

Licensee Training

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Contents

Introduction	8
Purpose of this training.....	9
Who needs to complete Licensee Training.....	9
Prerequisites.....	10
Other relevant training.....	10
Module 1: Overview of liquor regulation in NSW	11
Introduction.....	12
Cost of alcohol-related harms.....	13
NSW regulatory authorities and stakeholders in the liquor industry.....	16
NSW liquor laws.....	19
Liquor Act 2007	20
Liquor Regulation 2018.....	38
Prescribed precincts.....	41
Common law.....	43
Duty of care.....	43
Vicarious liability	43
Positive duty to prevent sexual harassment in conditions of work.....	45
Other relevant legislation.....	46
Gaming Machines Act 2001.....	46
Gaming and Liquor Administration Act 2007	47
Security Industry Act 1997.....	47
Anti-Discrimination Act 1977	48
Commonwealth Privacy ACT and Australian Privacy Principles.....	48
Competition and Consumer ACT 2010	49
Registered Clubs Act 1976.....	50
Smoke-Free Environment Act 2000.....	50
Surveillance Devices Act 2007 and Workplace Surveillance Act 2005.....	51
Work Health and Safety Act 2011.....	52
Environment Planning and Assessment Act 1979 (EPA)	53
Local Government Act 1993.....	53
Disability Inclusion Act 2014.....	54
Music Festivals Act 2019.....	54
Module 2: Managing your liquor licence.....	56
Who can hold a licence	57
Which licence is best for you?.....	57
Primary purpose test.....	58
Do you want a licence for a venue or event.....	59
Common business activities and liquor licence types.....	60
When is a liquor licence not required?	61

Statutory licence conditions	62
Trading hours.....	66
Liquor licence fees.....	68
Exemptions	71
Applying for a licence.....	72
Preparation on a statement of risk and potential effects (SoRPE).....	73
Licensed premises floor plan.....	74
Additional licence requirements.....	75
Assessment process.....	76
Applying for an interim authorisation.....	77
Managing your licence.....	78
Making changes to your licence.....	78
Transferring your licence.....	80
Moving your licence.....	80
Cancelling your licence.....	80
Module 3: Your responsibility to manage alcohol related harm	83
Part A: Planning and prevention.....	84
Managing competencies	84
Advertising and promotions.....	85
Signage.....	88
Smoking.....	91
Emergency plans.....	92
Part B: Managing a situation	93
Intoxication.....	93
Intoxication laws.....	93
Prevention of intoxication on licensed premises guidelines	95
Voluntary best practice measures.....	96
Managing intoxicated customers.....	100
Plan of management	101
Laws relating to antisocial behaviour	102
Managing antisocial behaviour	102
Minors.....	103
Laws relating to minors.....	103
Monitoring and preventing underage drinking	105
Secondary party sales.....	105
Managing underage drinking.....	106
Minors selling and supplying alcohol.....	106
Strategies to manage alcohol-related harms.....	108
Recap refusing entry.....	109
Ejecting patrons from premises.....	109
Fail to quit.....	110
Banning customers.....	111
Place restriction order	112
Self-exclusion.....	113

Part C: Dealing with an incident.....	114
Mandatory incident register	114
Reporting a crime	115
Preserving a crime scene.....	115
Module 4: Best practice strategies to prevent alcohol related harm	118
Tools and templates	119
Risk management	119
House policy.....	119
Plan of management	120
Self-audit checklists	121
Voluntary incident register	121
Strategies to prevent specific issues.....	122
Crowd control.....	122
Security.....	122
Amenities.....	123
Customer behaviour.....	123
Drink spiking	124
Noise and disturbance.....	125
Disturbance complaints.....	126
Complaints policy	126
Closing/finishing/disembarking.....	127
Transport.....	127
Additional strategies.....	127
Working with the community	128
Building relationships with police, council and your community	128
Liquor accords.....	128
Building a culture of compliance.....	130
Staff training and development	130
Module 5: Compliance and enforcement	132
Compliance.....	133
Liquor & Gaming NSW approach	133
Enforcement.....	135
What happens if I am found non-compliant?.....	135
Educate and engage.....	135
Remedial action, official warnings and enforceable undertakings.....	136
Penalty notices.....	137
Prosecution.....	137
Administrative actions.....	137
Short term closure orders.....	137
Disciplinary action	138
Incentives and Demerit Point System.....	139
Incentives.....	139
Demerits.....	139
Which offences can lead to demerit points?.....	140

Prescribed complaints.....	141
Consequences of demerit points	142
Removing demerit points.....	143
Licensee next steps.....	144
Stay up to date.....	145
References.....	146
Appendices.....	147

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

The Licensee Training course has been designed to provide you with the skills and knowledge 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 laws 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.

By being granted, or 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.

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 focus of Licensee Training is the responsibilities of licensees under the *Liquor Act 2007*. Licensees of venues with gaming machines have additional responsibilities under the *Gaming Machines Act 2001*. Responsibilities of licensees of venues with gaming machines are covered in two separate courses: Responsible Conduct of Gambling (RCG) and Advanced Responsible Conduct of Gambling (ARCG). RCG and ARCG training completion is required of all licensees, approved managers, and club secretaries of venues with gaming machines.

Who needs to complete Licensee Training?

The Licensee and Advanced Licensee Training courses are for most licensees, approved managers and club secretaries, as they have greater responsibilities and obligations under the NSW liquor laws. The training supports licensees with the challenges of operating a licensed business, while ensuring a vibrant and safe hospitality scene.

Liquor & Gaming NSW worked closely with industry peak bodies, NSW Police, and select Registered Training Organisations to design the licensee course to ensure it meets initial licensee training needs.

The Tiered Industry Training Framework (TITF) includes two 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. These include premises:
 - authorised to trade after midnight on more than 12 occasions in any 12-month period
 - with certain business types, such as nightclubs and karaoke bars
 - subject to a regulatory scheme
 - directed by Liquor & Gaming NSW or the Independent Liquor & Gaming Authority (ILGA)

Prerequisites

Before completing this course, you will need to ensure you have completed a [Responsible Service of Alcohol course](#) with a Liquor & Gaming NSW approved training provider and hold a current competency card. Successful completion of the RSA course and assessment will gain you an RSA endorsement on an NSW competency card or interim certificate and make you eligible for Licensee training.

Note: if you are a former licensee with a licensee endorsement expiry date within the last 3 years, you can renew your RSA and Licensee endorsement by completing Licensee Training only. Refer to the link below for more information.

Other relevant training

Responsible Supply of Alcohol Training (RSAT)

Providers and drivers making same day alcohol deliveries to retail customers in NSW must complete the Responsible Supply of Alcohol Training (RSAT) and pass the Liquor & Gaming NSW online assessment. Refer to the link below for further information.

Responsible Conduct of Gambling (RCG)

The Responsible Conduct of Gambling (RCG) training is the foundation that qualifies you to carry out work in relation to gaming machines. The RCG course is designed to clarify the roles, responsibilities and expectations of those working with gaming machines, as well as the laws relating to responsible gambling practices. Refer to the link below for further information.

Advanced Responsible Conduct of Gambling (ARCG)

The Advanced Responsible Conduct of Gambling (ARCG) course provides the resources and practical skills required to identify and proactively intervene to support patrons that might be experiencing gambling harm. To create a proactive environment focused on harm minimisation and provide support for Responsible Gambling Officers, individuals in other roles related to venue operations will also be required to complete ARCG training.

Further information on other relevant training, visit: <https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/training-to-work-in-the-industry/getting-trained>

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.



Overview of liquor regulation in NSW

1

Module 1:

Overview of liquor regulation in NSW

Introduction

In NSW, you need a liquor licence to sell, serve or supply alcohol as part of your business activity. With more than 18,000 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 or property damage.

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, live music and 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.

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 and other laws relevant to licensees
- understand the purpose and requirements of prescribed precincts in NSW.

Cost of alcohol related harms

Alcohol consumption in Australia forms part of many social and cultural activities. When consumed in moderation and responsibly, alcohol can be enjoyed by most people and not have any negative impact on a person's wellbeing. However, harmful levels of consumption can cause major health issues and lead to an increased risk in chronic health conditions, disease and injury.

According to the Cancer Council, there is strong evidence that alcohol consumption increases the risk of seven types of cancer, including two of the most common; breast and bowel cancers. Impacts from alcohol consumption fall into two categories, short term and long term:

- 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 use¹.

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).

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 2010⁵

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

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. particularly those aged 15-29. Chronic effects were more common in those 45 years and older.

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

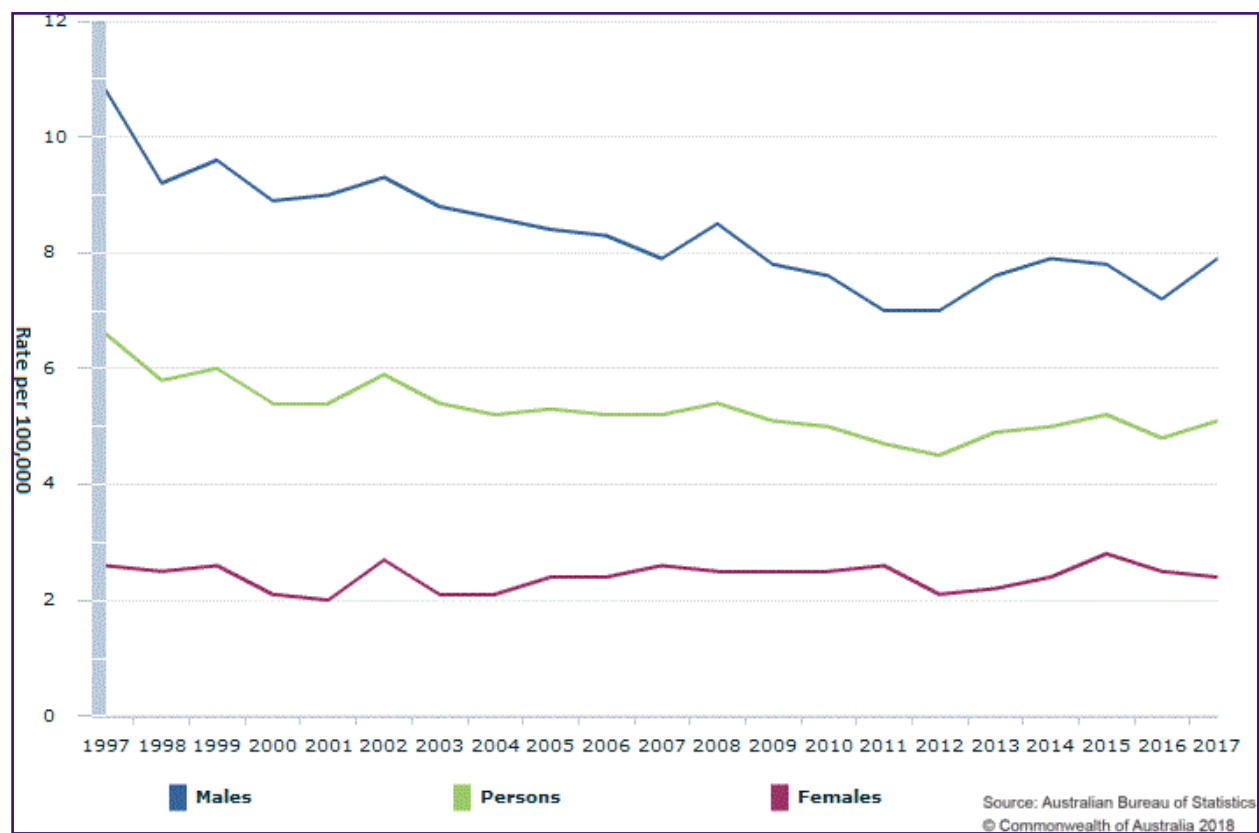
While alcohol consumption at levels that pose a long-term health-risk has been in decline over the last ten years in NSW to 2015, since 2015 rates have increased.¹⁰

In this same year it was estimated through the 2017 NSW School Students Health Behaviours Survey (self-completed questionnaire) 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.

