

Liquor Licensing Act 1997

General Code of Practice Guidelines

Issued 29 September 2020

Under section 42 of the *Liquor Licensing Act 1997*, it is a condition of every licence that the licensee complies with the Commissioner's codes of practice.

These Guidelines are issued under clause 16 of the General Code of Practice.

Failure to comply with a provision in the General Code of Practice (General Code) will be a breach of licence condition and may result in an expiation being issued, disciplinary action or prosecution against the licensee, responsible person and/or other persons in accordance with the *Liquor Licensing Act 1997* (the Act).

Licensees and staff have clear responsibilities under the Act. The purpose of the General Code and these guidelines is to promote the objects of the Act and, in particular –

- to ensure that the sale and supply of liquor occurs in a manner that minimises the harm and potential for harm caused by the excessive or inappropriate consumption of liquor; and
- to ensure that the sale, supply and consumption of liquor is undertaken safely and responsibly, consistent with the principle of responsible service and consumption of liquor; and
- to ensure as far as practicable that the sale and supply of liquor is consistent with the expectations and aspirations of the public.

Included in these guidelines are examples of good practices which can be followed that may assist licensees to comply with the General Code, noting the inherent differences between the licence classes covered by the Act. Also included are examples of unacceptable practices which are likely to be in contravention of the General Code and may result in disciplinary action or prosecution against the licensee and/or other persons.

By having reference to these guidelines, licensees will be better equipped to understand and comply with their obligations under the General Code.

Responsible Service of Alcohol Training

General Code of Practice, Clause 7

- (1) The licensee must ensure that all staff engaged by the licensee have successfully completed nationally accredited responsible service of alcohol training by a Registered Training Organisation approved by the Commissioner and published on a website maintained by the Commissioner.
- (2) If any member of the licensee's staff has not completed the training specified in clause 7(1) at the time of engagement, the training must be successfully completed within three months from the commencement of the engagement of the staff member.
- (3) The licensee must ensure that prior to being engaged by the licensee all security personnel have successfully completed nationally accredited responsible service of alcohol training by a Registered Training Organisation approved by the Commissioner and published on a website maintained by the Commissioner.



General Code of Practice, Clause 7

- (4) Clause 7(1) and 7(2) do not apply in relation to –
- (a) a liquor production and sales licence that does not authorise the sale or supply of liquor for consumption on licensed premises;
 - (b) a packaged liquor sales licence that only authorises the licensee to sell liquor through direct sales transactions;
 - (c) a short term 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;
 - (d) the sale or supply of liquor to a resident for consumption on licensed premises;
 - (e) an interstate direct sales 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 seven days of being requested to do so by an authorised officer (within the meaning of section 122 of the *Liquor Licensing Act 1997*).

Licensees must ensure that their staff undertake accredited responsible service of alcohol (RSA) training through a Registered Training Organisation (RTO) approved by the Liquor and Gambling Commissioner (Commissioner).

Staff includes any person who sells, offers for sale or serves liquor, whether they are paid or not (e.g. volunteers).

Security personnel means a person who holds a security agent's licence that authorizes the person to perform the function of controlling crowds under the *Security and Investigation Industry Act 1995*.

Persons who have undertaken nationally accredited RSA training prior to 1 November 2020, will be taken to comply with the RSA training requirements.

This however does not prevent the Commissioner from directing a licensee, responsible person or a person who sells, offers for sale or serves liquor to undertake specified accredited training.

Registered Training Organisations (RTOs) approved by the Commissioner to provide training in RSA, can be found at the CBS website, cbs.sa.gov.au.

It is the view of the Commissioner that all staff should be trained in their responsibilities and powers under the Act and should, at a minimum, be familiar with each of the sections of the Act and the *Liquor Licensing (General) Regulations 2012* (regulations) referred to in these guidelines.

Good practices that will assist with compliance:

Retain evidence of training for all staff on the licensed premises.

Document and have readily available if requested for compliance purposes, the commencement date of employment for each employee and the date that each staff member completed their RSA training.

Understanding South Australian Liquor Licensing Laws

When staff are confident, well trained and are supported by management, they are more likely to act responsibly when serving liquor to patrons.

It is important for all staff including volunteers (not just the licensee) to understand the Act and its objectives.

If staff know and understand their obligations and responsibilities under the Act, they will be in a better position to deal with potential problems while on duty.

