information we receive through various channels, including:

- a complaint or intelligence received from an external source, including the public
- advice or a request for assistance from another government agency, including NSW Police
- a regulatory priority to monitor and target particular types of conduct
- observations made by inspectors in the field during either covert or overt inspections
- the results of proactive monitoring.

In targeting non-compliant behaviour, Liquor & Gaming NSW uses several regulatory tools to educate, deter, and correct non-compliant behaviour.

5.2.2. Inspections

Liquor & Gaming NSW inspectors and NSW Police officers may attend a licensed premises at any time or conduct unannounced compliance inspections at licensed premises.

When Liquor & Gaming NSW inspectors attend a venue, after making preliminary observations inside and around the business (either covertly or overtly), they will usually ask to speak to the licensee of the business.

Liquor & Gaming NSW inspectors and NSW police officers may request to see a copy of your licence to check that you are complying with your licence conditions. You are required to keep the original licence document at the premises to which it relates and the person in charge must produce it to an inspector immediately upon request. They may also check that the licensee, management, and staff are complying with legislation, including:

- responsible service – including assessing whether intoxicated patrons are being supplied with or allowed to consume liquor
- minors – including randomly checking some patrons for IDs
- specific licence conditions (as they appear on the premises' licence).

Powers of inspection

The Gaming and Liquor Administration Act 2007 grants Liquor & Gaming NSW inspectors and NSW police officers the power to enter and investigate premises that fall under its jurisdiction. Liquor & Gaming NSW inspectors and NSW Police have the power to:

- enter a licensed premises, using reasonable force if necessary
- examine and inspect any part of the premises or any article or thing on the premises

- examine and copy records
- seize things
- require people to assist them
- require a person to provide their name and address
- require a person to answer a question.

For example, they may ask to see CCTV footage, review your incident register (if applicable), ask staff for their NSW competency cards and make copies of all of these. If the Liquor & Gaming NSW inspector or police officer has reasonable grounds to suspect that an offence has been committed, they may seize property, records or footage. As licensee, you should ensure you and your staff comply with the requests of Liquor & Gaming NSW inspectors or NSW police officers.



More information

The following sections of the Gaming and Liquor Administration Act 2007 are examples of the types of powers available to Liquor & Gaming NSW inspectors and NSW Police officers to undertake venue inspections:

- section 24 (power to enter premises)
- section 26 (powers to inspect and seize things)

Read the *Gaming and Liquor Administration Act 2007* here:

<https://www.legislation.nsw.gov.au/#/view/act/2007/91>

Will I get an opportunity to tell my story?

In most cases where a breach of the liquor and gaming laws has been detected, you will be invited by Liquor & Gaming NSW inspectors to participate in a voluntary record of interview, also referred to as an ROI. The ROI provides an opportunity for you to respond to the allegations being presented and investigated by Liquor & Gaming NSW.

It's also an opportunity for you to provide any further information, such as any mitigating factors that may not have been identified in the investigation, as well as statements about what actions you have taken since the detection of the alleged non-compliance.

What to expect if questioned by a Liquor & Gaming NSW inspector or NSW police officer

While making inquiries under liquor and gaming legislation, if a Liquor & Gaming NSW Inspector or NSW police officer suspects on reasonable grounds that you have knowledge of matters relevant to their investigation or inquiries, they can require you to answer questions in relation to those matters (section 30 of the *Gaming and Liquor Administration Act 2007*).

Under section 31, a Liquor & Gaming NSW inspector or NSW police officer may also require a person who is suspected to have offended against the Act to state his or her full name and residential address. This means that a Liquor & Gaming NSW inspector or NSW police officer may speak to staff, customers, and bystanders if there are reasonable grounds to believe an offence has occurred. They may also ask staff, customers, and bystanders their name and address and require them to produce ID.

Notice to produce

A common notice issued by Liquor & Gaming NSW inspectors is a section 21 'notice to produce', which is a notice requesting specific information and/or records to assist with investigating a potential offence. A notice can request a range of information and/or records, including:

- CCTV footage
- incident register
- till receipts and/or invoices
- staff rosters
- the licensed premises' Plan of Management, etc.

Section 21(2) outlines that a notice to produce must specify the manner in which information or records are required, and a reasonable time by which the information or records are required to be made available.

What if I don't comply with a notice or direction?

Section 35 outlines the provisions relating to requirements by Liquor & Gaming NSW inspectors or NSW Police officers to provide records, information or answer questions.

Section 35(1) details that a person is not guilty of an offence of failing to comply with a requirement to provide records or information unless the person was warned that a failure to comply is an offence.

Section 35(3) of the Act prescribes that any records or information provided under this Part is not admissible in criminal proceedings if the person was not warned, or if the person objected at the time on the grounds that it might incriminate them.

If you fail to provide information and/or records or fail to follow a direction given to you by a Liquor & Gaming NSW inspector or NSW police officer, you may be considered to be obstructing an inspector or police officer in the execution of their duties. This is an offence which carries a fine.