Alcohol-induced deaths, standardised death rates, by sex, 1997-2017¹



Social implications

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

Alcohol misuse and abuse also increases the costs incurred by the health system, police, the justice system, road authorities and reduced productivity. During the financial year 2017/2018, the total cost of alcohol-related issues to Australia was estimated to be \$66.8 billion³.

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 road and traffic accidents.

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.

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).⁴

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]

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

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]

NSW regulatory authorities and 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, 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.

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 (ILGA).

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

Liquor & Gaming NSW is the government agency you will probably have the most interaction with. 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
- managing the low-risk licensing applications and amendments
- 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
- issue improvement notices to ensure noise emissions from licensed venues can be addressed, including in situations requiring an immediate response
- investigate complaints about licensees and/or venues from the community. 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. To prevent and reduce harm and community impact, local councils evaluate the potential risks and additional impacts that an application may have on the community, whether it involves a new licensed venue or changes to the trading conditions of an existing one.

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.

Liquor accords

A liquor accord is an 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.

The purpose of an accord is to address issues faced by industry and the community. 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.

Under the *Liquor Act 2007*, liquor accords are intended to function in a voluntary manner, however there are cases where it is a condition on a liquor licence to be a member of a liquor accord.

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.

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.

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 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 Responsible Service of Alcohol (RSA) training and accreditation, management and control of licensed premises, specific types of undesirable liquor products 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.

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 –
 - o live music industry, and
 - o arts, tourism, community and cultural sectors.



Key sections of the *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, caterers 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 two 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 four 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:

- a) every day: between the period from 5am to midnight, or
- b) if the regulations prescribe a shorter period – the shorter period

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

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 2 - miscellaneous provisions relating to licences and licence-related authorisations
- Division 2A - periodic licence fees
- 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. 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. A licensee who fails to comply with a direction under this section is guilty of an offence.

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 Liquor & Gaming NSW 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
- ensure the information is recorded as soon as practicable, but no later than 24 hours, after the incident occurs

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.

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 of quiet and good order of neighbourhood
- 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:

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

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 the ability for the Secretary, police officers or marine authorities to issue improvement notices to licensees and staff of licensed premises.

The Secretary, a police officer or a marine authority may give a relevant person for licensed premises an improvement notice if:

- noise is being emitted from the licensed premises in a way that unduly disturbs, or unreasonably and seriously disturbs, the quiet and good order of the neighbourhood in which the licensed premises are located
- noise is being emitted near the licensed premises by patrons of the licensed premises or staff or contractors of the licensee
- in navigable waters from licensed premises that are a vessel in contravention of a noise or noise-related condition applying to the licence for the licensed premises, or
- in navigable waters from licensed premises that are a vessel in a way that unduly disturbs, or unreasonably and seriously disturbs, the quiet and good order of the neighbourhood in which the licensed premises are located.

You must comply with the improvement notice.

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 from the licensed premises, any person:

- a) who at the time is intoxicated, violent, quarrelsome or disorderly
- b) whose presence on the licensed premises renders the licensee liable to a penalty under this Act
- c) smoking in a smoke-free area under the *Smoke-free Environment Act 2000*
- d) who uses or has in their possession a prohibited drug or plant

- e) whom 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 the module Intoxication laws.

Division 3

Section 79B outlines the provisions for making disturbance complaints

A person may make a complaint (a disturbance complaint) that the quiet and good order of the neighbourhood in which licensed premises are located are being unduly disturbed, or unreasonably and seriously disturbed, because of:

- a) the way in which the business of the licensed premises is conducted, or
- b) the behaviour of persons after the persons leave the licensed premises, including the occurrence of anti-social behaviour or alcohol-related violence.

A disturbance complaint may be made only to the Secretary and must be made in the form and way, and meet any other requirements determined by the Secretary.

Section 80 and 8a outlines dealing with complaints and grounds on which the secretary may uphold disturbance complaints.

Section 81 outlines decisions by the Secretary in relation to a complaint.

The Secretary may, after dealing with a complaint in accordance with section 80, decide to do one or more of the following:

- a) impose a condition on the licence for the licensed premises the subject of the complaint,
- b) vary or revoke a condition to which the licence is subject,
- c) if a conference has been convened in relation to the complaint — adjourn the conference subject to implementation and continuation of undertakings given by the licensee,
- d) issue a warning to the licensee,
- e) take no further action in relation to the complaint.

The conditions that may be imposed on a licence include, but are not limited to, conditions relating to any one or more of the following —

- a) noise abatement,
- b) prohibition of the sale or supply of liquor before 10 am and after 11 pm,
- c) prohibition of, or restriction on, activities (such as promotions or discounting) that could encourage misuse or abuse of liquor (such as binge drinking or excessive consumption),
- d) restricting the trading hours of, and public access to, the licensed premises,
- e) requiring the licensee to participate in, and to comply with, a liquor accord.

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 premises.

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:

for an individual:

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

for a corporation:

- 250 penalty points.

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 premise.

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 points

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 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. This includes:

- Providing money as part of a transaction involving a credit or debit card
- Extend another form of credit

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.

Meaning – same day delivery provider OR service provider

Means a licensee or delivery agent authorised to make same day alcohol deliveries

Includes:

- 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.

Delivery agent

Delivery companies, couriers and drivers engaged by same day delivery providers to deliver alcohol.

Delivery person

Same day alcohol delivery provider, delivery agent or person making same day alcohol delivery in NSW.

Delivery recipient

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.

The delivery recipient is also referred to as the 'customer' in this handbook.

More information

Access the *Liquor Amendment (Night-time Economy) Act 2020* here:
<https://legislation.nsw.gov.au/view/pdf/asmade/act-2020-40>

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

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 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: <ul style="list-style-type: none"> 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: <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 delivery instructions. 	30 penalty units
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

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

Liquor Act 2007	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. Such records must be kept for at least 1 year from the date the refusal occurred.	30 penalty units
Section 114M(3)		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	<p>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.</p> <p>Defence: where you can provide records to prove that the delivery person has successfully completed the RSAT and the Liquor & Gaming NSW online RSAT knowledge test.</p>	

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.

Division 2

Section 123 A minor is not to enter or remain in certain licensed premises.

A minor must not

- enter or remain in the bar area of a hotel or club, or remain in a part of a hotel with a minors area authorisation unless in the company of a responsible adult

A minor must not enter or remain in a small bar between 10am and 10pm, unless

- the minor is in the company of a responsible adult, meals are regularly provided on the licensed premises between opening and 10pm when liquor is sold or supplied or
- there is a minors authorisation in force for the small bar and the minor is in the small bar during the time and for the purposes or circumstances stated in the authorisation

A minor must not enter or remain in a small bar between 10pm and midnight unless:

- there is a minors authorisation in force for the small bar, and

- the minor is in the small bar during the time and for the purposes or circumstances stated in the authorisation

A minor must not:

- enter or remain in a licensed public entertainment venue unless the minor is in the company of a responsible adult, or
- a function is being held in the venue in accordance with a minors functions authorisation.

A minor must not enter or remain in the following areas of licensed premises unless the minor is in the company of a responsible adult:

- an area related to a package liquor licence,
- an area dedicated to the sale of liquor by retail in sealed containers on the licensed premises for consumption away from the licensed premises.

Defence to a prosecution of the above is if it is proved that the defendant believed on reasonable grounds:

- a) that a minors functions authorisation was in force at the relevant time to enable minors to attend a function in a bar area of the hotel or in the public entertainment venue
- b) 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.

It is a defence to a prosecution if it is proved that at the time of the alleged offence the minor did not know, and could not reasonably be expected to have known, that the alleged offence had been committed.

Maximum penalty–

- 20 penalty units

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 if the presence of the person on the licensed premises would be an offence under *the Act*. The suspected underage person would need 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 their 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*

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.

Part 9B outlines enforceable undertakings

The Secretary may require a licensee to give an enforceable undertaking to do, or refrain from doing something if:

- a) the licensee has contravened *the Act*, or
- b) the Secretary reasonably believes the licensee has contravened *the Act*.

An enforceable undertaking is an alternative to taking disciplinary action and disciplinary action may not be taken in relation to the contravention or alleged contravention of *the Act* while an enforceable undertaking is in force.

If the Secretary is satisfied a licensee has, without reasonable excuse, failed to comply with an enforceable undertaking, the Secretary may certify the failure to the Supreme Court.

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 actions 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 nightlife 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* outlines miscellaneous provisions including the Savings and transitional provisions on review of related Act and regulations.

Part 12 of the *Liquor Act 2007* outlines provisions for outdoor dining and performance.

The purpose of this part is to allow local councils to encourage the temporary use of outdoor space for dining and performance.

A local council may decide, by notice published on the local council's website —

- a) to temporarily allow the use of a footway or public open space associated with the following to be used as an outdoor dining area, an extension of foyer space or a performance space —
 - i. licensed premises or other lawful food and drink premises,
 - ii. entertainment, arts or cultural venues, or
- b) to temporarily allow parking spaces within the local council's area to be used as an outdoor dining area, an extension of foyer space or a performance space, or
- c) (c) to temporarily close an unclassified road for which the local council is the roads authority for use as an outdoor dining area, an extension of foyer space or a performance space, or
- d) (d) to temporarily close a classified road, with the concurrence of Transport for NSW, for use as an outdoor dining area, an extension of foyer space or a performance space, or
- e) to temporarily vary a development consent or a development consent condition to allow outdoor performance.

A local council may make a decision referred to in subsection (1) only if the council has —

- a) given the Minister at least 7 days' notice that the council wants to allow outdoor dining and performance and invited the Minister to respond to the proposal, and
- b) given 7 days' notice of its intention to make the decision —
 - i. by publishing a notice about the proposed decision on the council's website, and
 - ii. to the following persons —
- (A) if the proposed decision relates to licensed premises — the Authority and the Commissioner of Police,
- (B) if the proposed decision relates to an unclassified road for which the council is the roads authority — the Commissioner of Police and Transport for NSW,
- (C) (C) if the proposed decision relates to a classified road — the Commissioner of Police and Transport for NSW, and Transport for NSW has agreed to the road closure.

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

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 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
- Same day delivery data reporting.

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

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

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 nightlife and to encourage a vibrant and safe 24-hour economy, visit: [Vibrancy Reforms -what's changing -Liquor & Gaming NSW](#)

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>

For information on the most current reforms to *the Act*: <https://www.liquorandgaming.nsw.gov.au/resources/vibrancy-reforms-whats-changing>

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.