RTOs must ensure that all RSA training courses delivered to responsible persons and persons engaged in selling or supplying liquor to patrons include, at a minimum, each of the sections of the Act and the regulations referred to in these guidelines.

All licensees must ensure that the written management plan, required by clause 14, also addresses the provisions of the Act and the regulations so that staff are reminded of the requirements and obligations relating to the sale and supply of liquor and measures in place to minimise the risks.

Conditions of licence

Section 42 – Mandatory conditions

All staff should be aware of the General Code (and any other relevant codes of practice) issued by the Commissioner.

It is a condition of every licence:

- that the licensee comply with the Commissioner's codes of practice;
- other than a short term licence, that, if there is a change in the name of the licensed premises, the licensee must notify the Commissioner in writing within 14 days;
- that the licensee must, within 14 days of any change of the name, address or contact details of the licensee, advise the Commissioner of the change in details; and
- which authorises the sale of liquor for consumption off the licensed premises, that liquor sold under that authorisation –
 - must be delivered to the purchaser in sealed containers or containers of a kind approved by the licensing authority; and
 - if the liquor is not delivered personally to the purchaser at the licensed premises must, except in the case of a packaged liquor sales licence that authorises the licensee to sell liquor only through direct sales transactions, an interstate direct sales licence or where the licensing authority gives an authorisation to the contrary, be despatched to the purchaser from the licensed premises; and
 - must not be consumed on the licensed premises unless the licence also authorises the sale of liquor for consumption on the licensed premises and the liquor could have been lawfully sold and consumed on the licensed premises under that authorisation.

Patron offences

Section 102 - Restriction on taking liquor from licensed premises

If a licensee is not authorised under the licence to sell liquor for consumption off the licensed premises, a person who takes liquor away from the licensed premises is guilty of an offence.

Further, if a licensee is authorised under the licence to sell liquor for consumption off the licensed premises during certain authorised trading hours, a person who takes liquor away from the licensed premises more than 30 minutes after the relevant trading hours is guilty of an offence.

The maximum penalty for such an offence is **\$2 500** with an expiation fee of **\$210**.

Note - This section does not prevent the removal of liquor won as a prize.

Section 103 - Restriction on consumption of liquor in, and taking liquor from, licensed premises

If at a particular time a licensee is not entitled under the licence to sell liquor to a particular person, that person is not then entitled –

- to purchase or consume liquor on the licensed premises; or
 - to be in possession of liquor on the licensed premises; or
 - to take liquor from the licensed premises,
- and a person who does so is guilty of an offence.

The maximum penalty for such an offence is **\$2 500** with an expiation fee of **\$210**.

Section 104 - Liquor may be brought onto, and removed from, licensed premises in certain cases

If a licence authorises the consumption of liquor (or the sale and consumption of liquor) on the licensed premises with or ancillary to a meal provided by the licensee, then, despite any other provision of this Act, it is lawful for a person –

- to bring liquor onto the licensed premises, with the consent of the licensee, intending that it be consumed with or ancillary to a meal provided by the licensee on the licensed premises, and later to take from the licensed premises the unconsumed portion of liquor so brought onto the licensed premises in the container in which it was brought onto the licensed premises; or
- if a bottle of wine has been purchased on the licensed premises by the person intending that the wine be consumed with or ancillary to a meal provided by the licensee on the licensed premises, to take from the licensed premises the unconsumed portion of wine so purchased in the bottle in which it was purchased.

Entertainment

Section 105 – Prescribed entertainment on licensed premises

Consent of the licensing authority is required in order to provide prescribed entertainment (ie entertainment of a sexually explicit nature or a professional or public boxing or martial art event) on licensed premises.

Once granted, prescribed entertainment consent allows a licensee to provide prescribed entertainment in accordance with any conditions of approval. These conditions may restrict how the entertainment can be provided.

A licensee who provides prescribed entertainment on premises without the consent of the licensing authority, or contrary to other conditions contained in this section of the Act, is guilty of an offence.

The maximum penalty for a first offence is **\$10 000** with an expiation fee of **\$1 200**. Subsequent offences attract a maximum penalty of **\$20 000**.

Noise

Section 106 - Complaint about noise etc emanating from licensed premises

As there is the potential for noise or disturbance to occur as a result of activities on licensed premises, or the conduct of patrons making their way to or from licensed premises, licensees need to be vigilant by monitoring sound levels and patron behaviour.