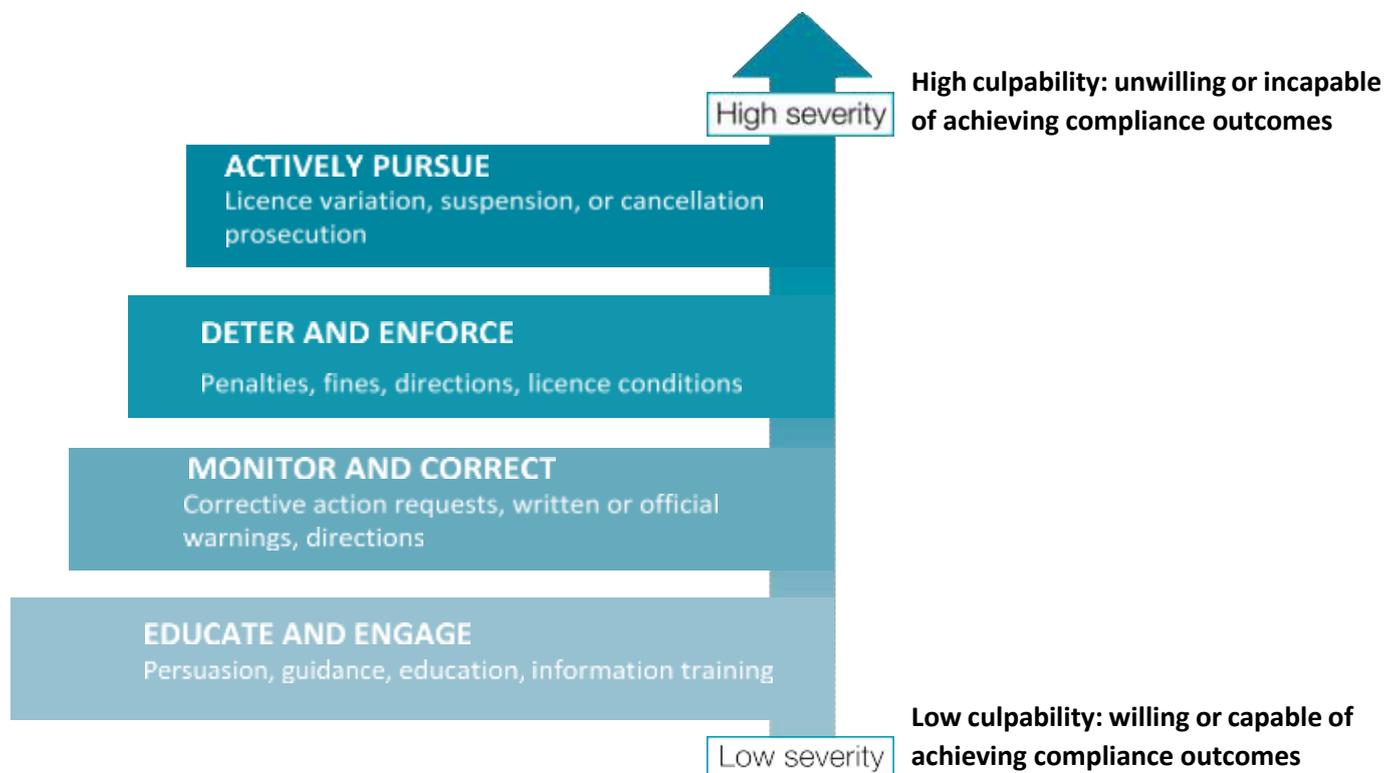
5.3. Enforcement

5.3.1. What happens if I have been found non-compliant?

There are a range of enforcement options available to Liquor & Gaming NSW in dealing with non-compliance or allegations or non-compliance. These may include:

- education and engagement
- remedial actions
- official cautions and warnings
- penalty infringement notices
- prosecution
- administrative action, including:
 - disciplinary complaints
 - suspension or revocation of recognised competency cards
 - imposing licence conditions
 - issuing statutory directions.

It is important to note that these remedies do not necessarily need to be applied in a particular order. For example, there may be a need to immediately take strong action in response to particularly egregious conduct or in response to a significant risk of harm. Criminal and administrative remedies are sometimes used in combination.



5.3.2. Educate and engage

Liquor & Gaming NSW works to provide education, engagement and support to assist industry members in meeting their obligations and to instil a culture of compliance. Liquor & Gaming NSW promotes this through:

- high levels of stakeholder engagement
- education and training
- promotion of good regulatory practices aligned with community expectation through the support of liquor accords
- providing information and guidance tools to assist industry compliance
- highlighting the consequences of non-compliance.

The Tiered Industry Training Framework, incorporating the Responsible Service of Alcohol, Licensee and Advanced Licensee training, is a vehicle to educate and professionalise industry on their rights and obligations under the liquor laws. The Licensee training aims to provide you with the tools to create a culture of compliance in your business. It is critical for everyone in your business to know what they need to do and how they can support you to remain compliant.

Liquor & Gaming NSW provides regulatory information through multiple channels including its website, fact sheets, newsletters, and media releases. You can stay up to date with industry news and regulatory information by subscribing to the Liquor & Gaming NSW monthly e-news bulletin.

In addition, wherever possible, Liquor & Gaming NSW works in partnership with peak bodies and stakeholder groups to achieve better compliance. Liquor & Gaming NSW inspectors carrying out compliance activities also play an important role in informing and educating industry of their rights and obligations.

Ultimately, it is your responsibility to manage your regulatory and legal risks accordingly.

5.3.3. Remedial action or official warnings

A remedial approach may be suitable to address low-risk matters, or where it is more useful or appropriate to educate a licensee or operator on their obligations and ensure future compliance than to take escalated enforcement action.

Offending conduct can often be addressed through engagement with a licensee or operator and may include a remote audit or review of relevant business records. Remedial action is most appropriately used in response to allegations of low-risk offences or conduct.

It may not always be appropriate to deal with detected offences by way of penalty notice or prosecution action. Where there are significant mitigating factors around the commission of an offence, or where it is otherwise considered to be appropriate to do so, a formal warning may be issued. These warnings are recorded and will be considered should future offences be committed.

5.3.4. Penalty notices

The *Fines Act 1996* applies to penalty notices issued under liquor and gaming legislation. This means that a Liquor & Gaming NSW inspector or NSW police officer can issue on-the-spot penalty notices for offences.

Inspectors may issue a penalty infringement notice where:

- a more serious offence is detected
- there are other aggravating factors, such as poor compliance history
- it is otherwise in the public interest to do so.

Such enforcement activities aim to deter non-compliant behaviour. Enforcement decisions are based on evidence, which must be admissible and sufficient enough to establish that an offence has been committed.

The decision to issue a penalty infringement notice is made in accordance with Revenue NSW guidelines on issuing infringement notices.

If you pay the penalty notice, it doesn't mean you are admitting liability. You can seek an internal review of the penalty notice (to be conducted by the issuing agency) and you can also challenge the offence in court if you want. The penalty notice provides information on the options available to you in either paying or contesting the fine.

5.3.5. Prosecution

Non-compliance involves a breach of the law. Every instance of non-compliance that is detected requires a decision on what action to take in response. Prosecution by Liquor & Gaming NSW is usually reserved for more serious breaches of the law or for licensed businesses which pose a high risk.

Another reason Liquor & Gaming NSW may prosecute for an offence will be to create a general deterrent effect, so that the outcome of a court or disciplinary proceeding can encourage other participants in the industry to improve their practices.

The decision to commence prosecution is made in accordance with the appropriate departmental policies.

Liquor & Gaming NSW may also consider it appropriate to take administrative action, either alone or in combination with criminal action.

5.3.6. Administrative actions

Administrative action can include making a disciplinary complaint through the Independent Liquor & Gaming Authority, imposing licence conditions or issuing binding statutory directions.

Administrative avenues are often used to address an ongoing concern, such as the lack of fitness of a licensee or operator to hold a position within the industry or the lack of conditions on a licence where high-risk conduct has been or is likely to occur.

Types of administrative actions include:

- **restricting the sale or supply of a particular product and/or restricting or prohibiting the licensee from continuing or being involved in an activity** – for example, under section 102 of the *Liquor Act*, the Secretary may restrict or prohibit a product or promotional activity if it is indecent or offensive, appealing to minors, or encourages irresponsible consumption of liquor
- **imposing or varying licence conditions** – both the Secretary of the Department of Customer Service and the Independent Liquor and Gaming Authority Board (the Authority) can impose or vary conditions on your licence
- **issuing directions to licensees and staff** – the Secretary may give the licensee, or any employee or agent of the licensee, a written direction concerning any matter relating to the licensed premises (including any conduct on the premises).
- **RSA revocation** – the Authority may suspend or revoke your or a staff member's RSA or declare that a person is disqualified from holding RSA certification for up to 12 months.

5.3.7. Short term closure orders

A short term closure order of a licensed venue serves to prevent or reduce an identified threat or risk to the public interest and can be authorised for a period of up to 72 hours. However, the order can be applied in a manner that requires the closure of the premises until 'specified conditions' are met. Under sections 82 and 83 of the *Liquor Act 2007*, a short term closure order can be made if:

- a serious breach of the Act has occurred or is likely to occur
- the closure of the premises is necessary to prevent or reduce a significant threat or risk to the public interest.

The Authority will exercise independent judgement as to whether or not an order should be made and upon what terms. The Authority will provide warning to the licensee to:

- advise an application of a closure order has been made
- summarise the facts and circumstances of the allegations in the application
- identify the 72-hour period for the closure to be enforced

- specify that written submissions as to why a short term closure order should not be made may be submitted within 24 hours (not including Saturdays and Sundays).



More information

Review real short-term closure orders and the reason for the orders made against licensed venues:

<https://www.liquorandgaming.nsw.gov.au/independent-liquor-and-gaming-authority/ilga-and-l-and-gnsw-decisions/closure-orders>

5.3.8. Disciplinary action

In addition to penalties such as fines, sanctions may be imposed on a licensee by the Authority for any offence under the Act.