Prescribed precincts

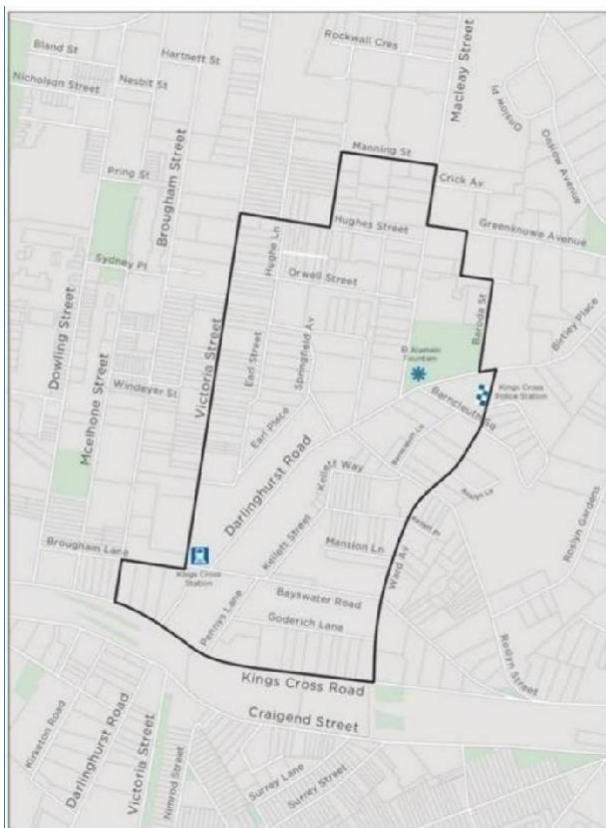
The NSW Government has identified two designated areas in Sydney that experience high levels of alcohol-related violence. The areas are known as prescribed precincts, and licensed premises within the precinct boundaries have special conditions applied to their licence:

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

Kings Cross Precinct

Stretches from:

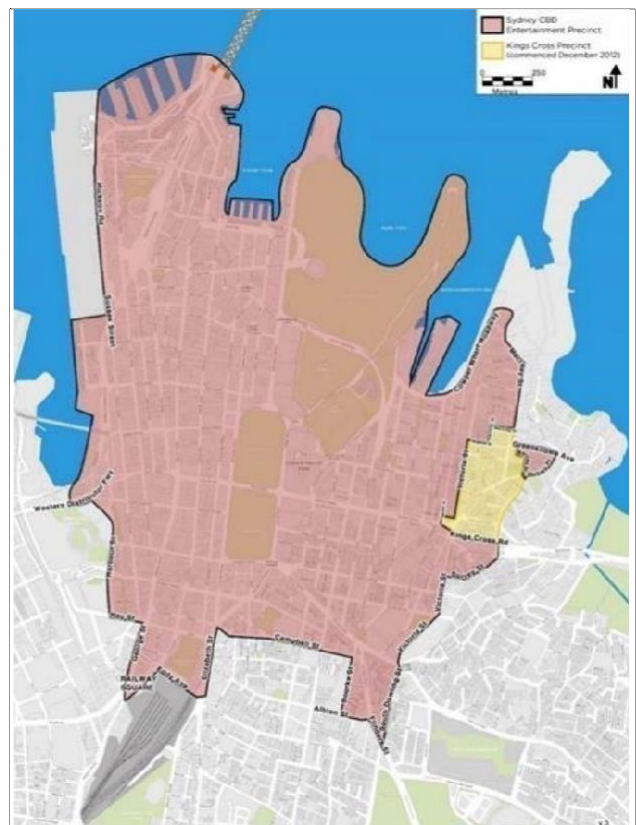
Ward Avenue in the east to Victoria Street in the west Manning Street in the north to Kings Cross Road in the south.



Sydney CBD Entertainment Precinct

Stretches from:

Parts of Surry Hills, Haymarket and Darlinghurst to the Rocks, and from Kings Cross to Cockle Bay.



Special licence conditions in the precincts

Special licence conditions apply to numerous venues in both the Kings Cross and Sydney CBD entertainment precincts. Some special conditions apply to higher risk licence types only, whereas other conditions apply to all venues in the precincts.

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.

Common special conditions which apply to both precincts include:

- 3:30am liquor sales cessation - other services such as non-alcohol drinks, food or entertainment can continue. Applies to certain venues including 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.
- refuse entry to or remove any person wearing any form of clothing, jewellery, or other accessory that indicates they are a member of an outlawed motorcycle organisation.

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.

* 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>

Exemptions to special conditions

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

The Secretary will only consider an application where:

- the exemption is unlikely to result in an increase in alcohol-related violence, anti-social behaviour or other alcohol-related harm in the prescribed precinct in which the licensed premises is located, and

- other measures are in place that will be effective in reducing the risk of alcohol-related violence or anti-social behaviour in and around the premises.

Common Law

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.

Vicarious Liability

In addition to section 91 of the *Liquor Act 2007*, which outlines your vicarious 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 contractors 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 contractors' 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 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.

Positive duty to prevent sexual harassment in connection with work

As a licensee you have a responsibility to do everything you reasonably can to make sure the workplace is safe.

Under the Commonwealth *Sex Discrimination Act 1984*, a person who commits workplace sexual harassment can be held personally liable (legally responsible). Employers can also be held liable for workplace sexual harassment by their employees, unless they can show that they have taken 'all reasonable steps' to prevent the sexual harassment from occurring.

Respect@Work legislation requires all employers to take active measures to prevent sexual harassment in the workplace. This includes providing relevant education and training for all employees.

The Department of Communities and Justice commissioned the Australian Human Rights Commission to develop and deliver an eLearning training package '**Understanding and addressing workplace sexual harassment for retail and hospitality managers**' for the retail and hospitality industries in preventing and responding to sexual harassment.

The eLearning training package intends to build the capacity of retail and hospitality industries to address workplace sexual harassment and support retail and hospitality managers to prevent and respond to sexual harassment. *Refer to the link below.*

The Australian Human Rights Commission eLearning package:

Retail and hospitality: Understanding and eliminating work-related sexual harassment | Australian Human Rights Commission

More information

For further information, support and training, visit:

[Positive duties explained](#)

Understand the 'positive duties' NSW businesses have to prevent workplace sexual harassment and the differences between the positive duties held by SafeWork NSW and the Australian Human Rights Commission (AHRC).

[24/7 Support services guide: workplace sexual harassment](#)

This guide gives details of free 24/7 support services available to businesses and workers in NSW who have been impacted by sexual harassment.

[RESPECT in hospitality](#)

Hospitality and peak industry bodies including the Australian Hotels Association NSW, Nighttime Industries Association, Clubs NSW, Restaurant & Catering Association, Business NSW, and Hospitality Industry Insurance have developed a site to support the hospitality industry and offer free training on prevention of workplace sexual harassment:

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
- *Commonwealth Competition and Consumer Act 2010*, which contains the Australian Consumer Law
- *Registered Clubs Act 1976*
- *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*

Gaming Machines Act 2001

The *Gaming Machine Act 2001* provides for the regulation, control and management of gaming machines in hotels and clubs and for related purposes.

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: <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2001-127>

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

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: <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1997-157>

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: 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: <https://legislation.nsw.gov.au/view/html/inforce/current/act-1977-048>

Commonwealth Privacy Act 1988 and Australian Privacy Principles

The *Privacy Act 1988* was introduced to promote and protect the privacy of individuals and to regulate how Australian Government agencies and organisations with an annual turnover of more than \$3 million, and some other organisations, handle personal information.

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.

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:

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/>

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>

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: <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1976-031>

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 the NSW legislation: <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2000-069>

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 pieces of legislation 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:

Surveillance Devices Act 2007

<https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2007-064>

Workplace Surveillance Act 2005

<https://legislation.nsw.gov.au/view/html/inforce/current/act-2005-047>

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 financial year 2022 - 2023, 7,400 workers were injured in the NSW hospitality industry.¹⁷

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
- **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>

¹⁷Safework data, for the Accommodation and Food Service industry: [Final -Key WHS Stats 2024_18SEP.pdf](#)

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://legislation.nsw.gov.au/view/html/inforce/current/act-1979-203>

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.

More information

Visit NSW legislation: <https://legislation.nsw.gov.au/view/html/inforce/current/act-1993-030>

Disability Inclusion Act 2014

The *Disability Inclusion Act* relates to the accessibility of mainstream services and facilities, the promotion of community inclusion and the provision of funding, support and services for people with a disability.

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 departmental workers.

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

More information

Visit NSW legislation: <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2014-041>

Music Festivals Act 2019

The purpose of the *Music Festivals Act* is to promote a safer environment at music festivals by requiring festival organisers to comply with agreed health and medical plans and to regulate and support planning in a way that is consistent with the expectations and needs of the community.

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

- to regulate and support planning for music festivals in a way that is consistent with the expectations and needs of the community
- to support music festival organisers in ensuring adequate measures are in place to deal with possible risks associated with music festivals, including access to advice from clinical and public health and safety experts, and
- to facilitate collaboration between government agencies and music festival organisers to deliver safe music festivals.

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

More information

Refer to the *Music Festival Act 2019* for further information:
<https://legislation.nsw.gov.au/view/pdf/asmade/act-2019-17>

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.



Managing your liquor licence

2

Module 2: Managing your liquor licence

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 can 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.

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.

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.

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 the *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, or
- 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 fits your business requirements.

Let's look at the flowchart on the following page 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://www.liquorandgaming.nsw.gov.au/contact-us>

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>

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	RSL or diggers club, golf club, bowling 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 for events that are infrequent or temporary, and is genuine and in the public interest, having regard to the objects of the <i>Liquor Act 2007</i> . 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	Small-scale pop-up bars and restaurants with up to 100 patrons at any time for a 12-week period Pop-up events such as art shows and live performances for up to 300 patrons at any time Pop-up promotional events such as craft brewers and wineries providing tastings and selling take-aways.

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.

When is a liquor licence not required?

There are a 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 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>

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 – special event
- Limited licence – single or multiple functions
- Limited licence – trade fair
- Pop-up licence – bars and events

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. 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.

Conditions for special entertainment precincts

Councils have the option to establish 'Special Entertainment Precincts'. 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.

Participating venues in Special Entertainment Precincts have access to the following incentives:

- an 80% reduction on annual liquor licence fees – including base fees and trading hours risk loading
- an 80% reduction on permanent extended trading application fees
- a 1-hour trading extension on all nights of the week, when:
 - live music performances or other arts and cultural events, are held at the venue for 45 minutes or more after 8 pm, on at least 2 nights in any 7-day period, and
 - the venue's development consent permits the extended trading hours.

Venues that are both participating venues in a Special Entertainment Precinct, as well as listed as a live music and performance venue, will have access to both a 1-hour trading extension on all nights of the week, and a 2-hour liquor trading extension on nights where the venue hosts a live music performance or event, for 45 minutes or more, after 8pm.

Live music, performance, arts and cultural events at licensed premises

NSW liquor laws were changed to support more live music, performance, arts and cultural event at licensed venues. The reforms aim is to remove outdated conditions on entertainment and incentivise liquor businesses to hold more live music, performance and other arts and cultural events and employment opportunities for musicians and performers.

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
- prohibit live music, entertainment
- prohibit amplification of musical instrument at all times across the entire premises
- prohibit or restrict the presence of a dance floor.

A **live music venue** must be one of the following licences:

- a hotel licence
- a club licence
- a small bar licence
- an on-premises licence
- a producer/wholesaler licence

To be eligible, live music performance must form a significant part of the venue's normal operations. To meet this test, venues must be able to show:

- they hold an average of 2 live music performances per week
- they have a room or space dedicated to live music performances that is a significant part of the

- venue and contains the infrastructure to support the regular performances.
- a 'live music performance' is an event where one or more persons are engaged to play or perform live or pre-recorded music in person.

When a hotel that schedules live music or arts and cultural events applies for an extended trading authorisation, the Independent Liquor & Gaming Authority must give due weight to the strong positive social impact associated with hosting these events.