Complaints may be made to the Commissioner where noise emanating from licensed premises, or the behaviour of persons making their way to or from licensed premises, is unduly offensive, annoying, disturbing or inconvenient.

Minors

Section 107 - Minors are not to be employed to serve liquor on licensed premises

If a minor is employed to sell, supply or serve liquor on licensed premises, the licensee is guilty of an offence.

However, this section does not prevent the employment of a minor to sell, supply or serve liquor on licensed premises if-

- the minor is of or above the age of 16 years and a child of the licensee or a responsible person for the licensed premises; **and**
- the licensing authority has approved the employment of the minor.

Sale of liquor online

Section 107A – Sale of liquor through direct sales transaction

A licensee who advertises the sale of liquor by direct sales transaction, such as by mail, telephone or online order, must include the licence number on any advertisement. A licensee who fails to comply with this section is guilty of an offence.

The maximum penalty for such an offence is **\$2 500** with an expiation fee of **\$210**.

At the time the liquor is ordered, the licensee must require the purchaser's date of birth unless the purchaser has previously notified the licensee of this. If a licensee fails to comply with this section, they would be guilty of an offence.

The maximum penalty for such an offence is **\$2 500** with an expiation fee of **\$210**.

The licensee must make sure the person delivering the liquor is not a minor and knows it must only be delivered:

- to the adult person who purchased the liquor
- to the adult person nominated by the purchaser; or
- in accordance with the instructions of the purchaser, such as leaving the liquor unattended.

If the person accepting the delivery of liquor is clearly over the age of 18 the person delivering the liquor must:

- have the person sign a declaration with their name stating that they are 18 years or over; and
- keep a written record and the signed declaration for one year following the delivery.

In any other circumstance, the person taking delivery must produce evidence of their age in the form of an Australian driver's licence, a proof of age document issued in Australia, a current passport or a current photographic Keypass identification document.

The person delivering the liquor must make a record of the type of evidence of age, name and date of birth and the delivery address. This must be kept for at least one year.

Intoxication

Section 108 - Liquor not to be sold or supplied to intoxicated persons

It is an offence to sell or supply liquor on licensed premises to a person who is intoxicated. A person is considered intoxicated if the person's speech, balance, coordination or behaviour is noticeably affected and it is reasonable to believe that the impairment is the result of the consumption of liquor or some other substance (including over the counter medications).

If liquor is sold or supplied on licensed premises to an intoxicated person, each of the following persons is guilty of an offence:

- the licensee;

- if the licence in respect of the licensed premises is held by a trust or corporate entity, each person occupying a position of authority in the trust or corporate entity;
- the responsible person for the licensed premises; and
- the person by whom the liquor is sold or supplied.

The maximum penalty for a first offence is **\$20 000** with an expiation fee of **\$1 200**.

Subsequent offences attract a maximum penalty of **\$40 000**.

Minors

Section 110 – Sale and supply of liquor to minors on licensed premises

It is an offence to sell or supply liquor to a minor (person under the age of 18) on licensed premises.

If liquor is sold or supplied to a minor on licensed premises, each of the following persons is guilty of an offence:

- the licensee;
- if the licence in respect of the licensed premises is held by a trust or corporate entity, each person occupying a position of authority in the trust or corporate entity;
- the responsible person for the licensed premises; and
- the person by whom the liquor is sold or supplied.

The maximum penalty for a first offence is **\$20 000** with an expiation fee of **\$1 200**.

Subsequent offences attract a maximum penalty of **\$40 000**.

A licensee who sells or supplies liquor to a minor otherwise than on licensed premises, is guilty of an offence.

The maximum penalty for a first offence is **\$20 000** with an expiation fee of **\$1 200**.

Subsequent offences attract a maximum penalty of **\$40 000**.

A licensee who permits a minor to consume liquor on the licensed premises is guilty of an offence.

The maximum penalty for a first offence is **\$20 000** with an expiation fee of **\$1 200**.

Subsequent offences attract a maximum penalty of **\$40 000**.

Section 111 - Areas of licensed premises may be declared out of bounds to minors

Minors are not allowed in an area designated as out of bounds to minors.

The licensing authority, or a licensee, may declare any area of the licensed premises (other than a bedroom) to be out of bounds to minors.

A licensee must, within 7 days after making a declaration, give the Commissioner a written notice setting out the area of the licensed premises to which the declaration relates.

