



Policy

Refusal of Service - Powers of Licensees

[Effective: 7 June 2011]

Disclaimer

This Policy is designed to provide information in regard to the subject matter covered, and with the understanding that the Director of Liquor Licensing is not passing legal opinion or interpretation or other professional advice. The information is provided on the understanding that all persons undertake responsibility for assessing the relevance and accuracy of its contents.

Introduction

This guideline explains the provisions of the *Liquor Control Act 1988* ('the Act') that can be relied upon by licensees and other authorised persons to refuse service to people.

Relevant sections of the Act

Section 115(4) of the Act provides authority for:

- an authorised person to refuse a person entry to the licensed premises or a part of the premises; or
- an authorised person to require a person to leave the licensed premises or a part of the premises; or
- if the requirement to leave the premises is not complied with — an authorised person, or any other person on the request of an authorised person, may remove the person from the licensed premises or a part of the premises using such force as may be reasonably necessary; or
- an authorised person to refuse to sell liquor to the person.

The reasons that an authorised person might refuse entry, remove a person from premises, or refuse to sell liquor to a person, are set out in section 115(4a) of the Act, and include:

- that the person is or appears to be drunk; or
- the person is behaving in an offensive manner; or
- the person is not dressed in conformity with the licensee's requirements for a standard of dress; or
- the person is someone who the authorised person has reasonable cause to believe:
 - cannot or will not pay; or
 - is, or is known to be, quarrelsome or disorderly; or
 - is seeking to obtain liquor by begging; or
- the person is or is known to be, or is an associate of, a reputed thief, prostitute, supplier of unlawful drugs; or
- the person is convicted of an offence involving unlawful drugs or violence that is punishable by a term of imprisonment exceeding 3 years; or
- is or appears to be a person whose presence, or to whom the provision of service, on the licensed premises will cause the licensee to commit an offence under this Act; or
- is a person seeking to enter or enters or remains on the licensed premises at a time when they are closed or are required under this Act to be closed; or
- is a person requesting service on a part of the premises where the licensee is not authorised to provide the service requested; or is set aside for the purposes of a private function.

Appropriate time-frames for refusal of service

Apart from the provisions of section 115(7), the Act does not state how long a person can be refused entry or service. It does not say whether a person can be refused service for a matter of days, weeks, months or longer.

As a general rule, any decision to refuse service should match the seriousness of the disturbance caused.

In making any decision to refuse entry, remove a person or to refuse to serve a person, licensees should adopt a conciliatory approach. For example, the person concerned should be informed of the reason(s) why they are being refused service and for how long.

Further, licensees should consider as much information as possible, including —

- (a) the person's character and reputation;
- (b) any reasons surrounding the incident that may have caused the person to be disorderly (that is; a personality conflict between an employee and the person);
- (c) the seriousness of any violent or aggressive behaviour displayed by the person;
- (d) any effect(s) the drinking of alcohol may have had on the person;
- (e) any effect the patron's behaviour has on other patrons and staff; and
- (f) the atmosphere of the licensed premises and the expectations of the community or regular customers.

Barring Notices

Barring notices can be issued to persons who display anti-social behaviour in a licensed premises.

Anti-social behaviour includes a person who:-

- is violent or disorderly;
- is engaged in indecent behaviour; or
- has contravened a provision of any written law

A Barring Notice can be issued by the Commissioner of Police on the recommendation of a Police Officer or at the request of a licensee and can prohibit a person from entering a specified licensed premises, licensed premises of a particular class or any licensed premises.

It is an offence for a barred person to enter or remain on the licensed premises to which the barring refers to – penalty of \$10,000.

It is also an offence if a responsible person¹ knows that a barring notice has been issued and permits the barred person to enter or remain on the licensed premises contrary to the barring notice – penalty of \$10,000.

- 1 Responsible Person** in relation to licensed premises means the licensee or occupier of the premises, a manager of the premises or an employee or agent of the licensee or occupier.

DIRECTOR OF LIQUOR LICENSING

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