

QUESTIONS AND ANSWERS

LEGISLATION

When will the changes come into force?

The Government hopes to have the bill passed into law before the end of this parliamentary term. It's anticipated that most changes will be in force within six months of the legislation being passed. However, due to the scope of the changes, implementation will need to be phased. Some changes will be able to come into force relatively quickly, while others will require some time for businesses and government agencies to prepare for the change.

Will the legislation affect alcohol laws for the Rugby World Cup?

Due to the time required for the legislative process, the Government's new legislative proposals will not take effect before the Rugby World Cup. The Rugby World Cup Empowering Bill contains licensing provisions to ensure licensing certainty for that event.

PURCHASE AGE

What's the rationale of a split age?

A split purchase age provides a sensible, graduated approach to being permitted to purchase alcohol. A split age, variations of which are already used in some countries such as Sweden, would help reduce harm associated with pre-loading, which is the practice of consuming large amounts of alcohol purchased from an off-licence before heading to licensed premises such as a bar or club. It would also help prevent 18-and 19-year-olds from buying alcohol for their younger peers, as well as ensuring young drinkers are drinking in a supervised environment.

PARENTAL CONSENT

Why is the Government introducing a parental consent regime?

There is currently very little control over the private supply of alcohol to minors. While it is illegal to purchase alcohol with the intention of supplying it to a minor, that does not apply if it was purchased with the intention of supplying it to a minor who is attending a private social gathering, such as some school after-balls.

To stop this, the Government is proposing to make it an offence for anyone other than a parent or guardian to provide alcohol to an under-18-year-old without a parent's or guardian's consent.

Where alcohol is provided to an under-18-year-old, the parent, guardian or authorised person will need to ensure the alcohol is supplied in a responsible manner.

If someone breaches the requirements of parental consent and responsible supply, they will be liable for a fine of up to \$2000 and any conviction will be entered on their criminal record.

How long have the requirements relating to private supply to minors been in place in Australia and how effective have they been?

The requirements have been put in place in Queensland, New South Wales and Tasmania over the last few years. The effectiveness of the laws has yet to be evaluated, but they demonstrate a trend towards setting tighter controls around young people's access to alcohol.

How will you define what parental consent is?

It's expected consent could be given verbally or in writing, or may be implied, though this will likely be an issue the select committee will spend some time on.

What would be considered responsible supply?

The test for responsible supply will include such things as the adequacy of adult supervision, age of the minors, quantity of alcohol supplied, the duration of supply, and the availability of food. Much of this will be common sense and basic host responsibility, and police will have discretion not to prosecute when it is not in the public interest to do so and are likely to make use of warnings when that is more appropriate.

Why won't the consent requirement apply to 18 and 19-year-olds?

Once a person reaches the age of 18, they are no longer subject to guardianship in a legal sense.

BANNING PRODUCTS

What sort of products could the Minister of Justice ban?

Examples of products that have been banned in Australia include alcoholic ice-blocks, aerosols, and milk.

TRADING HOURS

How will the national maximum trading hours work?

The Government is setting national maximum trading hours as a default for those districts that do not have a local alcohol policy or where a local alcohol policy does not contain provisions concerning hours. The national maximum trading hours for these areas will be:

- For off-licences: 7:00am to 11:00pm.
- For on-licences, club licences and special licences: 8:00am to 4:00am.

Individual districts will be able to restrict or extend trading hours for on and off-licences (including by setting one-way-door policies) through the development of local alcohol policies, after consultation with the community.

The Government's approach gives local councils the ability to listen to their communities and tailor their hours to best suit their individual needs.

What limits are there on an LAP deciding to give premises in a town such as Queenstown a 24/7 licence?

It will be up to communities to decide the trading hours for their area. However, LAPs will need to be consistent with the intent of the legislation. 24-hour trading could be deemed to be inconsistent with the intent of the legislation, which will be to establish a reasonable system of control over the sale and supply of alcohol with the aim of reducing alcohol harm.

Once an LAP has been consulted on and agreed to by the local authority, it can be appealed to the national licensing tribunal by those who submitted on the LAP. An appeal process will ensure a degree of national consistency and quality control for LAPs.

Will the maximum trading hours be flexible enough to allow people to watch early morning sports events or other events of national significance?

The Minister of Justice will invite the select committee to consider whether the legislation allow any limited exceptions to the maximum trading hours to take into consideration events of national significance.

COMMUNITY INPUT

How much more input will the bill give local communities over licensing decisions in their area?

Under the Sale of Liquor Act 1989 there is limited scope for community input. The only substantive grounds is by objecting to an application. Objectors must have "a greater interest in the application than the public generally". That usually requires objectors to live within one kilometre of the premises (although this can be considered on a case-by-case basis. Objections can be made only on specific criteria, the primary one being the "suitability" of the applicant. Others include the proposed trading days and hours. No objection can be made on grounds of density of outlets or general alcohol-related harm in the area.

Under the Government's changes local alcohol policies (LAPs) will be able to specify the following:

Where licensed premises may be located – this would be done through broad area restrictions or restrictions on proximity to types of community premises specified in the LAP.

- Outlet density – a rebuttable presumption that further licences will not be granted in areas identified as being close to, or as having already reached, saturation point for licensed premises.
- Trading hours – an LAP will be able to override the default national maximum trading hours by either extending or restricting those hours. They will also be able to specify one-way door policies.

LAPs will also be able to cover non-licensing matters relating to the management of alcohol in the district. This may include, for example:

- A local collaborative process for managing intoxicated people in public places
- A strategy for reducing alcohol-related harm.