There will be circumstances where the conduct of an individual is so serious that it warrants disciplinary action. Under Part 9 of the *Liquor Act 2007*, the Authority has discretion to impose a variety of administrative sanctions if it is satisfied that one or more grounds specified in this part of the Act have been established.

Disciplinary complaints can be made in relation to a licensee, close associate or manager. There are 20 grounds that may be relied upon when making a disciplinary complaint.

Broadly speaking, grounds for making a complaint fall into these categories:

- failure to comply with the Act, including a conviction of an offence under liquor legislation or failing to comply with any conditions of the licence
- conducting activities encouraging the misuse/abuse of liquor and intoxication
- violence at the premises
- not fit and proper
- licence not being exercised in the public interest, or continuation of the licence not in the public interest.

The Authority has discretion as to whether it should take action in relation to a complaint. Action may include:

- cancelling or suspending the licence
- issuing a fine to the licensee or manager
- imposing conditions on the licence
- disqualify the licensee or manager from holding a licence or managing a premises for such a period as Authority deems fit
- disqualify a close associate from being a close associate of a licensee or manager of licensed premises.

5.3.9. Incentives and Demerit Point System

The *Liquor Amendment (Night-time Economy) Act 2020* introduced an approach that consolidated the Three Strikes, Violent Venues and Minor Sanctions schemes into one integrated demerit-based scheme. The integrated Incentives and Demerit Point system makes it easier for venues to understand and comply with their obligations.

Under this system licensees, managers and clubs incur demerit points for committing demerit offences or via a prescribed complaint. Demerit points expire after 3 years.

A demerit offence is a serious breach of liquor regulation. Most demerit offences result in the automatically application of 1 demerit point, however offences involving the sale or supply of liquor to minors result in 2 demerit points.

Liquor & Gaming NSW or NSW Police can make a prescribed complaint to the Independent Liquor & Gaming Authority (the Authority) in relation to a licensee or manager of a venue who fails to provide a safe environment for their patrons. After considering the circumstances, the Authority may decide to impose 1 or 2 demerit points.

Demerit based system

The new system aims to reward well-managed venues with reductions on annual licence fees whilst imposing tougher penalties on operators for serious breaches of the liquor laws.

Incentives

Well-managed venues are rewarded with annual liquor licence fee discounts on the base fee and trading hours risk loading, after maintaining a clear record with no demerits for:

- three consecutive calendar years (5%)
- five consecutive calendar years (10%)

Demerits are applied for:

- serious liquor law breaches such as permitting violence or intoxication or selling or supplying liquor to an intoxicated person
- serious or ongoing issues with violence, intoxication, risky drinking and incidents posing a serious risk to the health or safety of person - such as drink spiking, or
- serious indictable offences involving violence have been committed where a prescribed complaint is made out by the Authority.

Double demerits are applied due to seriousness of some offences such as:

- sale or supply of liquor to a minor, or
- where complaints are made out for multiple incidents involving serious violence or risks to public health and safety on or near a venue in a single 24-hour period.

Who incurs a demerit point?

In most cases, demerit points are incurred by licensees and approved managers committing a prescribed offence or are subject of a prescribed complaint. For all registered clubs, demerit points are recorded against their licence.

Which offences can lead to demerit points?

Either 1 or 2 demerit points are applied based on the seriousness of the offence.

Offence*	Relevant sections within the <i>Liquor Act 2007</i>
Category 1 demerit	
Sale or supply of liquor outside of approved trading hours	Section 9
Breaching a licence condition that prohibits patrons from entering licensed premises after a lock out time or restricts trading hours – if imposed under the special licence conditions in the precincts, or Via remedial action taken as a result of incurring demerit points	(Division 4 of Part 6) (Subdivision 2 or 3 of Division 4 of Part 9A) section 11(2)
Permitting intoxication or indecent, violent or quarrelsome conduct	section 73(1)(a) or (b)

Offence*	Relevant sections within the <i>Liquor Act 2007</i>
Selling or supplying liquor to an intoxicated person	section 73(2)
Permitting the sale, possession or use of any substance that the licensee suspects of being a prohibited plant or drug	section 74(1)(b) or (2)
Failure to comply with a direction given by the Secretary	section 75(3)
Failure to comply with a short-term closure order	section 82(6)
Failure to comply with a long-term closure order	section 84(7)
Failure to comply with a notice issued by the Secretary restricting or prohibiting activities that encourage misuse or abuse of liquor	section 102A(2)
Licensees and managers liable for acts of their employees etc. For example, this includes selling or supplying liquor to an intoxicated person and failure to comply with a direction given by the Secretary section 149 sections 73(2) and 75(3)	section 149 sections 73(2) and 75(3)
Category 2 demerit	
Selling or supplying liquor to a minor or allowing such sale or supply	section 117(1), (2) or (8)
Licensees and managers liable for acts of their employees etc. For example, selling or supplying liquor to a minor	section 149 sections 117(1) or (2)

* Where multiple offences are committed at a venue within a single 24-hour period, they are taken to be a single offence for the purposes of the system. This system applies to offences committed from January 2021.

Prescribed complaints

Liquor & Gaming NSW or NSW Police can also make a prescribed complaint to the Authority in relation to a licensee, approved manager or club licence.

Grounds on which the Authority may decide to apply 1-2 demerit points include:

Ground	Relevant sections within the <i>Liquor Act 2007</i>
The licensee or manager has engaged in conduct or activities that are likely to encourage misuse or abuse of liquor (such as binge drinking or excessive consumption)	section 139(f)
Acts involving violence against persons or damage to property have frequently been committed on or near the licensed premises by persons who have been on the licensed premises	section 139(h)
Ground	Relevant sections within the <i>Liquor Act 2007</i>
2 or more serious indictable offences involving violence have been committed within a 12-month period: (i) by persons on the licensed premises, or (ii) near the licensed premises by persons who have been on the licensed premises within a reasonable time before the act occurred, or (iii) near the licensed premises by persons attempting to enter, or who have been refused entry to, the licensed premises within a reasonable time before the act occurred section 139(ha)	section 139(ha)
2 or more incidents posing a serious risk to the health or safety of persons have occurred within a 12-month period: (i) involving persons on the licensed premises, or (ii) near the licensed premises by persons who have been on the licensed premises within a reasonable time before the act occurred, or (iii) near the licensed premises by persons attempting to enter, or who have been refused entry to, the licensed premises within a reasonable time before the act occurred	Section 139(hb)

Demerit points register

Liquor & Gaming NSW must provide a written notice to a licensee, manager, or club when any demerit point is automatically incurred as a result of a demerit offence. The Authority must provide written notice to a licensee, manager or club of its decision to impose demerit points as a result of a prescribed complaint.

All demerit points in force are recorded on a public Demerit Points Register which is available at www.liquorandgaming.nsw.gov.au.

Consequences of demerit points

The Authority applies an escalating range of remedial actions depending on the number of demerit points incurred over a 3 year period, including additional loadings attached to the annual liquor licence fee of a venue.

The table below shows how the remedial actions can escalate over a 3-year period.