Section 112 - Minors not to enter or remain in certain licensed premises

A minor may not enter, or remain in—

- licensed premises subject to a packaged liquor sales licence unless the minor is accompanied by a responsible adult at all times; or
- any other area in licensed premises (other than a bedroom) —
 - between the hours of midnight and 2 am unless the minor is accompanied by a responsible adult at all times; or
 - between the hours of 2 am and 5 am, if liquor may be sold in the area at that time.

If a minor enters or remains in licensed premises in contravention of this section or in contravention of a condition of the licence, an authorised person may require the minor to leave, and, if the minor fails to do so, may exercise reasonable force to remove the minor.

If a minor enters or remains in licensed premises in contravention of this section or in contravention of a condition of the licence, the licensee is guilty of an offence.

Section 113 - Notice to be erected

A licensee must not contravene or fail to comply with a requirement of the Commissioner's specifications relating to the display of notices in relation to access by minors to and in relation to licensed premises. Failure to comply with this section is an offence.

The Commissioner's signage specifications can be found at cbs.sa.gov.au.

The maximum penalty for such an offence is **\$10 000** with an expiation fee of **\$500**.

Section 115 - Evidence of age may be required

A prescribed person which includes:

- the licensee
- a responsible person for the licensed premises
- security personnel or
- an employee of the licensee (bar staff)

may require—

- a person on, about to enter, or in the vicinity of, regulated premises; or
- a person who is, or has recently been, in possession of liquor

and who the prescribed person reasonably suspects is under the age of 18 years, to produce evidence as to the person's age in the form of an Australian driver's licence, a proof of age document issued in Australia, a current passport or a current photographic Keypass identification document.

Section 116 - Power to remove or refuse entry to minors

This section allows an authorised person which includes:

- the licensee
- a responsible person for the licensed premises
- a police officer or
- security personnel

to, if necessary, use reasonable force to remove a person from, or prevent the entry of a person onto, the licensed premises if:

- the person has failed to provide ID; or
- the authorised person suspects on reasonable grounds that the person is under the age of 18 years.

Use of force and power to remove or refuse entry

Section 124 - Power to refuse entry or remove intoxicated persons or persons guilty of offensive behaviour

This section allows an authorised person which includes:

- the licensee
- a responsible person for the licensed premises
- a police officer or
- security personnel

to, if necessary, use reasonable force to remove a person from, or prevent the entry of a person onto the licensed premises if –

- the person is intoxicated; or
- the person is behaving in an offensive or disorderly manner.

An authorised person may, if necessary, use reasonable force to remove a person from the licensed premises if they suspect the person has supplied, or is about to supply, liquor to an intoxicated person on the licensed premises.

Licensee barring orders

Section 125 - Licensee barring orders

This section empowers the licensee or responsible person for the licensed premises to bar a person from entering or remaining on the licensed premises for a specified period –

- if the licensee or responsible person is satisfied that the welfare of the person, a person residing with the person or a family member of the person, is seriously at risk as a result of the consumption of alcohol by the person;
- if the person commits an offence, or behaves in an offensive or disorderly manner, on, or in an area adjacent to, the licensed premises; or
- on any other reasonable ground.

Section 137B - Procedures to be observed by authorised persons in prevention of persons from entering, and removal of persons from, licensed premises

Regulation 20 prescribes procedures to be observed by the licensee, a responsible person for the licensed premises, a police officer, or security personnel in or in connection with the removal of persons (including minors), and, the prevention of persons from entering, or the removal of persons from, licensed premises or a part of licensed premises.

The procedures include that the:

- authorised person must, if practicable, before using force to prevent a person from entering, or remove a person from, licensed premises –
 - advise the person that he or she is authorised under the Liquor Act to use reasonable force to prevent persons from entering, or remove persons from, licensed premises; and
 - explain that he or she will, unless the person agrees that he or she will not enter the premises, or agrees to leave the premises, use force to prevent the person from entering, or remove the person from, the premises;
- an authorised person must not, while using force to prevent a person from entering, or remove a person from, licensed premises, hold the person above the person's shoulders, or undertake any other action in respect of the person, in a way that could prevent or restrict the inhalation of air by the person or cause the person to suffer asphyxia (unless the action is necessary in self-defence); and
- as soon as reasonably practicable following an incident involving the use of force to prevent a person from entering, or remove a person from, licensed premises, each authorised person involved in the incident (other than a police officer) must, if he or she is not the licensee, report the incident to the licensee in writing, and must include in the report the details required to be recorded in the register to be maintained by the licensee.