The following matters will need to be considered in all decisions on new applications for any type of licence:

- The object of the Act.
- The suitability of the applicant.
- The provisions of any applicable local alcohol policy.
- The design and layout of the proposed premises.
- Whether granting the licence would lessen the amenity or good order of the locality.
- Whether the applicant has appropriate systems, staff and training to comply with the law.
- Any matters dealt with in any report made by a member of the Police, licensing inspector, or medical officer of health as provided by the legislation.

If there is an LAP, the licensing decision-maker will be required to have regard to the LAP's licensing provisions when considering an application for a licence. It is intended that an LAP would be departed from only on rare occasions.

Will local alcohol policies be able to have different parts for different areas in the district, eg: for the Auckland Supercity?

Yes.

ADVERTISING

What changes are you making to advertising and marketing of alcohol?

We are proposing to strengthen the current offence relating to the irresponsible promotion of alcohol. The current offence relates to "promotion of excessive consumption", but isn't specific about what that means in any way. It is also limited to on-licence promotions.

Under our proposals, the law will be a lot clearer about the type of promotions that are considered irresponsible, and therefore not allowed.

The new offence will apply to promotions at all types of licensed premises, including off-licences, and to any other place in the course of running a business.

The law will give examples of types of promotions that are prohibited, such as:

- Promoting or advertising alcohol in a way that indicates there is 25% or more off the normal price of alcohol, except in-store or on premises. This means 2-for-1 type specials will still be allowed, but won't be able to be advertised outside the premises. Off-licences will also be able to run discounts of 25% or more, but won't be able to advertise these outside the store – so, not in mailers, on websites, or on television.
- Promoting free alcohol.
- Offering any goods or services on the condition that alcohol is purchased.
- Promoting alcohol in a way that has special appeal to people under the relevant purchase age. Special appeal might relate to the name of the product, the packaging, or the images used in the promotion. It is currently only a voluntary requirement for advertisements and promotions to not hold special appeal to minors.

DAIRIES AND GROCERY STORES

Will local dairies be able to sell alcohol?

The legislation will make it clear that dairies and convenience stores cannot sell alcohol, which is consistent with the current law.

Grocery stores, including supermarkets, will continue to be able to apply for a licence.

The bill will provide greater clarity on the definition of a grocery store, focussing on:

- The type of products they sell; and
- The physical nature of the store.

The legislation will be consistent with the Liquor Licensing Authority's current approach, which was recently upheld by the High Court in *CH and DL Properties Ltd v Christchurch District Licensing Agency and Others* (HC CHCH CIV 2009-409002906 27 July 2010). A copy of that decision is available at www.justice.govt.nz along with the other alcohol papers.

INCREASED PENALTIES

What sort of penalties are increasing?

We are increasing some of the existing penalties. For example:

- the maximum fine for a licensee allowing disorderly conduct on their premises will increase from \$4000 to \$10,000;
- anyone who continues to sell alcohol after the Police have ordered premises to be closed due to fighting or rioting will face a maximum \$3000 fine rather than a \$2000 fine; and
- licensees promoting alcohol in an irresponsible way will see both the scope of the offence increase, and the maximum fine increase from \$5000 to \$10,000.

Finally, we are making more use of infringement offences, which will be able to be used when someone under the minimum purchase age buys alcohol or makes a false representation to a licensee, such as claiming to be older than they are. This will allow more effective use of penalties for lower level offending.

LIQUOR BANS

What changes are you proposing to make to liquor bans?

The Government is proposing new criteria for liquor bans, so that they will be more appropriately targeted to problem areas. Councils will need to review existing liquor bans against the new criteria within five years of the legislation being passed.

It is likely that liquor bans will continue to be able to apply to city centres, but the days and times that a ban is in force will need to be reasonable, based on the evidence of alcohol-related harm in that area.

An important change is that liquor bans will be able to apply to private carparks and other private property, such as school grounds, that the public has access to.

The penalty for breach of a liquor ban is also changing from a summary offence punishable by a fine on conviction, to an infringement notice of \$250, which the Police will be able to issue on the spot, or after they have arrested a person and removed them from the area. This change will allow for much swifter enforcement of liquor bans.

TREATMENT

What is the Government doing in the treatment area?

The Ministry of Health is actioning the vast majority of the Law Commission's treatment recommendations (many of which were already occurring as part of the Ministry's strategies and work programme). In particular, the Ministry of Health is leading a nationwide co-existing problems (Mental Health and Addictions) project, which incorporates integrated systems and approaches to care, service redesign, designated workforce roles and workforce development. This is at a service and practitioner level.

EDUCATION

What public education activities will the Government be undertaking?

ALAC had an award-winning education campaign with the message “it’s not the drinking, it’s how we’re drinking” and its recent TV advertisements with the message to “ease up on the drink” appear to have increased the number of people contacting the free Alcohol Drug Helpline.

ALAC will continue to develop and deliver similar campaigns to support the legislative changes we are proposing. The Government has also committed to encouraging schools to organise drug and alcohol education programmes that meet community needs.

CLUB LICENCES

What’s happening with club licences?

Club licences will continue to be a separate category of licence. Club managers will be required to hold a general manager’s certificate, which is a change, but they will continue to be generally exempt from the requirement to be on duty at all times that alcohol is being sold and supplied. Where it is considered necessary, licensing decision-makers will be able to require a club to have a manager on duty at all times or at specified times as a condition of the licence.

There will be no changes to the status of, or provisions applying to, permanent charter clubs.