2-3 demerit points	4-5 demerit points	6 or more demerit points
<ul style="list-style-type: none">Reprimand the licensee, manager or club secretary of a premisesRequire the licensee, manager, club secretary or member of the governing body of a club to undertake training or instruction considered appropriate by ILGAImpose any condition ILGA considers necessary to address either the risk of a demerit offence being committed or the likelihood of a prescribed complaint being made	<ul style="list-style-type: none">Disqualify the licensee, manager or club secretary for a specified periodSuspend the venue's liquor licence for a period of up to 7 days (not applicable to clubs)Any other remedial action available as a result of accumulating 2-3 demerit points	<ul style="list-style-type: none">Disqualify the licensee, manager or club secretary permanentlySuspend the venue's liquor licence for up to 14 days (not applicable to clubs)Any other remedial action available as a result of accumulating 2-5 demerit points

Venues where demerit points are incurred pay more licence fees as part of annual compliance loadings. Compliance history risk loading increases by:

- \$3,300 for one offence committed
- \$4,000 for each demerit point incurred

Patron capacity risk and location risk loading also remain payable. These additional loadings are payable in the year after the demerit point is incurred.

Removing demerit points

There are two ways to remove demerit points:

- demerit points automatically expire after 3 years
- the Authority approves earlier removal – a licensee or manager may apply for early removal if they can show:
 - they meet certain criteria including a good prior record of behaviour over ten years with no other serious breaches, and the demerit point was not obtained for selling liquor to a minor or for an act or circumstance that caused serious harm to another person
 - that they have implemented changes to address all related risks, and at least 12 months have passed since the demerit point was received.

Other factors that the Authority will consider before removing a demerit point include whether the licensee or manager has:

- implemented measures, or completed a training or instruction to manage or reduce the risks that contributed the offence
- complied with any remedial actions imposed by the Authority, and
- not have not committed further serious breaches of the liquor laws

The Authority must give local police and council reasonable opportunity to make submissions on any applications to remove demerit points.

As a licensee, it's important for you to ensure that:

- you have defined what types of actions or behaviour constitute a demerit point in your particular venue or under your licence and that your staff are aware of these details
- that your staff are aware of what action they must take if such an offence occurs, such as their reporting and recording requirements.

All of these details should be outlined within your plan of management so that you can provide consistent information and training to staff, as well as other interested parties such as Liquor & Gaming NSW inspectors or the NSW Police.

Review of a demerit decision

As a licensee or manager, you can seek a review of a demerit decision with the NSW Civil & Administrative Tribunal (NCAT). An application to review a decision to take remedial action will stay (or postpone) the decision under review unless NCAT directs otherwise.



More information

Visit the Liquor & Gaming NSW website for more information on:

Incentives and Demerit Point System at:

<https://www.liquorandgaming.nsw.gov.au/resources/incentives-and-demerit-point-system>

Fact sheet and a 1-page overview of the system at:

<https://www.liquorandgaming.nsw.gov.au/resources/incentives-and-demerit-point-system>

Demerit points in force recorded on a public Demerit points register at:

<https://www.liquorandgaming.nsw.gov.au/resources/demerit-points-register>

For more information on how to apply for a review of a demerit decision with the NSW Civil & Administrative Tribunal (NCAT), visit:

<https://www.ncat.nsw.gov.au>

Module summary

Congratulations, you have completed Module 5: Compliance and Enforcement. You should now be able to:

- outline Liquor & Gaming NSW's approach to compliance and enforcement
- outline the consequences of non-compliance
- outline the incentives and demerit point system that is in place to ensure licensed venues across NSW operate safely and responsibly

Licensee next steps

Congratulations, you have successfully completed your Licensee training!

You should now be able to manage the day-to-day requirements of a compliant licensed venue to the benefit of your staff, customers and the wider community. Specifically, you should be able to:

- understand the relevant liquor legislation and regulations that will impact you as a licensee
- know your responsibilities in managing your NSW liquor licence
- understand your responsibilities as a licensee to manage alcohol-related harms in your business
- implement strategies for your business to improve operations, increase safety and remain compliant
- understand the consequences of non-compliance and what that means for you as a licensee.

Next steps

Because you now have additional endorsements on your NSW competency card, you will be issued with a new card:

- your training organisation will issue you an interim certificate to acknowledge successful completion of this training
- visit a Service NSW centre with your interim certificate and identification documentation
- set up a new digital version of your licence at Service NSW
- your new competency card will be mailed to the address you have supplied
- keep your details up to date with Liquor & Gaming NSW.

If you will shortly undertake the Advanced License training, you are advised to visit Service NSW centre after you have completed that training so that both endorsements can be included on your new competency card.

Advanced Licensee training

The Liquor Regulation 2018 has determined that those who currently (or wish to) operate Tier 2 licensed premises are required to complete the Advanced Licensee training in addition to this Licensee training.

Tier 2 licensed premises relate to businesses that operate in potentially higher risk environments such as those:

- authorised to trade after midnight on 12 or more occasions in a 12-month period
- operating certain business activities
- which are subject to regulatory schemes or under the direction of Liquor & Gaming NSW or the Authority.

You can arrange to complete the Advanced Licensee training through a Liquor & Gaming NSW approved training provider.



More information

Use the Training Selector tool on the Liquor & Gaming NSW website to find out if you also need to complete the Advanced Licensee training:

https://zingtree.com/host.php?z=hosted&tree_id=164068416&style=panels&show_history=1&persist_names=Restart&persist_node_ids=1&nopermalink=1&logo=/custom/liq_uorandgaming/logo.jpg&home=https://www.liquorandgaming.nsw.gov.au/#7

Other training

Responsible Supply of Alcohol Training (RSAT)

If you are a licensee considering offering same day alcohol deliveries to retail customers in NSW and intend to make the deliveries yourself, you must also complete the RSAT course and the Liquor & Gaming NSW online RSAT Assessment.

The RSAT course covers a range of topics including:

- your obligations when making same day deliveries under the NSW liquor laws
- recognising intoxication and refusing supply responsibly
- minors, including ID checks and secondary supply
- harm minimisation strategies
- compliance and enforcement



More information

For more information on RSAT visit the Liquor & Gaming NSW website at:

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/training-to-work-in-the-industry/getting-trained/training-courses>

Stay up to date

You can stay up to date by subscribing to Liquor & Gaming e-news, a monthly news bulletin that brings you the latest information on:

- ministerial announcements
- industry updates
- new regulations
- liquor accords
- Liquor & Gaming NSW recent news
- important dates.



More information

Visit the recent news page on the Liquor & Gaming NSW website to read the latest news articles and subscribe through the link in any article:

<https://www.liquorandgaming.nsw.gov.au/news-and-media>

Join a liquor accord

Now that you have the knowledge and skills that you need to be a successful licensee, you should consider joining a liquor accord (if you haven't already) for some additional support with reducing alcohol-related issues, antisocial behaviour and violence.



More information

There are approximately 130 liquor accords currently operating in NSW. Find out more:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/running-your-business/liquor-accords>

Renew your competencies

Just like a NSW competency card with an RSA or RCG endorsement, your licensee (and advanced licensee) competency expires after five years.

Further information regarding the renewal of your licensee training will be communicated to you and updated on the Liquor & Gaming NSW website, so it is important that your contact details are always up to date.



More information

If your address, email or mobile phone number changes, please let us know at www.onegov.nsw.gov.au and search for 'manage competency card' or use the link below if you are viewing this information electronically.