A **live performance venue** must be a music hall, concert hall, dance hall, theatre or other venue that is licensed under an on-premises licence relating to a public entertainment venue.

The venue must be used primarily for live performances or other creative or cultural events.

An 'other arts and cultural event' may include focus on other creative and artistic disciplines that relate to a cultural theme. For example, other types of performance arts (e.g. theatre shows), visual arts (e.g. an art exhibition) or literary arts events.

Under section 12A (4) of the *Liquor Act 2007*, this extended trading incentive overrides the special licence condition 'liquor sales cessation period' for certain venues in Sydney CBD and Kings Cross that need to comply with the condition.

Mandatory Record Keeping

Under section 12B of the *Liquor Act 2007*, if the trading period for licenced premises is extended under these incentives, it is a condition of the licence that the licensee keep a record of each live music performance or other arts, and cultural event held or provided on the licensed premises.

A licensee must comply with any conditions to which the licence is subject.

The licensee must keep these records for at least one year, with the below information for each event:

- Date of the event
- Type of event (either a live music performance or other arts and cultural event)
- A brief description of the performance or event
- Start and finish times for the event
- Main contact details for the event organiser, including name and phone contact
- If a live music performance, the name of the performer/s or act/s.

Venues can maintain a register in either hard-copy or digital format and it must be made available to Liquor & Gaming NSW compliance officers or the NSW Police Force if requested.

More information

Visit the Verify NSW website to check the conditions imposed on a specific venue licence:

<https://verify.licence.nsw.gov.au/home>

For more information on the different licence types, visit:

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

For more information on live music and entertainment reforms introduced visit:

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

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/running-your-business/incentives-for-live-music-and-performance-venues>

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

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

For more information on special entertainment precincts:

<https://www.nsw.gov.au/business-and-economy/office-of-24-hour-economy-commissioner/vibrancy-reforms/seps>

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 – Sunday: 5am – midnight

The standard trading period for small bars is:

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

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 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

For most hotels, clubs, bottle shops, home deliveries and licensed producers, standard trading times for take-away liquor sales are:

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

* From 14 January 2020 take-away alcohol sales for certain licensed premises are permitted until 12am (midnight) Monday to Saturday, and until 11pm on Sunday. The link below provides information on whether the extended take-away liquor trading times apply to your business.

https://www.liquorandgaming.nsw.gov.au/_data/assets/pdf_file/0009/862785/FS3158_Industry-information-extended-takeaway-and-home-delivery-liquor-sales.pdf

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 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 may also reduce the approved trading hours by imposing, varying, or revoking licence conditions relating to the trading hours of any licensed venue.

Special event extended trading hours

Special events are events that are determined by the Minister to be of regional, State or national significance. Some examples of the types of events are the Sydney Mardi Gras Parade, NRL Grand Final and Parkes – Elvis Festival.

The following licence types may be eligible to participate in special event extended trading:

- Hotels
- General Bars
- Clubs
- Small bars
- Dedicated live music and performance venues
- On-premises
- Producer wholesalers

Important information

- Special event extended trading overrides development consent trading hours.
- Venues already able to trade beyond these longer hours can trade as usual.
- Extended trading hours apply only to drinks sold on premises, not takeaway alcohol sales.
- Individual trading restrictions or other special conditions that apply to a venue's liquor licence also remain in place for these events.
- Section 13 of the *Liquor Act 2007* does not authorise the operation of gaming machines during an extended trading period.

More information:

The list of Minister approved events can be found on the Liquor & Gaming NSW website:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/running-your-business/longer-trading-hours-to-celebrate-special-events>

Special occasion extended trade

A licensee of a club, hotel, on-premises, producer/wholesaler, or small bar licence may apply for an authorisation allowing extended trading hours for a special occasion on a specified date.

To qualify for extended trade, the special occasion must be unique or infrequent and be of local, state or national significance.

Daily 6-hour closure period

A 6-hour closure period applies to all liquor licences granted since 30 October 2008, including those with extended trading hours. It usually starts at 4.00am and ends at 10.00am each day. The 6-hour closure period is a continuous block of 6 hours when you cannot sell or supply liquor on your licensed premises. The same 6-hour block applies to each day.

You can apply to change the 6-hour closure period:

- temporarily
- permanently
- to different times on different days of the week.

More information:

<https://www.liquorandgaming.nsw.gov.au/documents/fm/am0488-change-to-6-hour-closure-period-application-by-licensee-application-form.pdf>

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>

Liquor licence fees

Annual liquor licence fees

Every holder of an 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
- trading hours risk loading
- compliance risk loadings.

Compliance risk loadings increase when the risk level of a premises increases.

For example: If you're a business with a large, late trading premises and have a poor compliance history, your business will be identified as high-risk and attract additional risk-based loadings.

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 are used to encourage licensees to maintain safe and compliant 'low risk' premises and contribute to the regulation of the industry. They include two factors:

- compliance history risk loading
- patron capacity risk loading

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 and will be payable only after the year the demerit points are incurred.

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 the number of demerit points incurred and the fees are published on the Liquor & Gaming NSW website each year. These loadings are only 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.

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+ patron

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.

Licensees with an OETC:

- who occasionally trade after midnight do not pay trading hours risk loading.
- that allows regular trading up until 1:30am, and occasional trading after 1.30am, are required to pay a reduced 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 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 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 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

On annual liquor licence fees:

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

Applying for a licence

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

- licence applications
- Statement of Risks and Potential Effects
- 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.

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.

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

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

Development Approval / Development Consent:

You may need development approval (DA) from your local council to obtain a liquor licence. Approval can vary depending on the council and/or the complexity of the development you are proposing. You can lodge a liquor licence application while your DA is being determined, however a licence cannot be determined until the consent is in force.

Preparation of a Statement of Risks and Potential Effects (SoRPE)

A Statement of Risks and Potential Effects (SoRPE) describes the impact that a liquor licence might have on a local community. A SoRPE is required to be lodged with certain liquor licence applications. The SoRPE helps the Authority to understand the potential impact the granting of the application may have on the local community.

When a Statement of Risks and Potential Effects (SoRPE) is to be completed it must include the following:

- A description of the local community, including nearby points of interest and other licensed premises
- Advice about the applicant's proposed controls or mitigation strategies to address any risk of harm that would be caused by the licensed premises
- Proposed positive impacts or benefits for the local community
- Results of any discussions between the applicant and the local community about their issues and concerns
- Whether the granting of the application would provide employment or opportunities in the
 - live music industry
 - arts sector
 - tourism sector

Once you have lodged your liquor licence application you will generally be required to notify some stakeholders of your application.

Liquor & Gaming NSW will also notify several other government agencies as part of that process. The types of stakeholders that must be notified will depend on the type of application. To make the process easier for applicants, this is undertaken by Liquor & Gaming NSW.

The type of application determines whether a SoRPE is required with lodgement of the application with L&GNSW. For further information on notifying stakeholders can be found at the link below.

Notifying neighbours

If you are required to notify the occupiers of neighbouring buildings, the measurement is taken from the boundary of the proposed licensed premises (and not the centre). You may wish to notify a wider area to ensure your local community is aware of the application. If neighbouring premises are strata title buildings, notification should be given to:

- the Owners Corporation
- individual occupiers of any premises within the building where those premises immediately adjoin the proposed premises.

More information

Guidance on notifying stakeholders can be found in the link below:

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

Noticeboard consultation:

Once you've lodged a complete licence application, it will be advertised on the [Liquor and Gaming Application Noticeboard](#) for up to 30 days. This allows the community, including residents, local police, council and NSW government agencies, an opportunity to comment.

Determination:

Your licence application may take up to 12 weeks to be determined once the Noticeboard consultation period has ended. This timeframe is dependent on various factors including submissions from your local community. Contentious or high-risk applications may take longer.

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 blue)
- 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 red)
- 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?
- any footway dining must be shown (a separate approval may be required from the relevant local consent authority to permit this).

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>

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 and ARCG 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 any footway is to be used
- 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>

Assessment process

The Authority or Liquor & Gaming NSW under delegation, 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.

The Authority or Liquor & Gaming NSW under delegation 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 because 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.

Applying for an interim authorisation

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.

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.

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
- 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.

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.

More information:

Restaurants and small bars wanting to sell takeaway or home delivery liquor (with the exception of small bars selling takeaway house-made cocktails) must have a Takeaway Sales Authorisation (TSA)

For more information on a Takeaway Sales Authorisation (TSA):

<https://www.liquorandgaming.nsw.gov.au/news-and-media/licensed-restaurants-and-small-bars-selling-takeaway-or-home-delivery-liquor-must-have-a-takeaway-sales-authorisation-from-1-march-2025>

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

Managing your licence

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.

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 an additional 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
- a Statement of Risks and Potential Effects (SoRPE) is required if:
 - the application is to increase licence boundaries by more than 50%, and
 - where a SoRPE (or Cumulative Impact Assessment, under past legislation) was provided with the original licence application (or would currently be required for an application of this type).

Change of boundaries applications 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.

You can apply to change your licence conditions to suit any change in your personal or business circumstances, including varying trading hours within the standard trading period or your 6-hour closure period.

Extended trading hours and other authorisations

NSW liquor laws have the potential for businesses to customise their liquor licence and apply for an increase in flexibility on how the licence may be operated such as extended trading hours. This is done by applying for relevant authorisations and exemptions.

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 who will consider:

- criminal records, probity inquiries, and an NSW National Police Certificate that is less than three months old
- relevant industry experience
- Responsible Service of Alcohol (RSA) qualification
- Responsible Conduct of Gambling (RCG) and Advanced Conduct of Gambling (ARCG) qualification –if applying to manage a hotel or a club that has gaming machines.

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 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.

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.

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.

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

On managing your licence, visit:

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



**Your
responsibilities
to manage
alcohol related
harm**

3

Module 3: Your responsibilities to manage alcohol related harms

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 licensed premises 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.

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
- RSA marshals
- 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 Liquor & Gaming NSW inspectors or NSW Police officers inspect your business.

Digital Competency Card

The digital version of the photo competency card makes it easier to carry, display, update and renew a licence using a smart phone or tablet.

You can access certain NSW government licences and permits using a smartphone or tablet. This includes the NSW competency card with endorsements for:

- Responsible Service of Alcohol (RSA)
- Responsible conduct of gambling (RCG)
- Licensee training
- Advanced Licensee training.

Your digital competency card:

- is free, quick to download, and legally valid
- provides a solution to forgetting to bring your competency card to work or recently losing them
- enables compliance officers to conduct real time inspections on a compatible checker
- allows you to access your inspection history.

More information

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/training-to-work-in-the-industry/competency-cards/digital-competency-cards>

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.

Undesirable or poorly managed liquor promotions can encourage people to drink irresponsibly and excessively, leading to alcohol-related violence, antisocial behaviour and adverse health impacts.

All licensees in the industry have obligations under the *Liquor Act 2007* to maintain responsible attitudes and practices towards promoting and selling 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 & Gaming NSW actively monitors liquor promotions run by licensed venues and assesses the complaints raised by the public.

Fundamentally, liquor promotions should not contravene one of the seven principles in section 102 of *the Act*:

- have special appeal to minors
- be indecent or offensive
- not involve the use of non-standard measures
- not use emotive descriptions or advertising that encourages irresponsible drinking
- not involve the provision of free drinks, buy-now-pay later options, or extreme discounts or time-limited discounts
- encourage irresponsible, rapid or excessive consumption of alcohol
- not be considered in the public interest using predatory digital marketing tactics to target consumers experiencing or recovering from alcohol use disorder or dependency.

