

1999

THE LEGISLATIVE ASSEMBLY
OF THE
AUSTRALIAN CAPITAL TERRITORY

LIQUOR LICENSING STANDARDS MANUAL

LIQUOR ACT 1975

INSTRUMENT NO. 252 OF 1999

EXPLANATORY STATEMENT

Circulated by the authority of the Attorney-General

Explanatory Statement - Liquor Licensing Standards Manual

Background

Part III of the Liquor Act 1975 (the Act) currently provides for the preparation of a Licensing Standards Manual (Manual) to set standards for the construction of licensed premises. Standards may be set in the Manual in relation to matters including:

- materials used for surfacing floors, walls and ceilings;
- the means for providing heating, cooling and lighting;
- the furnishing of premises;
- the equipment to be provided for the preparation of food; and
- toilet facilities.

In 1997 the Standing Committee on Legal Affairs conducted an Inquiry into Voluntary Codes of Practice for Liquor Licensees. The Voluntary Codes of Practice were launched in August 1994 in Civic. The Codes provided the industry with the opportunity to foster and develop self regulation with the support of the Government, police, the Liquor Licensing Board and the community. In its Report of 12 September 1997 the Committee, recommended that some of the material in the Voluntary Codes of Practice be included in the Manual.

In its response to the Committee's Report the Government supported the recommendation of the Committee to amend the Manual to reflect more accurately the object of the Liquor Act to promote and encourage the responsible sale and consumption of alcohol, by including in the Manual some of the matters contained in the Voluntary Codes of Practice.

The Manual has been extensively re-written and the Manual to which this explanatory statement applies replaces the previous Manual.

Introduction

Paragraphs 1 - 4 are formal paragraphs and state the provisions under the Act which require the preparation of a Manual and the matters that can be covered in the Manual. They also state that the Manual is seeking to promote and encourage the object of the Act contained in section 3A of the Act.

Glossary of Terms

Paragraphs 5 and 6 specify that terms used in the Manual are to be given the same meaning as they have in the Act. Paragraph 6 contains a definition of "Primary Purpose". This is included as some of the provisions of the Manual only apply to particular types of premises based on the "primary purpose" for which they are used. The "Primary Purpose" of a premises will be determined by the Registrar after considering, among other things, the types of issues specified in paragraph 6.

Commencement - Application of provisions

The provisions of the Manual are not intended to operate retrospectively in relation to premises which have a current licence at the time the Manual is gazetted. All the provisions of the Manual will apply on licensing for premises which are licensed after the date of gazettal of the manual, irrespective whether they have been previously licensed.

Paragraphs 7,8 and 9 specify that the Manual is to commence on its Gazettal, except in relation to those paragraphs referred to in paragraphs 8 and 9 which are to commence in relation to premises licensed when the Manual is gazetted, within a specified period in relation to the paragraphs referred to in paragraph 8, and at the time alterations are undertaken to the premises in relation to those matters addressed in the paragraphs referred to in paragraph 9.

In relation to those matters referred to in paragraph 7, which generally relate to issues associated with conduct of premises, all licensees will be required to apply the relevant standards from the date of the gazettal of the Manual, or licensing, whichever ever is the later.

In relation to those matters referred to in paragraph 8, which relate to requirements that may impose a need for minor modification of premises, all licensees will have a period of 3 months to comply with the new standard if they were licensed on the date of the gazettal of the Manual.

In relation to those matters referred to in paragraph 9, which relate to issues that may impose more significant obligations to alter the structure or fittings of licensed premises, all licensees will be required to comply with the new standard in relation to, and from the time that, they undertake alterations of the premises which bear some relationship to the particular matter referred to in the standard. For instance, if a currently licensed premises were to have less toilets than required under the terms of the new Manual, then they would be required to increase the number of toilets in the premises when they undertook alteration to the premises that involved changes to the toilet facilities. A licensee would not be required to upgrade the number of toilets just because they were altering the bar facilities or were erecting or removing a wall that had no functional relationship to the toilet facilities.