You can also use this portal to request a replacement card if needed:

https://www.onegov.nsw.gov.au/gls_portal/olgr/Transactions/CompetencyCard.mvc/About

References

RSA, it's the law

[Intoxication guidelines](#)

[Prevention of intoxication on licensed premises guidelines](#)

[Underage drinking laws fact sheet](#)

[Liquor promotions guidelines](#)

[Liquor promotions guidelines web page](#)

Prescribed precincts

[Special licence conditions in Sydney CBD and Kings Cross precincts](#)

[Kings Cross approved ID scanner requirements](#)

[Kings Cross precinct self-audit checklist](#)

[Sydney CBD entertainment precinct self-audit checklist](#)

Fact sheet

[Liquor Plan of Management guidance](#)

[Gaming Plan of Management guidance](#)

[How to prepare a Category B Community Impact Statement \(CIS\)](#)

[Same day alcohol delivery](#)

[Incentives and Demerit Point System](#)

[Demerits points register](#)

[Cumulative impact assessment webpage](#)

[Cumulative Impact Assessment \(Precincts - Authority Guideline\)](#)

Lawful rights for licensed premises

[The refusal of entry and patron bans/barring guidelines web page](#)

[Self-exclusion from licensed premises agreement form](#)

[Self-exclusion from licensed premises notice of termination agreement form](#)

Tools and templates

[Incident register](#)

[Self-audit checklists](#)

[Check a licence](#)

[Liquor & Gaming LiveData](#)

Industry specific information guide

The purpose of this guide is to provide licensees and prospective licensees with further information for operating a specific venue type.

For example: the licensee of a hotel licence will require additional and specific knowledge requirements, while a restaurateur will have a different set of specific requirements.

This guide is provided as a quick reference to offer guidance on licence type-specific essentials for operating a licensed venue in NSW and may be a useful reference for some of the types of trading arrangements appropriate under the *Liquor Act 2007*. It will provide you with:

- a basic understanding of a range of licence types available
- a basic knowledge of conditions specific to that licence type.



Note

The underage, intoxication, disturbance complaints and fail to quit provisions apply equally to all types of liquor licences.

The content in this guide has been compiled with contribution from key industry associations including:

- Australian Hotels Association
- Restaurant & Caterers Association
- Retail Drinks Australia
- ClubsNSW
- Club Managers Association Australia.

Licence types

The *Liquor Act 2007* regulates the sale and supply of liquor through various licence types.

The licence types featured in this guide include:

- Hotel Licence, including Hotel (General Bar)
- Club Licence
- Packaged Liquor licence
- On Premises Licence
- Producer/Wholesaler licence.

The *Liquor Act 2007* provides for a range of liquor licence types suited to many business models.



More information

Information on all licence types is available on Liquor & Gaming NSW website:
<https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/liquor-licence-types>

Hotel licence

The hotel licence applies to premises where the primary purpose is the sale and supply of alcohol. It includes accommodation hotels as well as small and large bars. Takeaway sales are allowed if licence conditions permit.

Applicants for new hotel licences are required to prepare Community Impact Statement (CIS). Standard hours are:

- 5am to midnight | Monday to Saturday
- 10am to 10pm | Sunday
- There is no change to existing trading restrictions on Good Friday and Christmas Day.
- Applications for extended hours require a CIS.

Hotel (General Bar) licence is a special type of licence for bars without gaming machines or takeaway liquor. Applications require a CIS, with patron numbers set by local councils.

Outlined below are the conditions common to the majority of the licence types within hotel licences under the *Liquor Act 2007*.

Hotel licence essentials

Section 14 - Authorisation conferred by hotel licence

- A hotel licence authorises the sale of liquor by retail for consumption on or away from licensed premises.

Section 14 - Functions on other premises

- The Authority may authorise the licensee to sell liquor by retail for the purposes of a function on other premises – but only for consumption on those premises.

Section 15 - Hotel licence – General provisions

- The primary purpose of the business carried out (a hotel) on licensed premises must at all times be the sale of liquor by retail.

Section 15A - Cessation of liquor during trading hours

- A hotelier may cease to sell or supply liquor during a trading period and continue to provide or make available other services as follows, during:
 - the standard trading period, no gaming, without application

- the standard trading period, with gaming, upon application to the Authority
- an extended trading period, without application.

Note: other services include the provision of food, non-alcoholic beverages, entertainment and conferences.

Section 16 - Hotel licence may be designated as a General Bar

- No takeaway sales
- No gaming or wagering

Section 17 - Cash advances

- Must not provide cash advances except as a lawfully conducted gambling prize.

Section 17 - Open to the general public

- Hotel cannot be limited to those who have been invited to, or a particular class of people, using or attending the hotel
 - Note: this does not mean the entire venue needs to be open to the general public at all times. For example, areas can be set aside for private functions such as weddings, birthdays etc.

Section 17 - Food and drinking water to be made available

- Liquor may only be sold or supplied if food of a nature and quality consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied for consumption on premises
- free drinking water must be available whenever liquor is sold or supplied for consumption on premises.

Section 17 - Employees and residents

- Liquor may not be sold or supplied to, or consumed by a resident or an employee in a bar area unless it is at a time when liquor is authorised to be sold or supplied to other persons (section 17 (5))
- the Authority may approve the use of a bar or area of a hotel for the sale, supply or consumption of liquor exclusively to, or by, residents of a hotel at times when liquor is not otherwise available.

Section 91 - Responsibility

- The licensee or manager is responsible at all times for the personal supervision and management of the conduct of the hotel.

Section 92 - Control

- A licensee (or related corporation) must not allow any person to have the personal supervision and management of the conduct of the hotel for a longer continuous period than 6 weeks, unless approved by the Authority
- a licensee (or related corporation) must not:

- lease or sublease the right to sell liquor
- lease or sublease any part of the hotel on which liquor is ordinarily sold or on which approved gaming machines are ordinarily kept, used or operated
- lease or sublease any other part of the licensed premises except with the approval of the Authority.

Section 93 - Cessation of trade

- If licensed premises cease trading during any continuous period of more than 6 weeks, the licensee must notify the Authority in writing that the premises have ceased to trade (max penalty: 50 penalty units).

Section 94 - Boundaries of licensed premises

- The boundaries of the licensed premises are to be specified
- the boundaries may be changed by the Authority:
 - on the Authority's own initiative
 - by application by the owner/licensee.

Section 104 - Persons in bar or other areas outside trading hours (s104)

- No later than 30 mins after close
- does not apply to employees or residents.

Section 105 - Carrying liquor away from licensed premises outside trading hours (s105)

- Cannot carry away outside trading hours, unless:
 - purchased during authorised trading hours
 - carried away not later than 30 mins after authorised trading hours ceased
 - exceptions for employees.

Liquor Regulation 2018 - Clause 119 – staff drinks

- Allowed for a maximum of two hours after the cease of trade
- only those staff/entertainers working immediately before cease of trade
- RSA applies
- intoxication rules apply.

A hotel licence also authorises the licensee to sell liquor by retail for consumption away from those premises.

Takeaway sales must cease at 11pm (10pm on a Sunday)

- Sale must occur prior to 11pm or 10pm on Sunday
- liquor must be taken away from the premises not more than 30 minutes after the authorisation ceases
- the Act does not specify how far away from the premises a person has to be to consume liquor, although specific licence conditions or council ordinance may
- the Act does not specify that containers must be sealed
- the Act does not specify that containers must be served in bags.

Bar areas defined in section 4

- Any area where liquor is ordinarily sold or supplied for consumption in the hotel, but does not include:
 - a dining area in the hotel
 - any part of the hotel in which liquor is, other than as authorised under 17 (6), sold or supplied exclusively to residents
- any part of the hotel in which a minors area authorisation or minors function authorisation applies.