It is in a licensee's interest to ensure promotions have harm minimisation measures in place, to help ensure liquor is consumed responsibly and to promote safe environments for patrons.

Examples of harm minimisation measures that may be appropriate include:

- limiting the time and duration for the conduct of a promotion
- limiting the volumes and strength of liquor offered during a promotion
- using RSA marshals to monitor and manage patrons during promotions
- ensuring alcohol content is measured and discernible
- serving free food and water as part of the promotion.

Unacceptable liquor promotions

Principles		Examples of unacceptable promotions
1	The promotion must not have special appeal to minors, because of the design, names, motifs or characters in the promotion that are, or likely to be, attractive to minors, or for any other reason	<p>Promotions that:</p> <ul style="list-style-type: none"> • Use characters, imagery, motifs, naming or designs that would appeal to minors. • Include merchandise that primarily appeals to minors. • Use interactive games or technology that would appeal to minors. • Use images of people that look under 18 years of age that suggest they are or have been consuming liquor or may be about to.
2	The promotion must not be indecent or offensive.	<p>Promotions that:</p> <ul style="list-style-type: none"> • Use images, including of human bodies, that may be considered offensive to a reasonable adult. • Offer free or discounted drinks for participating in an activity that may be offensive to a reasonable adult present on the premises, for example encouraging participants to remove articles of clothing. • Use insulting or offensive language. • Use any form of discriminatory, demeaning or vilifying language or imagery. • Use sexual, degrading or sexist images, symbols figures or innuendo.
3	The promotion must not involve the use of non-standard measures that encourage irresponsible drinking and is likely to result in intoxication.	<p>Promotions that:</p> <ul style="list-style-type: none"> • Encourage the consumption of liquor in a yard glass for skolling. • Encourage the consumption of laybacks, slammers, blasters, bombs or consumption from a water pistol or test tubes. • Encourage an individual to purchase and consume on their own an alcoholic drink intended to be shared (that is, a drink containing a significant number of standard drinks). • Encourage the consumption of multiple shooters or shots by an individual.
4	The promotion should not use emotive descriptions or advertising that encourages irresponsible drinking and is likely to result in intoxication.	<p>Promotions that:</p> <ul style="list-style-type: none"> • Promote events which focus primarily on the excessive consumptions of alcohol (e.g. 'Mad Monday'). • Use language, labelling or titling that suggests irresponsible or excessive consumption of alcohol (e.g. 'drink like a fish', 'beat the clock' and challenges to drink within certain timeframes). • Engage a person who, as part of the promotion, enthusiastically talks up excessive consumption of alcohol beverages, encourages intoxication or irresponsible or illegal behaviour.
5	The promotion should not involve the provision of free drinks or extreme discounts, or discounts for a limited duration that creates an incentive for patrons to consume liquor rapidly than they otherwise might.	<p>Promotions that:</p> <ul style="list-style-type: none"> • Provide free drinks that encourage rapid consumption of alcohol (e.g. all you can drink in a limited time frame). • Use drink cards, promotional cards, vouchers or shopper dockets which encourage rapid consumption of alcohol over a short period of time (e.g. \$50 voucher redeemable between 9pm and 10pm). • Offer happy hours encouraging or facilitating the rapid consumption of alcohol. • Link the consumption of alcohol to unpredictable events (e.g. free drinks until the first points scored). • Encourage the purchase of large amounts of alcohol with rewards of free or discounted drinks (e.g. buy six drinks and get two free drinks) to be redeemed within the same trading period. • Run for very short periods, creating incentive for patrons to stockpile or consume liquor rapidly. • Offer 'all you can drink' for a set price or long periods of free

Principles		Examples of unacceptable promotions
		<p>drinks (e.g. \$50 entry and free drinks all night).</p> <ul style="list-style-type: none"> Involve discounts of greater than 50% off the normal retail price.
6	The promotion should not encourage irresponsible, rapid or excessive consumption of liquor.	<p>Promotions that involve:</p> <ul style="list-style-type: none"> The use of drinkware which encourages rapid consumption, such as test tubes, water pistols and yard glasses. Drinking games, competitions, challenges, dares, scoreboards, lotteries, or games of chance that involve the rapid or excessive consumption of liquor. These could include skolling games, boat races, flip and win, 'around the world', '60 shots in 60 minutes' and pub golf.
7	The promotion should not be otherwise considered to not be in the public interest.	<p>Promotions that:</p> <ul style="list-style-type: none"> Use images or messages that could be seen to be encouraging or condoning breaking the law or other anti-social behaviour. Use images or messages that link the promotion of alcohol with illicit drugs or allude to drug taking behaviour. Associate liquor consumption with aggressive or violent behaviour towards other people. Include discriminatory elements into a promotion such as a gender-based free drinks or discount (e.g. 'women drink free').

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 and games	Avoid games, dares, challenges and competitions that may create an incentive for customers to drink more.

More information

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/serving-alcohol-responsibly/liquor-promotions>

Further harm minimisation measures

Monitor and manage patrons during promotions:

- Drink stockpiling – Bar staff should always keep a look out for patrons who try to stockpile several unconsumed drinks. Stockpiling drinks poses a significant risk of excessive or rapid intoxication. Where bar staff see a patron attempting to do so, they should cease any further service.
- RSA marshals – Employing RSA marshals during the course of a promotion can help venues monitor consumption of alcohol. It also makes it easier to identify and respond early to patrons who may be at risk of becoming intoxicated.

Take-away environment

For venues selling liquor for take-away it is important to consider and apply appropriate harm minimisation measures that are suitable for the take-away business environment.

Consider placing limits on coupons

Discount promotions such as discount vouchers, cards or 'shopper docket' without purchase limits or other suitable controls in place can pose a risk of irresponsible drinking. If using coupons, licensees should consider applying limits on the volume of alcohol that can be purchased and/or restricting their use to one per person.

Online sales environment

For licensees selling and delivering alcohol online, it is important to plan for, monitor, and implement effective control measures to mitigate against the potential harms associated with the online sales environment. In particular, the increased risk of excessive and rapid alcohol consumption, targeting vulnerable consumers and appealing to minors

Consider the following:

- including health warnings on your website
- limiting discounts and bulk buying offers
- use age restriction, targeting or affirmation technology tools to limit access to digital marketing by minors
- do not engage in predatory digital marketing

Signage

All businesses licensed to sell liquor or manage gaming and gaming machines are required to display mandatory signage. The law requires signage to be displayed both inside and outside the venue or event. Visible signage helps customers to follow the rules and staff to monitor and enforce them (where necessary).

Licensees can download and print mandatory signage or order from the Liquor & Gaming online shop.

Entry Signage

A licensee must display and maintain a sign at the front of the licensed premises under Section 95 of the *Liquor Act 2007*, that can be read by a person from outside the premises and include the following:





- Venue name
- Type of licence
- Licensee name.

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>

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, for example in a small restaurant, the sign must be prominently displayed at or near every entrance.
	<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 • a bar area is any area of a hotel or club where alcohol is served, but does not include areas where minors are allowed such as a dining area, an accommodation area in a hotel, an authorised minors area in a hotel, or a non-restricted area in a registered club • this sign must be prominently displayed so that someone entering the bar area would reasonably be expected to see and read it.
	<p>Sign 3L – Under 18 authorisations</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 in which minors are permitted in the company of a responsible adult could reasonably be expected to see and read it. • used for the liquor sales area of supermarkets
	<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>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>Sign 7L – Minors allowed on premises, with a responsible adult</p> <ul style="list-style-type: none"> • this sign is required in all small bars • Small bars are permitted to have minors in the company of a responsible adult from their opening time until 10pm if they operate restaurant services on the premises (i.e., regularly provide meals at seated tables) • it must be prominently displayed so that a person entering the licensed premises would reasonably be expected to see and read it
	<p>Sign 8L – Minors are allowed on premises</p> <ul style="list-style-type: none"> • this sign is required in small bars where minors are allowed • it must be prominently displayed so that a person entering the licensed premises would reasonably be expected to see and read it • signage must be displayed showing whether minors are allowed on the premises, between what times and in what circumstances (e.g., only in the company of a responsible adult)
	<p>Entrance Sign (Sign 10L)</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
<p>Until 18 July 2021: It is against the law to sell or supply alcohol to, or to obtain alcohol on behalf of, a person under the age of 18 years.</p> <p>From 19 July 2021: No Alcohol can be sold or supplied to anyone under 18. It's against the law.</p>	<p>Sign 9L – Alcohol not to be sold to under 18s sign - all internet operators and bottle shops</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. • used for where unaccompanied minors are not allowed within the entire premises such as bottle shops

Smoking

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>

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.

It is advisable to display emergency procedures in a prominent place. You must also train workers on how to implement the emergency procedures.

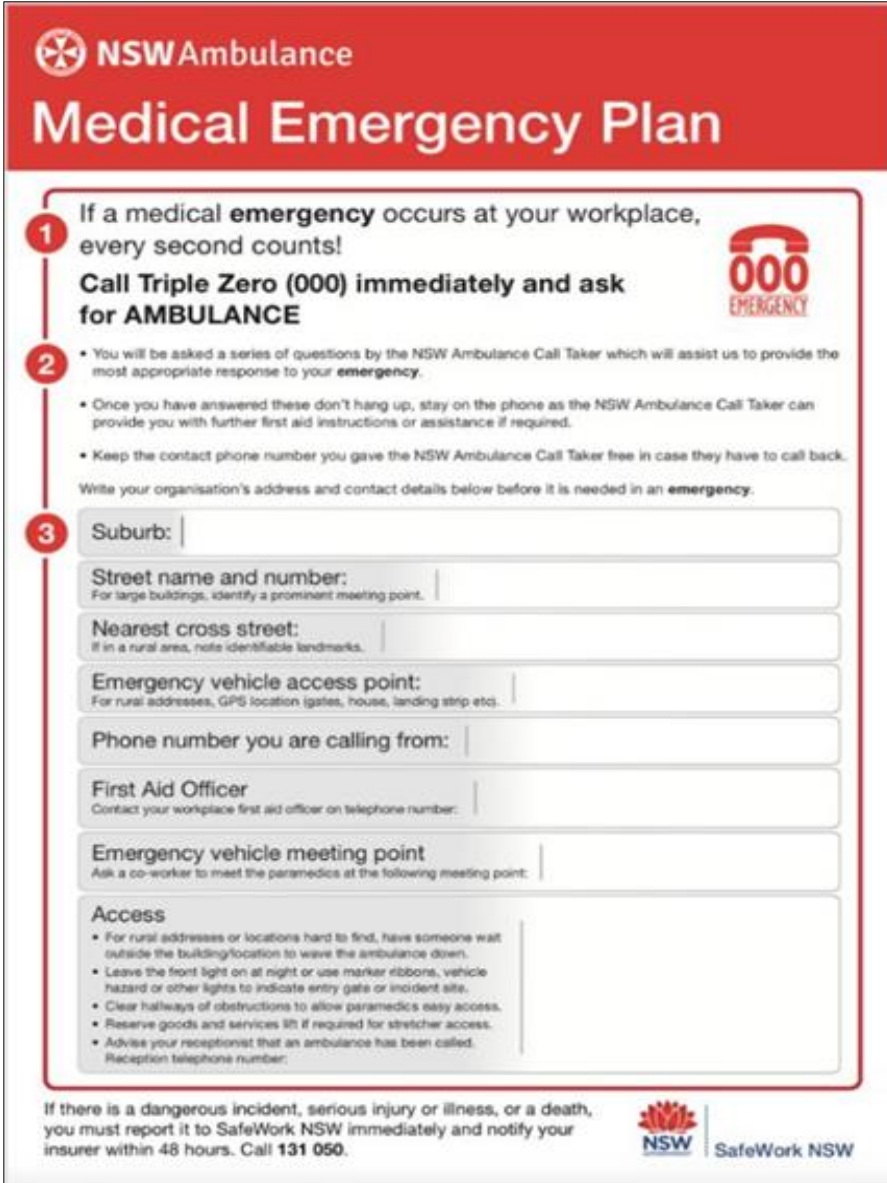
The medical emergency plan poster below can be used, which was developed in conjunction with NSW ambulance, to help emergency services access an injured worker quickly and easily.