A licensee of licensed premises must ensure:

- that a record of each incident involving the use of force by an authorised person (other than a police officer) to prevent a person from entering, or remove a person from, the premises is entered in a register of such incidents;
 - that the register identifies the licensed premises; and
 - that each entry in the register:
 - includes: the date and time of the incident; the name of the responsible person for the licensed premises at the time of the incident; whether the incident related to prevention of entry or removal from premises; whether the incident involved a minor; the name or badge number of the authorised person; the grounds for the use of force; if known, the name, address and date of birth of the person prevented from entering or removed and of any witness to the incident; a description of any injuries sustained by any person as a result of the incident; whether a police officer attended the incident; and, a description of the incident and any preceding events;
 - is dated and signed by the licensee or responsible person; and
 - is retained for at least one year following the occurrence of the incident; and
 - that the register is kept on the licensed premises and is readily available for inspection or copying by the Commissioner, an inspector or a police officer.
- a current photographic Proof of Age document issued by the Registrar of Motor Vehicles or by a corresponding public authority of the Commonwealth or another State or a Territory;
 - a current passport issued by the Commonwealth or under the law of another country, bearing a photograph of the person and enabling the age of the person to be determined; or
 - a current photographic Keypass identification document issued by Australian Postal Corporation.
- It is important that staff are aware that these types of ID can be digital, for example on a mobile phone and can be accepted as proof of ID.
 - If areas of licensed premises have been declared out of bounds to minors, ensure that relevant signs are placed at all entry points to those areas.
 - Where appropriate (eg, late night trading venues) display signage which indicates that patrons may be asked for proof of age upon entry (signage may deter minors from attempting to enter the premises).
 - Where appropriate, require patrons to provide proof of age before entry onto the licensed premises.
 - When checking ID adopt the following strategies in order to effectively detect fraudulent, fake or defaced ID's:
 - examine the ID in well-lit areas where alterations will be more easily detected;
 - ask the patron to remove their ID from their wallet for you to inspect;
 - feel around the photo, birth date and edges of the card for wrinkles, bumps or air bubbles which could mean the ID has been tampered with;
 - calculate the date of birth on the ID to ensure that it does in fact confirm that the patron is over 18 (given that driver's licences can be issued for 16 and 17 year olds); and
 - check the ID for holograms or other security features that would indicate that the card is legitimate.

Practices relating to minors

Good practices that may assist with compliance:

- Refuse service of liquor to any person who you suspect may be underage and who does not have identification (ID) to prove otherwise.
- Ensure that staff are aware of the types of acceptable ID that can be accepted as proof of age, being:
 - a current photographic driver's licence issued under the *Motor Vehicles Act 1959* or under a corresponding law of another State or a Territory;

General Code of Practice, Clause 8

- (1) The 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) The licensee must not conduct, promote, advertise or permit the conduct, promotion or advertisement of their business in a way that tends to encourage minors to consume liquor.

- If you suspect that the ID offered by the patron may be fake, ask some simple questions that the patron should be able to easily answer such as:
 - what month were you born;
 - what's your star sign;
 - what is your middle initial; and
 - what is your postcode?
- If a person is on or trying to gain access to a licensed premises, a licensee, responsible person or security personnel are allowed to confiscate their ID (with the exception of passports and mobile devices) if it is believed that:
 - the person who produced the document is not the person identified;
 - the document contains false or misleading information about the name or age of the person; or
 - the document has been forged or altered.
- You don't have to confiscate an ID, but you can refuse entry if you are unsure about the validity of the ID.
- If your premises is using "pass outs" or wrist bands, closely screen anyone trying to re-enter the premises as "pass outs" can be easily transferred.

Practices promoting responsible attitude to consumption of liquor on licensed premises

General Code of Practice, Clause 9

- (1) The licensee must not conduct, promote, advertise or permit the conduct, promotion or advertisement of their business 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) The licensee must not conduct, promote, advertise or permit gender-based promotions involving free or discounted liquor on the licensed premises including free or discounted entry to the licensed premises.
- (3) Except where liquor is sold for consumption off licensed premises only, or where liquor is supplied by way of sample only, the licensee must at all times –
 - (a) ensure that free cool drinking water is readily available to patrons on 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.
- (4) **Between 12.01 am and 7.00 am at all times while open for trade** the licensee must not supply liquor free of charge or permit the supply of liquor free of charge.
- (5) The holder of an on premises licence (except where the licensed premises is a public conveyance) must ensure food is available to all patrons at all times that the premises is open for trade.

