

# *Liquor Licensing Act 1997*

## **General Code of Practice**

### **Part 1 - Preliminary**

#### **1 Citation**

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

#### **2 Commencement**

This code of practice will come into operation on 18 January 2013.

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

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

- (a) to minimise the harmful and hazardous use of liquor and promote responsible attitudes in relation to the promotion, sale, supply and consumption of liquor;
- (b) to minimise offence, annoyance, disturbance or inconvenience to people who reside, work or worship in the vicinity of licensed premises;
- (c) to prevent intoxication and/or disorderly or offensive behaviour on licensed premises;
- (d) to protect the safety, health and welfare of staff and patrons on licensed premises;
- (e) to protect the safety, health and welfare of minors on licensed premises; and
- (f) to ensure public order and safety.

(2) The intention of this code of practice is to commit licensees to:

- (a) make an assessment of the risk of their operational practices;
- (b) not undertake operational practices involving unacceptable risk;
- (c) consider and implement measures to manage high risk operational practices; and
- (d) maintain standards of operational practice that, as a matter of course, address medium and low risk operations.

#### **4 Interpretation**

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

(2) The levels of risk associated with the operational practices of a licensed premises are to be assessed on the basis of what a reasonable person would consider to be:

- (a) low risk;
- (b) medium risk;
- (c) high risk; or
- (d) unacceptable risk.

(3) When assessing the level of risk associated with the operational practices of a licensed premises and the likelihood of a particular outcome occurring, consideration must be given to the class of licence and the nature of the operational practices being conducted under the licence.

# *Liquor Licensing Act 1997*

## **General Code of Practice**

- (4) *Reasonable steps* to prevent, reduce the likelihood of or manage an outcome associated with the operational practices of a licensed premises, will be deemed to have been taken where the licensee is able to demonstrate that they have reasonably assessed the risk and the likely occurrence of the outcome based on the class of licence and the operational practices being conducted under the licence, and have implemented a written management plan which contains reasonable measures to reduce the likelihood of the outcome occurring.
- (5) The existence of a management plan formulated in purported compliance with subclause (4) above, will not constitute *reasonable steps* if it is no longer current and/or the licensee's staff have not received training as to the content of the management plan and the manner in which it is to be implemented.

**staff** includes any person involved in the service or supply of liquor on licensed premises whether they are a paid staff member or a not.

### **5 Mandatory nature of the code**

- (1) Under section 42 of the *Liquor Licensing Act 1997*, it is a condition of every licence that the licensee must comply with this code of practice.
- (2) This code of practice is in addition to, and does not derogate from, licence conditions imposed by the licensing authority.
- (3) If this code of practice is inconsistent with a licence condition imposed by the licensing authority, the licence condition so imposed will prevail to the extent of the inconsistency. Further, this code of practice is cumulative upon all other obligations imposed by law, including those imposed by or under the *Liquor Licensing Act 1997*.

#### **Note -**

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

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

- (1) This code of practice does not apply to a licence in respect of which an exemption is granted by the Liquor and Gambling Commissioner, taking into account the nature and extent of the operations conducted under the licence.
- (2) In addition to subclause (1), the Commissioner may exempt a licensee from a specified provision of this code of practice.

## **Part 2 - Required training and practices**

### **7 Responsible service of alcohol training**

- (1) A licensee must ensure that all staff involved in the service or supply of liquor on the licensed premises complete nationally accredited responsible service of alcohol training.
- (2) The training must be completed -
  - (a) in the case of a person who is such a staff member immediately before 18 January 2013 - before 18 January 2014; and
  - (b) in the case of a person who becomes such a staff member on or after 18 January 2013 - within three months after commencing that employment.