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>



The poster is titled "NSW Ambulance Medical Emergency Plan" in a red header. It contains three numbered steps: 1. "If a medical emergency occurs at your workplace, every second counts! Call Triple Zero (000) immediately and ask for AMBULANCE" with a "000 EMERGENCY" icon. 2. A list of instructions: "You will be asked a series of questions by the NSW Ambulance Call Taker which will assist us to provide the most appropriate response to your emergency.", "Once you have answered these don't hang up, stay on the phone as the NSW Ambulance Call Taker can provide you with further first aid instructions or assistance if required.", and "Keep the contact phone number you gave the NSW Ambulance Call Taker free in case they have to call back." It also says "Write your organisation's address and contact details below before it is needed in an emergency." 3. A series of input fields: "Suburb:", "Street name and number: For large buildings, identify a prominent meeting point.", "Nearest cross street: If in a rural area, note identifiable landmarks.", "Emergency vehicle access point: For rural addresses, GPS location (gates, house, landing strip etc.)", "Phone number you are calling from:", "First Aid Officer Contact your workplace first aid officer on telephone number:", "Emergency vehicle meeting point Ask a co-worker to meet the paramedics at the following meeting point:", and "Access" with a list of instructions: "For rural addresses or locations hard to find, have someone wait outside the building/location to wave the ambulance down.", "Leave the front light on at night or use marker ribbons, vehicle hazard or other lights to indicate entry gate or incident site.", "Clear hallways of obstructions to allow paramedics easy access.", "Reserve goods and services lift if required for stretcher access.", and "Advise your receptionist that an ambulance has been called. Reception telephone number:". At the bottom, it states "If there is a dangerous incident, serious injury or illness, or a death, you must report it to SafeWork NSW immediately and notify your insurer within 48 hours. Call 131 050." and includes the NSW and SafeWork NSW logos.

1 If a medical **emergency** occurs at your workplace, every second counts!
Call Triple Zero (000) immediately and ask for AMBULANCE

2

- You will be asked a series of questions by the NSW Ambulance Call Taker which will assist us to provide the most appropriate response to your **emergency**.
- Once you have answered these don't hang up, stay on the phone as the NSW Ambulance Call Taker can provide you with further first aid instructions or assistance if required.
- Keep the contact phone number you gave the NSW Ambulance Call Taker free in case they have to call back.

Write your organisation's address and contact details below before it is needed in an **emergency**.

3

Suburb:

Street name and number:
For large buildings, identify a prominent meeting point.

Nearest cross street:
If in a rural area, note identifiable landmarks.

Emergency vehicle access point:
For rural addresses, GPS location (gates, house, landing strip etc.)

Phone number you are calling from:


First Aid Officer
Contact your workplace first aid officer on telephone number:

Emergency vehicle meeting point
Ask a co-worker to meet the paramedics at the following meeting point:

Access

- For rural addresses or locations hard to find, have someone wait outside the building/location to wave the ambulance down.
- Leave the front light on at night or use marker ribbons, vehicle hazard or other lights to indicate entry gate or incident site.
- Clear hallways of obstructions to allow paramedics easy access.
- Reserve goods and services lift if required for stretcher access.
- Advise your receptionist that an ambulance has been called.
Reception telephone number:

If there is a dangerous incident, serious injury or illness, or a death, you must report it to SafeWork NSW immediately and notify your insurer within 48 hours. Call 131 050.

 **NSW** | SafeWork NSW

Part B: Managing a situation

Under NSW liquor laws and 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.

Intoxication

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*.

Prevention of intoxication on licensed premises

Licensees have a legal obligation to prevent intoxication from occurring on their premises. Significant penalties – including fines, higher annual licence fees, and possible suspension or cancellation of a licence apply where alcohol is served to an intoxicated person or intoxication is permitted. It is unlawful for a licensee to permit intoxication on licensed premises (section 73(1)(a) of the *Liquor Act 2007*). Significant penalties – including fines, higher annual licence fees, and possible suspension or cancellation of a licence apply where intoxication is permitted.

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
- 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 demerit points system. Demerit points carry additional compliance history loading fees and will be published and made publicly available.

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.

Voluntary Best Practice Measures

By implementing the following harm minimisation measures you can further minimise the risk of intoxication:

- the availability of free drinking water is actively promoted to patrons throughout the licensed premises,
- action is taken to make patrons aware of the availability of non-alcoholic and low strength alcoholic beverages in the licensed premises,
- the following drinks are not sold or supplied between midnight and 5am:
 - any drink (commonly referred to as a ‘shot’, a ‘shooter’ or a ‘bomb’) that is designed to be consumed rapidly,
 - any ready to drink beverage with an alcohol by volume content of more than 5%, and
- any drink prepared on the premises that contains more than 30 ml (about 1.01 oz) of spirits or liqueur, other than a cocktail that contains spirits or liqueur (or both) mixed with other ingredients and that is not designed to be consumed rapidly,
- check your venue has food available, and that staff understand food needs to be available to customers when alcohol is sold and supplied, even when the kitchen is closed,
- actively promote late night food options to customers and offer food to customers who are ordering drinks.

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>

Monitoring liquor consumption

As licensee, it's your responsibility to ensure the licensed premises is operating under your direct supervision or that of 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 drink 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, 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/gl/gl4003-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

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: 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. Noticing 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 shots or finishing a bottle of wine by themselves in 45 minutes.

Standard drink measures

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

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) 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 provide 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

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.....

As a vessel operator, your business caters for dance parties and other events that run into the evening and frequently past midnight. You have a large dance party with approximately 250 guests one Saturday night. There is a 21-year-old male in the party who is showing clear signs of intoxication onboard. Your staff have repeatedly refused service and offered him water and extra food, but he is insisting on another drink. The boat is not due to dock for another 2 hours.

- What steps would you take in this situation?
- What are the legislative consequences?
- What could be in your Plan of Management for dealing with situations like this?

Antisocial behaviour

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.

Liquor & Gaming NSW is the lead regulator for noise and disturbance complaints and determines the most appropriate way to resolve them. In some cases, we may determine that the concerns raised in the complaint are better managed by another agency or regulator, such as NSW Police or local council. If there is a more appropriate agency to report the matter to, Liquor & Gaming NSW will provide the complainant with the relevant information and in some cases, can make that referral on behalf of the complainant.

Noise complaints and statutory disturbance complaints that Liquor & Gaming NSW will consider include matters relating to:

- amplified and live music coming from the licensed premises
- use of speakers and PA systems for announcements
- other forms of entertainment, such as, karaoke, trivia, bingo, comedy and raffles
- patron noise coming from the licensed venue, including noise from patrons entering and exiting, talking, singing to music
- patron behaviour when leaving a venue, including anti-social behaviour, yelling or swearing.

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.

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.

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 section, we will review the laws, restrictions and strategies that are in place in NSW to protect minors from alcohol-related harm.

Laws relating to minors

Significant penalties apply for anyone selling or supplying liquor to a minor in NSW, including:

- court-imposed fines of up to \$11,000
- 12 months' imprisonment
- the suspension or cancellation of your liquor licence.

On-the-spot fines can be issued for offences under the *Liquor Act 2007* and are generally 10% of the maximum court penalty for the offence.

Minors are allowed in many licensed venues in NSW. However, there are strict controls in place for some types of venues, particularly:

- small bars
- hotels
- registered clubs.

This is to prevent minors from getting access to alcohol and to ensure they are adequately supervised by a responsible adult. Under NSW liquor laws, a responsible adult is defined as an adult who is:

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

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.

Minors attending weddings in a club bar area

- Minors are permitted in the bar area of club premises to attend a wedding reception of a member of the club, a child or parent of a member of the club, or for someone who a member of the club has acted as a guardian. The minor must have been formally invited to the reception.

Small bars

Small bars that regularly provide meals on their premises between opening time and 10pm have the option to allow minors in the company of a responsible adult until 10pm. This allows families to dine-in together in seated areas of small bars during the day and earlier hours of the evening, just as they can in dining areas of pubs and clubs.

Small bars that wish to make use of this option must ensure the correct signage is in place to convey that they are choosing to permit minors.

Small bars can also apply for a 'Minors Authorisation' if they wish to allow minors at other times up until 12:00am or in different circumstances. This is available where a small bar provides diverse offerings that are appropriate for minors in addition to bar services - for example:

- retail offerings – book or record stores
- live music and entertainment, arts and cultural events
- catering for family-oriented functions like birthdays and weddings.

Conditions can be attached to this Authorisation, and minors may be required to be accompanied by a responsible adult depending on the services offered.

If granted the authorisation, appropriate signage must be displayed on the premises, including the times and circumstances where minors are permitted.

Minors passing through a bar area

Minors are permitted to travel through a bar area of a hotel or club premises while in the company of a responsible adult for as long as is reasonably necessary to access another area of the hotel or club premises that the minor may lawfully enter.

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.

Takeaway liquor sales areas

Unaccompanied minors are prohibited from entering or remaining in bottle shops, the liquor sales areas of supermarkets, or an area dedicated to the sale of liquor by retail in sealed containers on the licensed premises for consumption away from the licensed premises. A responsible adult must also not leave a minor unaccompanied in these areas.

The restriction does not capture situations where:

- liquor is sold for takeaway or home delivery from a packaged liquor business that cannot do walk-up sales (for example, where the licensed premises is a home office)
- an unaccompanied minor is in a supermarket with a liquor sales area, but is not in the liquor sales area
- a minor leaves the area within a reasonable period after being informed by a responsible person that the minor must not be within the area
- the minor is an employee and is not involved in the sale or supply of liquor (where this has been approved by the Independent Liquor & Gaming Authority)

Apprentices and trainees

Minors can enter and remain in parts of a hotel where a minors area authorisation is in force or in a licensed public entertainment venue without being in the company of a responsible adult if they are:

- an apprentice or trainee as defined in the *Apprentice and Traineeship Act 2001* and are receiving trade training that is not training in the sale, supply or service of alcohol
- receiving training and instruction in servicing, repairing, or maintaining gaming machines under the supervision of a licensed gaming machines technician.

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
- do not allow the purchase of non-alcoholic beer by minors or for minors
- 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 and 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
- 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.

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
- 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.

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.

Instances when minors are refused entry to the premises or when NSW Police are called because of concerns about the authenticity of the evidence of age produced, must be recorded in your incident register.

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.