The promotion, advertising and operation of a licensed business must not provide incentives that encourage the irresponsible, rapid or excessive consumption of liquor.

Some practices by their very nature can encourage patrons to drink more rapidly, drink excessive amounts of liquor, or simply drink more than they would normally.

Activities such as games, competitions and challenges can provide patrons with an entertaining environment on licensed premises. However, where these activities involve the consumption of liquor in order to take part or as part of a prize, they can act as an incentive for the irresponsible, rapid or excessive consumption of liquor.

Competitions and games in themselves are not prohibited by the General Code, however, licensees should carefully consider how they promote, advertise and conduct these types of activities.

The promotion, advertising and operation of a licensed business must also not encourage the stockpiling of drinks by the patron for consumption on the licensed premises. Some types of promotions such as drink cards and free drink offers can encourage stockpiling where there are no controls over how the consumption of the liquor takes place. As a result of stockpiling, patrons may feel compelled to finish accumulated drinks where they would normally have stopped drinking, thereby leading to irresponsible, rapid or excessive consumption.

Unacceptable practices that may be deemed to be promoting, advertising or operating the licensed business in a way that encourages the irresponsible, rapid or excessive consumption of liquor

- Using language, slogans or images that promote or encourage patrons to get drunk, drink excessively or drink rapidly (eg, “drink until you drop”, “beat the clock”, “drink like a fish”, “beer prices hammered”).
- Display of “honour boards” which show patrons’ names and the quantity of liquor consumed over a period of time such as “100 Pints Club”, “Beer Legends” or similar.
- Promotions involving free liquor (other than where liquor is supplied by way of sample) or heavily discounted liquor (eg, \$1 shots of spirits).
- Multiple recurring promotions in one trading period and promotions with a duration of more than two hours (eg, “two-for-one base spirits all night”).
- Promotions that encourage or reward the purchase of, or drinking of, large quantities of liquor in a single session (eg, “buy five drinks in one round and get the sixth for free”).
- Gender based promotions or practices (eg, “unlimited free alcohol for women all night”).
- Prizes, rewards, drink cards or loyalty schemes that may only be redeemed by consuming liquor on the licensed premises within a finite timeframe during a trading period (eg, “\$50 drink card to be redeemed between 8 pm - 10 pm”). Including any competition where liquor is the prize or reward and consumption is expected to take place on licensed premises.
- Pouring liquor straight into patrons’ mouths (eg, pouring liquor directly from a bottle or shooting liquor from a water pistol) or pouring a multiple supply of shooters for an individual’s consumption.
- Serving liquor in a container which cannot remain upright or a large drinking vessel (such as a bucket or fish bowl).
- Drinking games, competitions, dares or challenges that involve rapid or excessive consumption of liquor (eg, skolling games, speed drinking games, boat races).

Guidance for Risk Assessment (factors to be considered)

- How often do you conduct special promotions? What type of promotions do you conduct?
- How do you advertise your business (eg TV, newspaper, radio, posters)?
- Who are your promotions/advertisements aimed at? Males or females? What age group?

- Will free cool drinking water be made available over the counter upon request or will it be available for customers to help themselves from some kind of water dispenser unit that sits on the bar?
- If you are providing a water dispenser unit for customers, how often does this need to be checked to ensure that it is not empty?
- What type of non-alcoholic beverages do you have available for purchase?
- What is the least expensive non-alcoholic beverage that you have available for purchase?
- Is this always in stock?

General Code of Practice, Clause 9(2)

The licensee must not conduct or permit gender-based promotions involving free or discounted liquor on the licensed premises including free or discounted entry to the licensed premises.

Examples of unacceptable practices that will be deemed to be in breach of the code:

- Free or discounted entry or liquor for males or females all night or for an extended period of time.
- \$1 beers for males on Grand Final Day.
- Special 'all you can drink' offers for females only.
- Promotions involving free 'drink cards' for all females upon entry.
- \$1 spirits or cheap drink 'ladies nights' or 'bachelor nights'.

General comments:

Promotions that are not specifically gender-based and clearly do not encourage rapid or excessive consumption (eg, a free champagne or beer with a meal on Mother's or Father's Day) would not be considered a breach of the General Code.