Section 121 - Minors area authorisation

- An authorisation granted by the Authority to enable a minor to use a part of the hotel while in the company of a responsible adult
- responsible adult means a parent, step-parent or guardian, the minor's spouse or de facto partner or an adult who at the time is standing in as the parent of the minor (s4).

Section 122 - Minors functions authorisation

- An authorisation granted by the Authority to enable a minor to attend a function on licensed premises.

Club licence

- A club licence can only be granted to a club that meets the requirements of the *Registered Clubs Act 1976*
- club licence allows registered clubs to sell alcohol to their members and guests for consumption on and off the premises.

Types of businesses that use this licence may include:

- RSL club
- bowling club
- golf club
- surf club

Outlined below are the conditions common to the majority of the licence types within club licences under the *Liquor Act 2007*.

Club licence essentials

Section 18 - Authorisation conferred by club licence

- A club licence authorises the licensee to sell liquor by retail on the licensed premises to a member of the club, or a guest of a member of the club, for consumption on or away from the licensed premises.

Section 20 - Cash advances

- The licensee must not provide a cash advance on the premises or permit a cash advance to be provided on the premises on behalf of the club other than as a prize or bonus won as a direct or indirect consequence of participating in a form of gambling that may lawfully be conducted on the licensed premises.

Section 91 - Responsibility

- The approved manager of the club is responsible at all times for the personal supervision and management of the club
- in the event of an offence or breach, the approved manager is liable, not the club.

Section 92 - Control of business conducted on licensed premises

- A licensee must not allow any person other than themselves to have the personal supervision and management of the conduct of the club for a longer continuous period than 6 weeks, unless approved by the Authority
- a licensee must not:
 - lease or sublease the right to sell liquor
 - lease or sublease any part of the club on which liquor is ordinarily sold or supplied for consumption in the club or on which approved gaming machines are ordinarily kept, used or operated
- lease or sublease any part of the licensed premises except with approval of the Authority.

Section 93 - Cessation of trade

- If licensed premises cease trading during any continuous period of more than six weeks, the licensee must notify the Authority in writing that the premises have ceased to trade (maximum penalty: 50 penalty units)

Section 94 - Boundaries of licensed premises

- The boundaries of licensed premises are to be specified by the Authority when the licence is granted.

The boundaries may be changed by the Authority:

- on the Authority's own initiative
- by application by the licensee.

Section 105 - Carrying liquor away from licensed premises outside trading hours

- A person cannot carry liquor away from the club unless:
 - the liquor is purchased during authorised trading hours
 - the liquor is carried away not later than 30 minutes after authorised trading hours have ceased
 - the liquor is carried away by a licensee or an employee of a licensee.

Section 124 - A licensee must not allow minors to enter or remain in certain licensed premises

- A minor must not remain in the bar area of a club (maximum penalty: 50 penalty units)
- a minor may be present in the bar area only for so long as is reasonably necessary to pass through the area in order to conveniently gain access to another area of the club.

Packaged liquor licence

A packaged liquor licence allows alcohol to be sold through a bottle shop, home delivery, mail order or online for consumption off the premises, or away from a venue.

Tastings can be conducted, with or without charge.

In NSW, standard liquor store trading hours are:

- 5am to 11pm | Monday to Saturday
- 10am to 10pm | Sunday

Outlined below are the conditions common to the majority of the licence types within a packaged liquor licence under the *Liquor Act 2007*.

Packaged licence essentials

Section 29 - Authorisation conferred by packaged liquor licence

1. **Retail sales.** A packaged liquor licence authorises the licensee to sell liquor by retail in sealed containers for consumption away from the licensed premises only:
 - a) during the standard trading period or such other period as may be authorised by an extended trading authorisation
 - b) in the case of any Sunday that falls on 24 December - from 8am (or earlier time if authorised by an extended trading authorisation) to 11pm (where applicable) on that day.
2. **No retail trading on restricted trading days.** Despite subsection (1), a packaged liquor licence does not authorise the licensee to sell liquor by retail on a restricted trading day.
3. **Selling liquor by wholesale or to employees.** A packaged liquor licence also authorises the licensee:
 - a) to sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor - whether by wholesale or by retail
 - b) to sell or supply liquor, at any time on the licensed premises, to the employees of the licensee or of a related corporation of the licensee.
4. **Tastings.** A packaged liquor licence authorises the licensee to sell or supply liquor, on the licensed premises and during the trading hours permitted by subsection (1), intending customers for consumption while on the licensed premises, but only for the purposes of tasting.

Section 30 - Liquor sales area required if bottle shop is part of another business activity

1. If the primary purpose of the business carried out on the premises to which a packaged liquor licence relates is not the sale of liquor for consumption away from the licensed

premises, liquor may only be sold under the licence in an area of the licensed premises (the liquor sales area) that is adequately separated from those parts of the premises in which other activities are carried out.

2. The principal activity carried out in any such liquor sales area must be the sale or supply of liquor for consumption away from the licensed premises.

Section 31 - Restrictions on granting packaged liquor licences

1. A packaged liquor licence must not be granted for premises that comprise a general store unless the Authority is satisfied that:
 - a) in the neighbourhood of the premises concerned, no other takeaway liquor service is reasonably available to the public
 - b) the grant of the licence would not encourage drink-driving or other liquor-related harm.
2. A packaged liquor licence must not be granted for premises comprising a service station or takeaway food shop.
3. In this section:
 - **General store** means a convenience store, mixed business shop, corner shop or milk bar that has a retail floor area of not more than 240 square metres and that is used primarily for the retail sale of groceries or associated small items.
 - **Service station** means premises that are used primarily for the fueling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products.
 - **Takeaway food shop** means premises that are used primarily for the preparation and sale of food for immediate consumption away from the premises, whether food is also consumed on the premises.

Section 114 - Sale of liquor through internet or by other communication media

1. A licensee who sells liquor by taking orders over the telephone or by fax or by mail order must cause the licence number to be displayed in any advertisement or information published in writing or electronically in connection with such sales.
2. A licensee who sells liquor through an internet site must ensure that the licence number is prominently displayed on the site and in any advertisement or information published in writing or electronically in connection with such sales.
3. A licensee who sells liquor by taking orders over the telephone or by fax or by mail order, or who sells liquor through an internet site:
 - a) must, at the time at which an agreement for sale is made, require the prospective purchaser to supply the purchaser's date of birth so as to confirm that the prospective purchaser is of or above the age of 18 years, unless the prospective purchaser has previously supplied the purchaser's date of birth to the licensee
 - b) must give written instructions to the person responsible for delivery of the liquor, requiring that the liquor be delivered:
 - i. to the adult person who placed the order
 - ii. to another adult person at those premises who undertakes to accept it on behalf of the person who placed the order
 - iii. If the delivery is made on a day after the day the order is taken, or the sale made through an internet site, in accordance with the customer's instructions.
4. If delivery of any liquor sold in a manner described in this section is taken by a minor:
 - a) the delivery is taken to constitute a supply to which section 117 (2) applies, and
 - b) the licensee, and any person by whom the liquor was delivered on the licensee's behalf, are each taken to have supplied the liquor contrary to section 117 (2).