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 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 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>

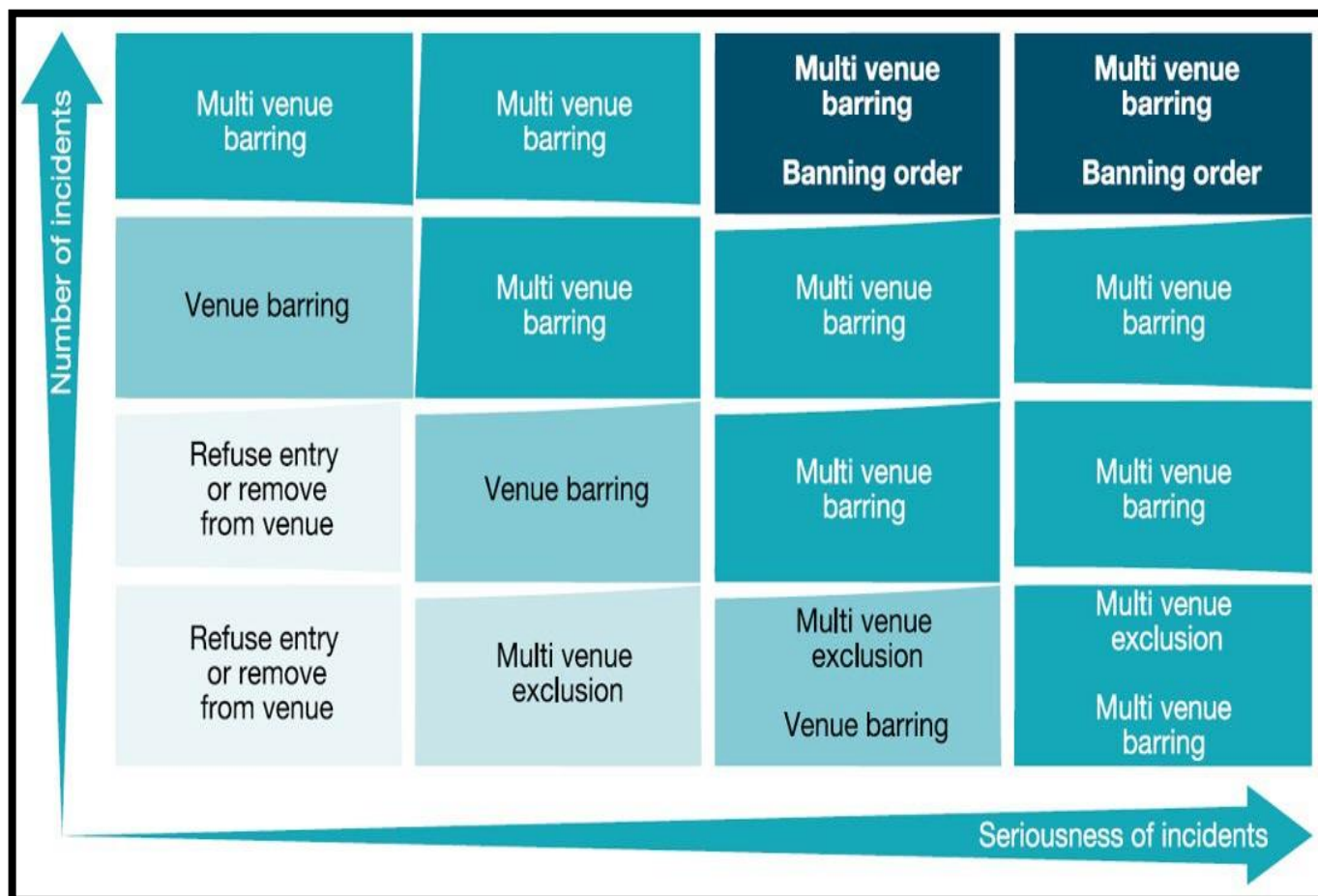
Strategies to manage alcohol-related harms

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.



Recap 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 determine 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 establish the rules that determine 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.

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.

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.

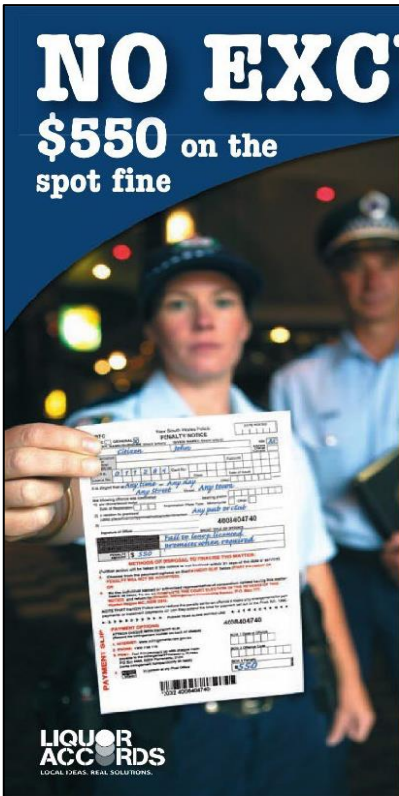
Managers should record the incident in the incident register as soon as possible.

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 (or 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 fine 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.

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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.

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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*.

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>

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 of the Department
- 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 of 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

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.

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>

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 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>

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.

Mandatory incident register requirements

An incident register is a record of certain types of incidents that occur at a licensed premises.

A liquor incident register is mandatory if you are the licensee of a premises that is:

- authorised to sell or supply liquor after midnight at least once a week on a regular basis
- located in the Kings Cross or Sydney CBD Entertainment precincts – except for packaged liquor licences or on-premises licences without a Primary Service Authorisation (PSA), and the class is not a theatre or cinema
- party to a liquor accord and required to keep an incident register under the terms of the accord
- required to have an incident register due to a specific licence condition.

Information recorded in a mandatory incident register must be retained for at least three years.

Liquor & Gaming NSW encourage all licensees to maintain an incident register even if it is not a requirement for your licensed premises. They are a useful compliance tool and can form part of your venue's responsible practice.

It will also help you to develop appropriate strategies to reduce the risk of alcohol-related violence and anti-social behaviour at your licensed premises.

Licensed premises who employ security will need to maintain a separate register to comply with the **Security Industry Act 1997** unless a digital platform that fulfills both requirements is used.

The types of incidents you must record in your register are outlined in **Section 56 of the Liquor Act 2007** and **Clause 42 of the Liquor Regulation 2018**.

Incidents that must be recorded:

- any incident on a licensed premises that occurs between midnight and 5am that involves:
 - violence or anti-social behaviour at your licensed premises
 - violence or anti-social behaviour occurring in the immediate vicinity of your licensed premises and involve a person who has recently left or been refused entry to your premises
 - someone being asked to leave under **section 77 of the Liquor Act 2007**
 - a patron needing medical assistance
 - the possession or use of suspected prohibited drugs or plants on the premises.

Note: Any incident required to be entered into a register is to be entered as soon as is practicable or within 24 hours of the incident.

You must record the details of any action taken in response to an incident. 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 using the Liquor & Gaming NSW online shop.

You must make sure that any incident information, including electronic data, is available to Liquor & Gaming NSW inspectors or the NSW Police and in a format approved by Liquor & Gaming NSW.

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.

More information

Visit the Liquor & Gaming NSW website for more information incident registers and preserving a crime scene: <https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/licensees-and-approved-managers/incident-registers>

Reporting a crime

There are some circumstances in which, 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 below). 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.

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.

Crime scene preservation guidelines – licensed premises:

<https://www.liquorandgaming.nsw.gov.au/documents/resource-centre/crime-scene-preservation-guidelines.pdf>

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 to do when a crime has occurred.



**Best
practice
strategies to
prevent
alcohol
related harm**

4

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

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, 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.

Tools and templates

A range of tools and templates have been developed to assist licensed premises to reduce alcohol-related harms.

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.

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.

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.

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>

- Cl1001 producer/wholesaler licence
- Cl1002 club licence
- Cl1003 hotel licence
- Cl1004 limited licence
- Cl1005 on-premises licence
- Cl1006 packaged licence
- Cl1007 same day delivery providers and delivery people
- Cl1008 small bar licence
- Cl1010 on-premises licence (vessel)
- Cl1011 Sydney CBD Entertainment precinct
- Cl1012 racing and wagering licence, and
- Cl1013 Kings Cross precinct.

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.

Further information on incident registers can be found below:

<https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/licensees-and-approved-managers/incident-registers>

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.

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.

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.

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.

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.

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 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.

Noise and disturbance

Some level of noise will arise from the normal operation of a licensed venue, including noise from patrons, live or amplified music and other entertainment. 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 neighbours raise 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), which is the primary environment regulator for NSW.

Disturbance Complaints

The Vibrancy Reforms designate Liquor & Gaming NSW as the lead regulator for noise complaints under the *Liquor Act 2007* associated with licensed venues.

'Disturbance complaints' against licensed premises, which are often referred to as 'noise complaints' or 'sound complaints', are managed under the 'disturbance complaint' framework of Division 3 of the *Liquor Act*.

The disturbance complaint framework of the Liquor Act sets out a comprehensive structure for formal complaints to be made against venues, including eligibility for a complaint to be made to L&GNSW and the criteria for which a complaint may be upheld against a venue.

Under the Vibrancy Reforms, key changes to the statutory disturbance complaint framework included:

- the number of persons needed to make a statutory disturbance complaint increased from three to five. These persons cannot be part of the same household/business or part of the complainant's household/business.
- complainants must first attempt to address the issues directly with the licensee before lodging a disturbance complaint.
- 'order of occupancy' became a key consideration and determines the thresholds associated with the level of disturbance that must be satisfied to uphold the disturbance complaint.

Complainants are required to have tried to address the issue with the venue

It is preferable for noise issues to be resolved between the venue and its neighbours rather than through a statutory disturbance complaint. Under changes made by the Vibrancy Reforms, a statutory disturbance complaint under the *Liquor Act* will only be dealt with if a complainant provides evidence that demonstrates they have first attempted to address the complaint directly with the licensed venue.

This could occur through the complainant contacting the venue by phone or meeting in person with the licensee or venue operator to discuss possible solutions to the issue. The complainant must show a genuine

effort to contact the venue (for example, documenting all attempts of contact such as time/date, details of the person spoken to and any outcome that may have resulted). This ensures that the parties engage in dialogue and attempt to resolve the issue by mutual understanding in an informal manner; it also works as a de-escalation mechanism.

Complaints Policy

Licensed venues should take seriously any reasonable concern raised by residents and businesses about neighbourhood disturbances by the venue. This approach provides the venue with an opportunity to make proactive changes to address concerns regarding disturbance and resolve the issue in an informal manner.

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 issue.

More information

Liquor & Gaming NSW Disturbance Complaints Guidelines:

https://www.liquorandgaming.nsw.gov.au/_data/assets/pdf_file/0019/1311409/disturbance-complaint-guidelines-for-licensed-premises.pdf

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.

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.

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.

Drink spiking

Introduction to drink spiking

Drink spiking is when someone deliberately adds alcohol or another drug to someone's drink without their knowledge or permission. This can lead to the person falling ill, unconscious and, in extreme cases, it can even lead to death.

One of the most common ways to spike a drink is by adding alcohol to a non-alcoholic drink or adding extra alcohol (double/triple shots). A range of drugs can also be used to spike a drink which is added to alcohol to act as a powerful sedative.

Everyone who works in licensed premises, including security staff, has a part to play in eliminating drink spiking.

In addition to monitoring the amount of alcohol consumed by a customer or the time spent at the venue, staff should also monitor for drink spiking which can result in similar signs to intoxication and lead to negative consequences such as assault.

Drink spiking incidents

Whether you have noticed suspicious activity yourself, or have been approached by someone with concerns, you must act quickly.