General Code of Practice, Clause 9(5)

The holder of an on premises licence (except where the licensed premises is a public conveyance) must ensure that food is available to patrons at all times that the premises is open for trade.

Food does not have to be a meal and can include items such as snack food eg sandwiches, chips.

Explore your options for providing food - you could partner with a local food delivery service or encourage customers to make use of food delivery apps by advertising them throughout the venue.

Practices relating to drink spiking

General Code of Practice, Clause 10

- (1) The licensee must take reasonable steps to reduce the likelihood of drink spiking occurring on the licensed premises.
- (2) The 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 liquor or other substance to a person's drink without the person's knowledge or permission (whether at all or in the quantity added).

- Develop operating procedures within your premises that promote preventative and harm reduction strategies in order to protect the safety and health of your patrons, including guarding against the incidence of drink spiking.
- Train staff how to identify and respond to situations where drink spiking is suspected or reported.

- Train staff that unattended glasses should be collected to reduce the risk of drink spiking and alert patrons to this procedure.
- Train staff to be aware of unusual beverage requests (eg, beer with a nip of spirits).
- Decline patrons' requests to add extra alcohol to friends' drinks without their knowledge.
- Monitor and, if necessary, report any suspicious behaviour to the police.
- Where appropriate (eg, late night trading venues), ensure key staff are trained in an accredited first aid course to assist patrons.
- In the instance of an alleged drink spiking incident:
 - ensure that someone stays with the person;
 - seek immediate medical assistance;
 - if appropriate at the time, encourage the person to notify police of the incident.

Guidance for Risk Assessment (factors to be considered)

Is liquor served over the bar or is table service provided?

Drink spiking is less likely to occur if people are purchasing their own drinks. If patrons are purchasing drinks for others, there is the potential for requests to be made to add amounts of alcohol to a person's drink without their knowledge.

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

General Code of Practice, Clause 11

The licensee, responsible person or staff of the licensee must take reasonable steps -

- (a) to prevent the sale or supply of liquor to persons in circumstances where their 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 or some other substance;

- (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.

Good practices that may assist with compliance:

- Ensure that all staff are familiar with the Intoxication Guidelines available from cbs.sa.gov.au and are alert to the signs of intoxication.
- Train staff to ensure early intervention in incidents of intoxication and/or offensive or disorderly behaviour of patrons, having due regard to the safety of staff and customers.
- Actively promote food (serving food to people who are drinking slows the absorption of alcohol into the bloodstream and is also likely to extend the time between rounds of drinks).
- Where appropriate (eg, late trading venues, entertainment venues or at large events):
 - use dedicated staff (responsible persons or 'drink marshals') to monitor and coordinate the responsible service of liquor and monitor people exhibiting signs of intoxication and/or offensive or disorderly behaviour;
 - implement clear door and queue monitoring procedures - by monitoring the door and queue closely, you can help prevent problems before they occur as this provides an opportunity to deny entrance to intoxicated or disorderly patrons; and
 - ensure queues into licensed premises are monitored by a responsible person or security personnel to ensure that the behaviour of patrons in the queue is acceptable and there is no interference with pedestrians.

The following do not apply where liquor is sold for consumption off licensed premises only, or where liquor is supplied by way of sample only:

- ensure that a range of non-alcoholic drinks is available; and
- encourage the service of low alcohol drinks (eg, light beer).

Guidance for Risk Assessment (factors to be considered)

- What is the likelihood that your patrons might 'pre-load' on liquor or other substances before visiting your premises?
- Remember that people have different levels of tolerance to alcohol.
- Are the majority of your patrons female? Females generally have a lower tolerance to alcohol and may become intoxicated more quickly than their male counterparts.
- How late do you trade?
- How many people can be in your premises at any time?
- Are large licensed events or festivals ever held near your premises? If so, are you likely to have customers come to your premises after such events and is it likely that these patrons have been drinking or taking illicit substances at the event?

Practices relating to disturbances

General Code of Practice, Clause 12

The 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.

A licensee's responsibility does not begin and end at the front door. Good management involves surveillance in and around the vicinity of the licensed premises and requires licensees to respond positively to any complaints from nearby residents. Where appropriate, the preparation and implementation of a 'Dispersal Policy' that sets out the steps that your venue will take at the end of a trading session would assist in minimising the potential for disorder and disturbance as patrons leave the premises.