CONSTRUCTION OF BUILDING AND STANDARD OF FITTINGS

Toilets

The draft Manual requires that toilet facilities shall be provided in accordance with the ACT Appendix of the Building Code of Australia. In determining the number of toilets required for premises where liquor is sold for consumption on the licensed premises, consideration will be given to the size of both internal and external licensed areas. Off licensed premises do not require toilets under this Manual.

Where a licensed premises shares toilet facilities with other licensed premises, the number of toilets required will be determined for each premises separately, and then the numbers will be combined to establish whether the facilities provided are

sufficient for both premises. If one of the premises is already licensed, the first licensed premises will have priority in relation to the allocation of the toilets in determining the toilet requirements of the subsequent premises.

Standards applicable to toilet facilities are included to address issue of public safety and hygiene and include day to day matters such as cleanliness, the provision of toilet paper, soap, hot and cold water and drying facilities etc.

Also included are provisions dealing with:

direct line of sight - for safety purposes there shall be no line of sight into toilet facilities from any part of the licensed premises when entry doors to toilet areas are ajar.

common entries - for safety purposes common entries are not permitted to male and female toilets.

distance of travel - to provide reasonable and convenient access to toilets for premises where toilets are not located within the main part of the premises toilets must be located no further than 40 metres of travel from the exit of the premises used to access the toilets.

access to toilets - must not be by way of a key system.

location of toilets - must be visibly signposted from all parts of the premises.

sharps disposal bins - premises which are determined to be primarily a tavern or nightclub are required to install a sharps disposal bin in accordance with the relevant Australian Standard.

Surveillance of passage way to toilets

Paragraph 18 includes requirements dealing with the surveillance of passageways to toilets. For reasons associated with patron safety, passage ways to remote or secluded toilets shall be monitored by a video camera/s with the live feed being displayed on a monitor located in the main area of the licensed premises.

Entry/Exit Doors

Paragraph 19 requires doors that are to be counted as an exit for the determination of an internal occupancy loading to open in the direction of egress. To ensure public safety were exit doors open directly onto footpaths or other walkways used by the public exit doors must be recessed so they do not open into the area used by the public as a walkway.

Dance floors

Paragraph 21 specifies that for an area to be considered a dance floor for the purpose of calculating occupancy loadings the primary purpose of the area must be for dancing. To satisfy this purpose the dance floor shall be clearly defined by a barrier or markings on the floor and be free of furnishings when used as a dance floor.

In addition, the draft Manual includes other standards in relation to the consumption of drinks on dance floors to ensure the safety and comfort of patrons.

Bars

Paragraph 24 sets out the general standards that apply to bars in licensed premises. Each bar is required to contain adequate facilities, either in the bar or in the near vicinity, to enable its efficient operation and include facilities that ensure adequate standards of hygiene are maintained.

General licences

General licence holders are authorised to sell liquor for consumption on and off licensed premises. To provide a clear distinction between the two activities the Manual requires that all sales of liquor for consumption away from the licensed premises be made from a separate area and all liquor sold for consumption on the licensed premises must be in an open container and the liquor is not to be removed from the premises.

The condition applicable to sales for consumption off the premises ensures the public can access that service without having to enter a bar environment.

The condition applicable to sales for consumption on the premises prevents people leaving the premises while consuming liquor and is part of the initiatives to reduce drinking in public places. The provisions also facilitate the monitoring, in relation to General licences, of the different trading times that apply to the sale of liquor for on premises and off premises consumption.

Alfresco Dining

The draft Manual requires the clear delineation of outdoor alfresco dining areas and sets minimum standards for the benefit of patrons in relation to furniture, protection from the weather and access to toilet facilities. The majority of alfresco dining areas are established on land leased from the ACT Government and therefore generally occurs in areas that would otherwise be used as a public space.

Alfresco dining areas are not licensed as extensions of bar-rooms and to limit the likelihood of outside areas being used for "stand-up" drinking occupancy loadings are determined for outside dining areas which ensure that the number of chairs available in the area is sufficient for the number of patrons that can be accommodated in the area.