Symptoms may be similar to intoxication, so it is important to understand the situation and have processes in place to manage it appropriately.

The safety and health of the victim, other customers, and staff are paramount, as is following procedures for reporting a crime and preserving evidence.

Drink spiking is a scary experience, and the victim needs to be reassured they are safe. Once attended by the police/emergency services, ensure the victim has a planned journey home and are accompanied by someone they know and trust.

Maintain a list of local services for quick reference in the event of a drink spiking.

These can include:

- Police/Emergency Services Triple Zero (000)

- Police Assistance (131 444)
- Crime Stoppers (1800 333 000)
- Your local Police stations direct number
- Local taxi service
- Counselling services such as 1800RESPECT

Penalties for drink spiking

Drink spiking is a premeditated act and is a criminal offence which carries with it serious penalties including fines and imprisonment. Drink spiking is classified as an assault, and like other assault incidents, enforcement is the responsibility of NSW Police.

Venues that have recurring issues with drink spiking will incur demerit points under the Incentives and Demerit Point System. The system is designed to reward licensees, managers, and clubs with a clean record by discounting licence fees. Demerit points are imposed for those who commit serious offences under the *Liquor Act 2007* or fail to provide a safe environment for patrons.

What to do if drink spiking occurs

Listen

Listening and believing is the vital first step to supporting someone who has been affected, whether it has been proven to be a spiking incident or not. Avoid judgment, always believe the person, be mindful of their wishes and wellbeing.

Ensure everyone's safety

Act quickly to ensure the safety of those affected. With another member of staff, help the individual to place where they feel safe away from crowds. Ask a friend or trusted individual to accompany the victim. Ensure anyone offering to help is a friend and can be fully trusted. If in doubt, intervene. Don't leave the victim alone. Call an ambulance if medical attention is required.

Gather all information

Gather as much information as possible about the incident for the emergency services ahead of their arrival. Speak calmly and reassuringly. The victim is in a vulnerable state and needs to know they are safe. Act quickly to provide the greatest possible chance of apprehending and prosecuting the perpetrator. Information will also be required for your incident register. Even if your venue is not required to keep an incident register, it is best practice to do so.

Secure test report

Report the incident to the Police as soon as possible as the individual must be tested quickly. Carefully assess any requests not to contact police.

If you do keep testing kits, preserve the kit (+ or – result) to hand to the Police. Secure the affected drink, container, and contents for examination by the police.

Working with emergency services

The Police or a medical professional will test the victim. Advise Police:

- if the victim has vomited
- of any contaminated clothing
- if the perpetrator is still present.

Any CCTV recordings should be preserved.

Working with your community

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.

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.

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
- 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 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 help 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.

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.

Gulgong Liquor Accord, NSW

Gulgong Liquor Accord sought to address the issue of DUIs and alcohol related road accidents for their areas. The accord, in consultation with the community, developed the Nightrider Community Bus service - an award-winning courtesy bus transport system that supports a regional town with limited public transport.

More information

Resources available for your accord to use to support your own strategies can be found:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/running-your-business/liquor-accords/liquor-accord-resources>

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.

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.

A photograph of a bar interior. In the foreground, several beer taps are visible, with colorful labels for 'BRIX' brand beers, including 'SPICED BLOOD ORANGE' and 'SPICED GINGER BEER'. In the background, a black menu board is mounted on the wall, displaying various drink options and prices. The scene is lit with warm, ambient light.

Compliance and enforcement

5

Module 5: Compliance and enforcement

Introduction

Liquor & Gaming NSW administers the regulatory framework for the liquor, gaming, wagering, casino, and registered club sectors 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.

Compliance

Liquor & Gaming NSW approach to compliance

Liquor & Gaming NSW applies a graduated and proportionate approach to compliance and promotes and encourages self-regulation and voluntary compliance while applying escalating enforcement action targeting industry participants or behaviours that present the highest risk.

In general, this refers to those who demonstrate more serious, repeated, or sustained breaking of the law or other conduct that is harmful and inconsistent with community expectations and the public interest.

The role of inspectors

Inspectors within Liquor & Gaming NSW are appointed under the *Gaming and Liquor Administration Act 2007*. This legislation allows inspectors to exercise a broad range of statutory powers, including having free and unimpeded access to licensed premises, compelling persons to answer questions, issuing formal demands for information or records and 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.

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).

Liquor & Gaming NSW and NSW police 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://legislation.nsw.gov.au/view/html/inforce/current/act-2007-091>

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.

Enforcement

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.

Educate and engage

Liquor & Gaming NSW works to provide education, engagement and support to assist industry members in meeting their obligations and to instill 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, media releases, direct mail and events. 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.

Remedial action, official warnings and enforceable undertakings

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.

Liquor & Gaming NSW may now impose an enforceable undertaking as an alternative to prosecution through the courts.

An enforceable undertaking is a legally binding agreement between Liquor & Gaming NSW and a licensee. The licensee is required to carry out the specific activities (improvement notice) in the undertaking.

Through an enforceable undertaking, Liquor & Gaming NSW may require a licensee to give an undertaking to do, or refrain from doing something if the licensee has breached the *Liquor Act*, or if it is reasonably believed the licensee has breached *the Act*. Liquor & Gaming NSW may also invite a licensee to give an enforceable undertaking to prevent a risk of potential harm.

Disciplinary action may not be taken in relation to the breach or alleged breach while the enforceable undertaking is in place.

Failure to comply with the enforceable undertaking may be certified with the Supreme Court, who may punish the licensee as if the licensee were in contempt of Court and/or order the licensee to comply with the enforceable undertaking.

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 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.

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.

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 and the Independent Liquor and Gaming Authority Board (the Authority) can impose or vary conditions on your licence
- **issuing directions to licensees and staff** –Liquor & Gaming NSW is now able to give a licensee under gaming and liquor legislation, or an employee or agent, a written direction about any matter relating to the licensed premises, including conduct on the licensed premises, or the supervision or control of the licensed premises.
- **RSA Revocation** -the Authority may now revoke a person's RSA in certain high-risk situations where the person has been charged with, or found guilty of, a serious indictable offence involving violence that was: committed on licensed premises or in the immediate vicinity of licensed premises, and in the opinion of the Authority, creates, or has the potential to create, a significant risk of harm to another person associated with the person's employment on licensed premises. Additional changes allow the Authority to immediately suspend a person's RSA as soon as the notice has been provided to the person, while a formal determination is made on the revocation or permanently disqualify a person from holding a recognised competency card or a particular recognised competency card endorsement, or for a period specified (rather than previous limit 12-month maximum disqualification period).

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>

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 act 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.

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.

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 years (10%)

Demerits

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.

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)
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.**

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)
2 or more serious indictable offences involving violence have been committed within a 12-month period: <ul style="list-style-type: none">i. by persons on the licensed premises, orii. near the licensed premises by persons who have been on the licensed premises within a reasonable time before the act occurred, oriii. 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: <ul style="list-style-type: none">i. involving persons on the licensed premises, orii. near the licensed premises by persons who have been on the licensed premises within a reasonable time before the act occurred, oriii. 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 point 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.

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>

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 Licensee 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

For more information on Advanced Licensee Training 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>

Renew your competencies

If your contact details are up to date, you'll start receiving reminders by email and SMS to renew the endorsements on your competency card approximately 3 months before your card is due to expire. If you hold more than one endorsement on your competency card, all expire on the same date.

You can renew your Licensee endorsement by completing the Licensee Refresher Online Course. Completion of this course is mandatory to retain endorsements on the competency card and will renew them for a further 5 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.

If your address, email or mobile phone number changes, please update your details by visiting www.onegov.nsw.gov.au.

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.

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

Visit the recent news page on the Liquor & Gaming NSW website to read the latest news articles and subscribe to the newsletter:

<https://www.liquorandgaming.nsw.gov.au/news-and-media>

There are approximately 140 liquor accords currently operating in NSW. Find out more:

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/running-your-business/liquor-accords>

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 precinct self-audit checklist](#)
[Sydney CBD entertainment precinct self-audit checklist](#)

Fact sheet

[Liquor Plan of Management guidance](#)
[Same day alcohol delivery](#)
[Incentives and Demerit Point System Demerits points register](#)
[Cumulative impact assessment webpage](#)

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](#)
[Signs for your business](#)

Appendices

Liquor & Gaming Incident Register

INCIDENT REPORT

Date	Time	Location	Reported by
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Incident details (Please tick appropriate boxes)

<input type="checkbox"/> Intoxication	<input type="checkbox"/> Gaming	<input type="checkbox"/> Fail to quit	<input type="checkbox"/> Hold up
<input type="checkbox"/> Violence/quarrelsome	<input type="checkbox"/> Asked to leave	<input type="checkbox"/> Unaccompanied minor	<input type="checkbox"/> Section 77
<input type="checkbox"/> Inappropriate conduct	<input type="checkbox"/> Refuse service	<input type="checkbox"/> Reported drink spiking	<input type="checkbox"/> Complaint
<input type="checkbox"/> Possession/use of suspected illicit drugs	<input type="checkbox"/> Minors	<input type="checkbox"/> Self-exclusion	<input type="checkbox"/> Injury/medical
	<input type="checkbox"/> Refuse entry	<input type="checkbox"/> Theft	<input type="checkbox"/> Other _____

People involved (Include name, age, sex, clothing and any other distinguishing features like scars and tattoos)

Incident report (Additional lines provided on the back of this page if required)

Action taken

THIS SECTION MUST BE COMPLETED FOR ALL REPORTS Police notified? ☐ No ☐ Yes

Date	Time	Event#	How	By whom
Responding officer				Date
Licensee/Approved manager signature				Date

INCIDENT REPORT

Date	Time	Location	Reported by
------	------	----------	-------------

Incident details (Please tick appropriate boxes)

<input type="checkbox"/> Intoxication	<input type="checkbox"/> Gaming	<input type="checkbox"/> Fail to quit	<input type="checkbox"/> Hold up
<input type="checkbox"/> Violence/quarrelsome	<input type="checkbox"/> Asked to leave	<input type="checkbox"/> Unaccompanied minor	<input type="checkbox"/> Section 77
<input type="checkbox"/> Inappropriate conduct	<input type="checkbox"/> Refuse service	<input type="checkbox"/> Reported drink spiking	<input type="checkbox"/> Complaint
<input type="checkbox"/> Possession/use of suspected illicit drugs	<input type="checkbox"/> Minors	<input type="checkbox"/> Self-exclusion	<input type="checkbox"/> Injury/medical
	<input type="checkbox"/> Refuse entry	<input type="checkbox"/> Theft	<input type="checkbox"/> Other _____

People involved (Include name, age, sex, clothing and any other distinguishing features like scars and tattoos)

Incident report (Additional lines provided on the back of this page if required)

Action taken

THIS SECTION MUST BE COMPLETED FOR ALL REPORTS Police notified? ☐ No ☐ Yes

Date	Time	Event#	How	By whom
Responding officer				Date
Licensee/Approved manager signature				Date

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Liquor & Gaming Incident Register continued

REFUSE ENTRY LOG – Please note that any refusal that escalated to an incident must be recorded accordingly			
Date	Time	Location	Reported by
Brief description of refusal			
Date	Time	Location	Reported by
Brief description of refusal			
Date	Time	Location	Reported by
Brief description of refusal			
Date	Time	Location	Reported by
Brief description of refusal			
Date	Time	Location	Reported by
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Brief description of refusal			
Date	Time	Location	Reported by
Brief description of refusal			
Date	Time	Location	Reported by
Brief description of refusal			