5. A licensee who, in accordance with subsection (4), is prosecuted for an offence under section 117 (2) has a defence under this subsection if it is proved that the licensee:
 - a) complied with the requirements of subsection (3) in relation to the supply concerned
 - b) at the time of the alleged offence did not know, and could not reasonably be expected to have known, that the alleged offence was committed.
6. A person (not being a licensee) who, in accordance with subsection (4), is prosecuted for an offence under section 117 (2) has a defence under this subsection if it is proved that:
 - a) the person to whom the liquor was delivered was of or above the age of 14 years and, before the liquor was delivered, there was produced to the defendant an evidence of age document that may reasonably be accepted as applying to the person and as proving that the person was of, or above, the age of 18 years
 - b) at the time of the alleged offence the defendant did not know, and could not reasonably be expected to have known, that the alleged offence was committed.
7. A minor must not take delivery of any liquor sold in a manner described in this section unless the minor was ordered or requested by his or her parent or guardian to take delivery of the liquor.
8. A person must not order or request a minor to take delivery of liquor sold in a manner described in this section.
9. This section does not apply to or in respect of the sale of liquor to persons authorised to sell liquor.

Sections 114E – 114 R – Same day alcohol deliveries

Licensees that offer same day alcohol delivery must comply with additional requirements for 'same day delivery providers'. These delivery providers can include licensed businesses, like packaged liquor outlets, and any other business or person who as part of a business or undertaking:

- state or otherwise indicate by advertisement or otherwise, that they will supply alcohol for same day delivery in NSW, and
- supply the alcohol by same day delivery or engage another person, whether it is an employee or agent, to supply the alcohol by same day delivery.
- **Age verification:**
 - (From 1 June 2022) Mandatory online age verification at initial point of sale (first time purchase) for same day delivery of alcohol. Same day delivery providers must use an accredited identity service provider under the Trusted Digital Identity Framework to verify the person's date of birth from an evidence of age document, or another process that meets at least the minimum standard prescribed by the regulations.
 - (From 1 June 2022) For subsequent purchases, must require the person to undergo a form of authentication prescribed by the regulations
 - Written instructions from the licensee must be provided to the delivery person to deliver to a person of 18 years or older that will be receiving the package
 - Mandatory identity and age checks must be conducted by delivery person, to check that the receiver's details match written instruction records and that the person is over the age of 18. To comply with age check requirements, delivery people must:
 - ask a recipient who looks under 25 years to produce their evidence of age document to confirm their age, or
 - for a recipient who is reasonably believed to be 25 years or over, view their ID or take a signed declaration that states the person's name and that they are 18 years or over. If a signed declaration is taken in writing or electronically, it should

be maintained by the delivery provider for an appropriate period of time (at least 12 months) to ensure that there is a record of this occurring.

- **Intoxication:**
 - Liquor cannot be delivered to an intoxicated person (whether same-day delivery or non-same day deliveries) (max. 100PU)
 - Defence for delivery people if they did not know that the package they were delivering was alcohol
- **Minors:**
 - Liquor (whether same-day delivery or non-same day deliveries) cannot be delivered to minors regardless of where the package originated from
 - Defence for delivery people if they can prove that:
 - The minor was over 14, and
 - Before the liquor was sold or supplied, the delivery person was provided an ID document that will reasonably apply to the minor and that proves they are over 18
 - They did not know that the package they were delivering was alcohol
 - Online sites or other electronic applications must display signs prohibiting purchase of alcohol by minors, and the option for self-exclusion
- **Delivery zones and times:**
 - Liquor cannot be delivered to public areas which are alcohol-free zones, alcohol prohibited areas or restricted alcohol areas
 - Standard cut-off times for same day deliveries:
 - Sunday – 11pm-9am
 - Other days – midnight-9am
 - Any liquor sold before 9am (cut-off) can be delivered that same day – but the delivery must not occur until 9am or later.
- **Record keeping:**
 - Records of non-delivery must be kept if delivery was not made due to the receiver being a minor or intoxicated
 - Records must be provided to police officer or inspector if asked to do so
 - Records must be kept for at least 1 year
- **Controlled purchase operation (section 33A of the *Gaming and Liquor Regulation Act 2007*)**
 - L&GNSW Compliance inspectors can use controlled purchasing operations to investigate breaches of same day delivery laws and sale/supply to minors
 - Under the operations, minors under the supervision of a L&GNSW Compliance Inspector are appointed to purchase or attempt to purchase same day delivery liquor without incurring liability

- **Data reporting**

From 1 July 2021, all same day delivery providers are required to capture delivery data for reporting to Liquor & Gaming NSW every six months, showing the volume of packaged alcohol they delivered as part of same day deliveries (in litres) by each postcode.

The reporting periods are:

- 1 July to 30 December
- 1 January to 30 June

Reports are due to Liquor & Gaming NSW within 21 days of the end of each period.

Providers need to use the approved template on the L&GNSW website.

- **Delivery provider obligations:**

- Delivery providers must not financially penalise delivery people for non-deliveries if they refused delivery to minors or intoxicated persons and took reasonable steps to deliver the liquor to an alternative address if indicated (max. 50 PU)
- Delivery providers must enter into a self-exclusion agreement with a person if they requested to do so
- Online sites or other electronic applications must display signs advising of the option to self-exclude
- Service provider to ensure that all employees or agents making same day deliveries have completed the mandatory RSAT and the Liquor & Gaming NSW online RSAT assessment
- Delivery providers are liable for any actions or omissions by a delivery person, unless they can demonstrate that they have undertaken the required mandatory RSAT training and Liquor & Gaming NSW online RSAT assessment.

A delivery provider must not make a same day delivery if the alcohol being delivered is stored for sale at premises within NSW and has not been sold under a NSW liquor licence.

On-premises licence

An on-premises licence allows the sale of alcohol for consumption on the premises when another product or service, like food or entertainment, is sold, supplied or provided to customers.

If the primary purpose of the business or activity is the sale or supply of alcohol, you are ineligible for an on-premises licence. There are some exemptions relating to an airport or tertiary institution.

Types of businesses that use this licence include:

- restaurants or cafés
- live music, arts and cultural event venues
- cinemas/theatres/art galleries
- accommodation venues, e.g. bed and breakfasts with 8+ adult guests, motels etc.
- sporting facilities
- catering services
- function centres
- hairdressers/beauticians
- karaoke venues
- airports
- tourist facilities
- nightclubs
- vessels
- food courts
- food halls
- food and beverage outlets.

Outlined below are the conditions common to the majority of the licence types within on-premises licences.

On Premises Essentials

Section 22 - Primary purpose test

- A new on-premises licence cannot be granted if the primary purpose of the business or activity carried out on the premises is the sale or supply of liquor
- an existing on-premises licence cannot be utilised if the primary purpose of the business or activity carried out on the licensed premises is the sale or supply of liquor.

Section 23 - On-premises licence must specify business/activity or kind of licensed premises

- An on-premises licence must specify the kind of business or activity carried out on the licensed premises or the kind of licensed premises to which the licence relates – section 23 (1)
- more than one kind of business, or activity, or kind of premises may be specified in an on-premises licence. However, a separate on-premises licence is, except in the circumstances referred to in section 25 (6), required for each set of premises
- the licensed premises to which an on-premises licence relates may be described by reference to the kind of business or activity carried out on the premises or the kind of premises concerned – section 23 (4).