Good practices that may assist with compliance:

- Subject to section 104 of the Act (discussed above) and other relevant carry-off provisions in the Act relevant to specific licence classes, make it clear to patrons that they will not be allowed to leave the premises with open bottles or glasses.
- This policy should be supported by signage and, where appropriate, security personnel monitoring patrons as they leave the premises. If appropriate, bins can be provided at exits and licensees could also provide advice on any dry areas in the vicinity.
- Where appropriate (eg, late night trading venues), approximately 30 minutes prior to closing, licensees can stop or limit liquor service, reduce the noise level of entertainment or music being played and increase lighting to encourage the gradual dispersal of patrons during the last part of trading. At this time an announcement could also be made asking patrons to respect neighbours by leaving the area quickly and quietly.
- Where appropriate, use security personnel to help disperse and direct patrons from the immediate area of the premises after closing.
- Actively promote and display information about any nearby managed taxi ranks and other public transport services that are available, (eg After Midnight Bus Stops) to assist with the safe dispersal of patrons.
- Ensure that entry/exit areas and parking have adequate lighting and are free of hazards and obstructions.
- Use of bright lights at the exit of the premises.

- Where appropriate, maintain a presence on the street until all patrons have left the area and ensure that any bottles and liquor containers within a 100 metre radius of the premises are cleared away.

Guidance for Risk Assessment (factors to be considered)

- Is your premises located within or near a residential area?
- How late do you trade?
- How many people can be in your premises at any time?
- Do you provide entertainment? If so, what type of entertainment and is this likely to create a lot of noise?
- Do patrons leaving your premises have to walk past residential areas in order to get to a car park, taxi rank or public transport?
- Where your premises is located? (eg is your premises situated on a main road or within a shopping centre or main shopping precinct)

Risk assessment and reasonable steps

General Code of Practice, Clause 14

- (1) The 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.
- (2) The measures must be contained in a written management plan.
- (3) A copy of the management plan must be kept on the licensed premises and made available as soon as practicable upon request of an authorised officer.
- (4) 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.

General comments:

The General Code intends that licensees be responsible for ensuring that they-

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

Good practices that may assist with compliance include:

- facilitating discussions between staff members to identify any existing or potential risks associated with the operations under the licence;
- if you identify any significant risks, consider the types of measures that can be implemented or steps that can be taken to address these and ensure that these are included in the venue's management plan;
- if you are unsure about the risks that may be associated with a particular promotion or activity, have discussions with staff (including bar staff), who are often the people who notice first-hand the impact that certain promotions/activities can have on patrons and the environment within the licensed premises; and
- think about who might be harmed and how. For example, are bar staff or patrons at risk?

If you are still concerned about potential risks, choose a less risky option - give consideration to operational/promotional changes that you might make to prevent or reduce the likelihood of a negative outcome occurring.

When assessing the risks associated with a particular promotion or activity that involves liquor, give consideration to the following –

- timing – conducting promotions during certain time periods may pose higher risks of irresponsible drinking;
- type and strength of liquor – the stronger the liquor offered during a promotion, the higher the risk of intoxication;

- price – the cheaper the liquor, the greater the incentive for patrons to drink excessively;
- duration of the promotion - the longer the promotion runs, the higher the risk of intoxication;
- type of promotional activity – some types of promotions encourage irresponsible drinking; and
- frequency – conducting a promotion several times a night can increase the risk of irresponsible drinking and excessive consumption.

Induction and refresher training in the written management plan

General Code of Practice, Clause 15

- (1) The 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 measures must be contained in a written management plan.
- (3) A copy of the management plan must be kept on the licensed premises and made available as soon as practicable upon request of an authorised officer.
- (4) 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.

Good practices that that may assist with compliance:

- Incorporate discussion of relevant sections of the Act into induction and refresher training for all staff.
- Use staff meetings as an opportunity to engage staff in discussions about emerging issues and trends relating to the responsible service of liquor.
- Document details of when induction and refresher training is provided and keep records of this on the licensed premises.
- Where possible, involve staff in the development of any in house policies or operational procedures that address responsibilities mandated under the Act and the relevant Codes of Practice.
- Consult staff when significant changes are made to in house policies or operational procedures.

The information contained in these guidelines does not constitute legal advice. Consumer and Business Services recommends that licensees seek their own legal advice should they require an interpretation of the Act or the General Code of Practice. Consumer and Business Services will not be liable for any injury, damage or loss sustained by any party engaging in the provision or service of liquor.