Use of unleased Territory Land

Where a licensed premises includes an area of public land that is leased from the Territory a copy of the current agreement must be provided to the Registrar for the area to remain as part of the licensed premises. If the agreement lapses or a copy is not provided to the Registrar then the area is deemed not to be part of the licensed premises.

Residential accommodation

For the convenience of guests the Manual requires a separate entrance, other than through a bar area, for access to residential accommodation.

To deter underage drinking the Manual requires that liquor be removed from mini-bars in rooms booked exclusively for the use of persons under the age of 18 years.

Lighting

The draft Manual requires licensees to have entries to premises and bar areas sufficiently lit to enable the adequate oversight of the obligations that arise in relation to underage drinking, recognising signs of intoxication and general patron safety. Mood lighting in premises is permitted so long as provision is made to have the area lit to the required standard, if required.

CONDUCT OF LICENSED PREMISES

Occupancy loadings

Since 1993 occupancy loadings have applied to premises where the sale of liquor for consumption on licensed premises is authorised. The Manual requires licensees to have in place counting procedures to ensure the maximum occupancy loading is not exceeded. In addition, licensees are required to have in place safety measures in relation to evacuation procedures.

Food

The Manual requires licensees who are required by the Act to have food available to meet minimum standards for kitchen facilities commensurate with the variety of food approved by the Registrar. The minimum standards deal with the preparation of food, storage of food and general hygiene and cleanliness issues. The primary responsibility for food hygiene matters is covered by the Food Act 1992.

Notices

Licensees are required to display certain notices in their premises. For the benefit of patrons and the regulatory authorities the Manual sets standards to be met in relation to the signs and their display.

Underage drinking/Identification

With the introduction of the proof of age card in December 1994 all persons over the age of 18 have access to a suitable form of identification. Unfortunately licensees are still being detected selling liquor to persons under the age of 18 without asking for or sighting appropriate identification. To ensure checks of id's focus on the relevant issues the Manual also requires licensees to follow certain procedures in checking forms of identification. The inclusion of this requirement in the Manual reinforces the community's and Government's expectations of licensees in relation to underage drinking.

Underage functions on licensed premises

The Manual requires licensees to comply with certain procedures when conducting prohibition functions (functions involving persons under the age of 18 where liquor is not sold or supplied). The procedures are aimed at ensuring underage functions on licensed premises are conducted in a safe and orderly manner both at the premises and in the immediate vicinity of the premises. The procedures address issues including giving notification of functions to appropriate authorities, conditions of entry to functions, the consumption or possession of liquor or other drugs and supervision of the function.

The procedures impose certain obligations to ensure that there is a level of transparency in relation to the operation of the function on licensed premises so that parents of persons attending the function can be aware of the procedures that will apply to the operation of the premises, and when the function will commence and cease so that appropriate arrangements can be made to collect their child/children, if required.

Security

The Manual requires licensees to have in place certain security measures in relation to the employment of security staff and the keeping of an incident register. These measures are aimed at ensuring compliance with liquor laws in relation to responsible service issues such as underage drinking and intoxication, and to ensure the orderly conduct and safety of patrons in the premises and in the vicinity of the premises. The provisions are supportive of the provisions of the Security Industry Code of Conduct under the Fair Trading Act 1992.

Responsible service of alcohol

The draft Manual requires licensees to adopt responsible service of alcohol practices aimed at encouraging moderation, not serving underage or intoxicated persons, minimising drink driving and ensuring the safety of patrons.

The provisions specifically ban drinking practices including laybacks, shooters, test tubes, boat races, all you can drink and supplying drinks in small plastic shot tumblers. The provisions also require licensees to encourage responsible consumption by promoting food and low alcohol drinks and the like.

As the Manual is relatively easy to amend the Liquor licensing Board will be able to amend the types of promotions/activities that it considers to be irresponsible in response to the activity occurring in licensed premises, from time to time.