# *Liquor Licensing Act 1997*

## **General Code of Practice**

- (3) The licensee must ensure that where an application is granted under section 56(2), 63(2), 71(4) or 73(7) of the *Liquor Licensing Act 1997*, and the person in question has been identified as not having the appropriate knowledge, experience and skills for the purposes specified in those sections, that person must satisfactorily complete responsible service of alcohol training within three months of approval being granted under those sections or within such other period of time as approved by the Liquor and Gambling Commissioner.
- (4) Subclause (1) does not apply in relation to -
- (a) a producer's licence that does not authorise the sale or supply of liquor for consumption on licensed premises;
  - (b) a wholesale liquor merchant's licence;
  - (c) a direct sales licence;
  - (d) a limited club licence unless this clause is applied in relation to the licence by a licence condition imposed by the licensing authority, taking into account the nature and extent of the operations conducted under the licence; or
  - (e) a limited licence unless this clause is applied in relation to the licence by a licence condition imposed by the licensing authority, taking into account the nature and extent of the operations conducted under the licence.
- (5) The licensee must produce evidence of the completion of responsible service of alcohol training by persons as required by this clause or by licence conditions, within 7 days of being requested to do so by an authorised officer (within the meaning of section 122 of the *Liquor Licensing Act 1997*).
- (6) In this clause -
- responsible service of alcohol training*** means a vocational education and training course in responsible service of alcohol accredited under the *National Vocational Education and Training Regulator Act 2011* of the Commonwealth.

### **8 Practices relating to minors**

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

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

- (1) A licensee must not promote, advertise or conduct their operations in a way that tends to encourage the rapid or excessive consumption of liquor or that discourages a responsible attitude to the consumption of liquor.
- (2) A licensee must not offer gender-based promotions involving free or discounted liquor.
- (3) Except where liquor is sold for consumption off licensed premises only, or where liquor is supplied by way of sample only, a licensee must at all times -

# *Liquor Licensing Act 1997*

## **General Code of Practice**

- (a) ensure that free cool drinking water is readily available to patrons on the licensed premises; and
- (b) ensure that at least one non-alcoholic beverage (other than water) is available for purchase at a price that does not exceed the price of the least expensive alcoholic beverage available for purchase.

### **10 Practices relating to drink spiking**

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

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

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

- (1) A licensee must take reasonable steps -
  - (a) to prevent the sale or supply of liquor to intoxicated persons or to persons in circumstances where their speech, balance, coordination or behaviour is noticeably impaired and it is reasonable to believe that the impairment is the result of the consumption of liquor or illicit substances;
  - (b) to reduce the likelihood of incidents of intoxication and/or disorderly, offensive, abusive or violent behaviour on licensed premises; and
  - (c) to manage incidents related to intoxication and/or disorderly, offensive, abusive or violent behaviour that may occur on licensed premises.

### **12 Practices relating to disturbances**

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

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

### **13 Risk assessment and reasonable steps**

- (1) A licensee must consider the measures that will be implemented in conducting operations under the licence for the purposes of compliance with this code of practice and, in particular, the measures that will be taken to comply with the requirements to take reasonable steps.

# *Liquor Licensing Act 1997*

## **General Code of Practice**

- (2) The measures must be contained in a management plan.
- (3) The management plan must be reviewed and if necessary, modified every two years or when operations under the licence alter in such a way that warrants a review and modification of the management plan to be undertaken.

### **14 Induction and refresher training**

- (1) A licensee must provide to all staff involved in the service or supply of liquor on the licensed premises, training in relation to the management plan to be implemented to address the risks associated with the operational practices.
- (2) The training must be provided -
  - (a) in the case of a person who is such a staff member immediately before 18 January 2013 - before 18 July 2013 and at least once in each subsequent period of two years; and
  - (b) in the case of a person who becomes such a staff member on or after 18 January 2013 - on induction into that employment and at least once in each subsequent period of two years.
- (3) The licensee must produce evidence of the completion of the training by persons as required by this clause within 7 days of being requested to do so by an authorised officer (within the meaning of section 122 of the *Liquor Licensing Act 1997*).

### **15 Guidelines**

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