Section 24 - On-premises licence – sale of supply of liquor must be with or ancillary to other product or service

- An on-premises licence authorises the sale or supply of liquor only if the liquor is sold or supplied for consumption on the licensed premises with, or ancillary to, another product or service that is sold, supplied or provided to people on the licensed premises – section 24 (1)
- restaurateurs interested in allowing liquor to be served to patrons without a meal can apply for a Primary service authorisation.

Section 25 - An on-premises licence authorises the licensee to sell liquor by retail on the licensed premises for consumption on the premises only

- The times when liquor may be sold for consumption on the licensed premises are during the standard trading period or at such other times as may be authorised by an extended trading authorisation – section 25 (2).

Section 27 - Food must be made available

- Liquor may only be sold or supplied on the licensed premises to which an on-premises licence relates if food of a nature and quantity consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied under the authorisation of the licence – section 27 (1).

Section 28 - Certain licensed premises must be open to general public

- Restaurants must be open to general public – section 28 (2). The business carried out under an on-premises licence to which this section applies must not be, or include, a business that is limited to the sale or supply of liquor only:
 - a) to persons who have been invited to use or attend the licensed premises
 - b) to a particular class, or particular classes, of persons using or attending the licensed premises.

Section 12 (1) - Standard Trading Hours for On-Premises Licence

- 5am to midnight | Monday to Saturday
- 10am – 10pm | Sunday
- restaurateurs seeking extended trading hours will need to apply to the Authority and undertake a Community Impact Statement (CIS) as part of that process.

Section 25(3) - Restricted Trading Days

- The times when liquor may be sold for consumption on the licensed premises on a restricted trading day are as follows:
 - a) between midnight and 5am on that day - but only if authorised by an extended trading authorisation
 - b) between 5am and noon on that day - but only if authorised by an extended trading authorisation and only if the liquor is sold with or secondary to a meal served in a dining area on the licensed premises
 - c) between noon and 10pm on that day - but only if the liquor is sold with or secondary to a meal served in a dining area on the licensed premises
 - d) between 10pm and midnight on that day - but only if authorised by an extended trading authorisation and only if the liquor is sold with or secondary to a meal served in a dining area on the licensed premises.

Section 25 (5) - Trading on New Year's Eve

- On 31 December in any year, liquor may be sold for consumption on the licensed premises from the start of the standard trading period for that day until 2 am on the next succeeding day. This subsection does not limit the operation of any extended trading authorisation that applies in relation to the licensed premises concerned.

Producer/Wholesaler Licence

- A producer/wholesaler liquor licence allows liquor wholesalers and liquor producers like winemakers, brewers, or distillers to sell alcohol to other liquor licensees
- liquor producers can also conduct tastings, retail sales, and direct sales to the public at liquor industry shows and farmers' markets or fairs.
- winemakers, brewers, and distillers can also apply for a drink-on premises authorisation to sell alcohol for consumption on the premises
- retail takeaway liquor sales by winemakers, brewers, and distillers can only be made to the public during the following hours (subject to council consent):
 - 5am to 11pm | Monday to Saturday
 - 10am to 10pm | Sunday

Wholesalers can only sell to wholesale customers, i.e. those who already have a liquor licence.

Outlined below are the conditions common to the majority of the licence types within Producer/Wholesaler licences.

Producer/Wholesaler Essentials

Section 32 - Wholesale suppliers of liquor

- A producer/wholesaler licence authorises the licensee, if the licensee carries on business as a wholesale supplier of liquor, to:
 - sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor - whether by wholesale or by retail
 - sell or supply liquor, at any time on the licensed premises:
 - to the employees of the licensee or of a related corporation of the licensee
 - to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting.

Section 33 - Wine producers - authorisation conferred by licence

1. A producer/wholesaler licence authorises the licensee if the licensee carries on business as a wine producer:
 - a) to sell the licensee's product by wholesale, at any time on the licensed premises, to persons authorised to sell liquor - whether by wholesale or by retail
 - b) to sell the licensee's product by retail on the licensed premises, for consumption away from the licensed premises only, on any day of the week during the standard trading period for that day or during such other period as may be authorised by an extended trading authorisation
 - c) to sell or supply the licensee's product, at any time on the licensed premises, to customers or intending customers for consumption while on the licensed premises, but only for the purposes of tasting
 - d) to sell or supply the licensee's product at a wine show, but only if the local police and the Authority have been notified, in accordance with the regulations, about the wine show by the organiser of the show at least 7 days before it is held
 - e) to sell or supply the licensee's product at a producers' market or fair, but only if the local police and the Authority have been notified, in accordance with the regulations, about the market or fair by the organiser of the market or fair at least 7 days before it is held

- f) to sell or supply the licensee's product at any time on the licensed premises to the employees of the licensee or of a related corporation of the licensee
- g) to sell or supply liquor in accordance with a drink on-premises authorisation.

Note: See section 50 (2) for trading hours in relation to drink on-premises authorisations.

2. The authorisation conferred by subsection (1) does not apply unless the primary purpose of the business or activity carried out on the licensed premises is the sale or supply of wine that is the licensee's product.
 3. For the purposes of this section, a product is the licensee's product if:
 - a) it has been produced on the licensed premises (or a vineyard related to the licensed premises) from fruit grown on the licensed premises or vineyard
 - b) Wine: it is the licensee's (or a related corporation of the licensee's) own product only if that product:
 - i. contains no less than the regulations prescribed percentage of wine
 - ii. has been produced by or under the direction of the licensee (or a related corporation of the licensee)
 - iii. is made on the licensed premises, or a vineyard related to the licensed premises,
 - iv. is made from fruit grown on the licensed premises or vineyard.
 4. For the purposes of subsection (3), a vineyard is related to licensed premises if it:
 - a) is operated by the licensee (or a related corporation of the licensee)
 - b) is contiguous with the licensed premises or is within 500 metres of the licensed premises.
- In this section:
 - producers' market or fair means a market or fair:
 - at which farmers or primary producers display and sell their products directly to the public
 - that is conducted in accordance with such requirements as may be prescribed by the regulations, including requirements relating to the number of stalls at the market or fair
 - wine show means a wine show that is held by a recognised wine or vineyard association or industry association.

Section 35 - Miscellaneous provisions

1. This section applies in relation to a producer/wholesaler licence under which the licensee carries on business as a wine producer, as a producer of cider, perry mead or as a producer of beer or spirits
2. Multiple premises.

Despite any other provision of this Act, the licensed premises to which a producer/wholesaler licence relates may, in the case of a wine producer only, comprise more than one set of premises, but only if:

- a) each set of premises is operated by the licensee
- b) the premises are all located in the same wine region - as determined in accordance with the regulations.

3. Wine shows

Liquor may only be sold or supplied by the licensee at a wine show in accordance with section 33 (1) (d):

- a) to customers or intending customers for consumption at the licensee's display area, but only for the purposes of tasting
- b) in sealed containers for consumption away from the industry show.

Section 35 - Miscellaneous provisions relating to wine producers

4. Producers' markets or fairs

Liquor may only be sold or supplied by the licensee at a producers' market or fair in accordance with section 33 (1) (e):

- c) to customers or intending customers for consumption at the licensee's stall, but only for the purposes of tasting
 - d) in sealed containers for consumption away from the market or fair.
5. Liquor must not be sold or supplied by the licensee at any such industry show, or at any such market or fair, to a person who is intoxicated.



Note

This industry specific information guide was developed to further explore the requirements of running particular business type. This guide is not comprehensive, and participants must ensure they make their own enquiries. This guide forms a supplement only to the Liquor & Gaming NSW Licensee training course.