

ARLA Annual Report 2020-21

Submitted 30 August 2021

Questions

1. Please provide the name of your District Licensing Committee.

Queenstown Lakes District Licensing Committee

2. Please provide the name, email, and contact phone number of your Committee's Secretary.

Anthony Hall, Anthony.Hall@qldc.govt.nz, +64 3 450 0312

3. Please name each of your licensing inspectors and provide their email and contact phone number.

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4. The following questions relate to the number of licences and managers' certificates your Committee issued and refused in the 2020-2021 financial year. (Note: the 2020-2021 financial year runs from 1 July 2020 to 30 June 2021.)

Licences 2020-2021

In the 2020-2021 year, how many 'on licences' did your Committee issue?

111

In the 2020-2021 year, how many applications for 'on licences' did your Committee refuse?

1

In the 2020-2021 year, how many 'off licences' did your Committee issue?

42

In the 2020-2021 year, how many applications for 'off licences' did your Committee refuse?

1

In the 2020-2021 year, how many club licences did your Committee issue?

3

In the 2020-2021 year, how many applications for club licences did your Committee refuse?

0

Managers' certificates 2020-2021

In the 2020-2021 year, how many managers' certificates did your Committee issue?

932 issued

In the 2020-2021 year, how many applications for managers' certificates did your Committee refuse?

2

In the 2020-2021 year, how many applications for managers' certificates were withdrawn?

13

Licence renewals 2020-2021

In the 2020-2021 year, how many licence renewals did your Committee issue?

85

In the 2020-2021 year, how many licence renewals did your Committee refuse?

1

As at 30 June 2021 what is the total number of licences (new and existing in your licensing district?)

On-licences	Off-licences	Club licences
320	128	20

5. Please comment on any changes or trends in the Committee's workload in 2020-2021.

The committees' workload has increased throughout 202-2021, mainly due to the environment Covid-19 has created. See question 11 for more detail.

Non Covid related issues the committee has been dealing with have included cellar doors and food availability. Specifically, the committee has had to determine on several occasions whether cellar doors are actually cellar doors as the Act states that the premises must be used for the manufacture of the product they sell. There have been ongoing questions around what exactly the "manufacturing" of the alcohol. Some premises complete the entire process over several premises, can they all hold a remote sellers licence or none of them? This is something that many licensees are picking up on and questioning when it comes to renewals and new licenses.

The other matter our DLC is currently still determining is around the availability of food within clubs, specifically when this food is provided by a third party who shares the premises with said club. We are seeking guidance on whether members of the public (who are not club members or signed in by club members) are able to be on the club licensed premises to dine, and also whether the Act provides that it must be the club who operate the kitchen and take the profits from food sales.

6. Please comment on any new initiatives the Committee has developed/adopted in 2020-2021.

The main initiative has been dealing with applications effected by Covid, specifically Managers applications. See question 11 for more detail.

7. Has your Committee developed a Local Alcohol Policy?

No

7A. If the answer is yes, what stage is your Local Alcohol Policy at?

N/A

8. If the answer to 7 is Yes, what effect do you consider your Local Alcohol Policy is having?

N/A

9. If the answer to 7.A is 'in force', is your Local Alcohol Policy due for review?

N/A

10. If the answer to 8 is Yes, has such a review been undertaken; and, if so with what result?

N/A

11. Please comment on the manner in which COVID-19 has impacted on DLC operations.

The Committee has had to spend a lot more time dealing with duty managers applications over the past 12 months. Queenstown has a very transient workforce with many of the managers in town from overseas and here on visas. The committee has had to take into consideration many applicants who have been affected by visa issues, job losses or managers who were stuck outside of New Zealand and awaiting permission to re-enter the country. There has also been a number of new duty manager applications from individuals who have worked in the hospitality industry (either currently or historically) but have been made redundant and are now applying for managers certificates to upskill and make themselves look more attractive to prospective employers. More time has been needed to assess each individual application and the applicant's circumstances while trying to maintain consistency with decisions.

The committee has also had to spend more time on 'new' licence applications as there has been a substantial increase in the number of new licence applications from people who have been made redundant in their jobs as a result of Covid and as a result are deciding to open new businesses. A large number of these, especially during mid 2020, related to businesses that could be operated from home – a large number were hamper providers - should further lockdowns occur.

There is also the constant consideration of what happens with any public hearings when/should alert levels change.

12. Please comment on the ways in which you believe the Sale and Supply of Alcohol Act 2012 is, or is not, achieving its object. Note: the object of the Sale and Supply of Alcohol Act 2012 is that: a) the sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and b) the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.

The Act seems to be mostly achieving its object within our district. The Act does set out some clear restrictions around what can and can't be done when operating a licensed premises. These restrictions though mainly relate to established industries of taverns, hotels, bottle shops, etc. that have been around since well before the inception of the current Act, which was able to tweak and modify from previous Acts. It could also be argued though that it isn't simply the Act itself that is achieving the 'Object' but also the local licensees who, in this District at least, have bought in to the 'object' and work with all agencies to achieve said object. If the local licensees weren't as willing it is questionable whether the Act alone could meet the 'Object' (see question 13 for further explanation).

One area though where the current Act fails to achieve the 'Object', is when related to the use of new and evolving technologies. The current Act came into force in 2013 yet was already behind with the times when it relates to businesses operating online i.e. remote sellers licences must be specific to a premises.

13. To what extent, if any, do you consider that achievement of the objectives of the Act may have been affected by the COVID-19 pandemic?

Many licensees have been adversely affected by lockdowns, however Queenstown and Wanaka licensees have mostly been affected by the fact there is no overseas tourism which makes up the vast

majority of revenues. While it is generally considered by the inspectors in this district that the vast majority of licensees are good operators and want to do the right thing, as a result of the non-existent overseas tourist market, many licensees have been 'pushing the envelope' when it comes to promotions and SCAB assessments. There has been a noticeable increase in the amount of illegal promotions within the District that have required the inspectors to step in and put an end to, while there has also been a substantial increase in enquiries from licensees asking about different promotions and their legalities. In an attempt to increase local patronage, a number of bars have drastically lowered alcohol prices to the point there is a concern alcohol isn't being provided responsibly.

There are a number of 'entrepreneurs' and existing businesses who have also come forward with questions or applied for licenses for businesses that operate vastly different to how you would think a business that is in the alcohol industry 'traditionally' operates. A number of licensed premises are also diversifying their businesses in order to try and make up lost revenues. A lot of these ideas, licence applications and diversification can make it difficult to assess when the environment is changing so quickly.

14. What changes or trends in licensing have you seen since the Act came into force?

There's a lot more use of modern technology therefore we get a lot more applications and enquiries around the use of the internet for sales and promotions. "On demand" (i.e. alcohol is purchased on line with delivery guaranteed within the hour) delivery services are the most common. The Act is lacking when it comes to the use of modern technology and seems to be creating two different levels of compliance with the Act. You have 'traditional' on and off licenses that are compliant with all aspects of the Act and do a good job of trying to better their businesses and the community they operate in by providing safe and enjoyable experiences for guests. You also have a number of licensees who operate in the 'grey area' of the Act, these all revolve around modern uses of technology that the Act doesn't provide any guidelines on and seem to be more of a free for all. Monitoring their compliance with the Act is extremely difficult and sometimes almost impossible, thereby creating a 'wild west' scenario with many of them.

15. What changes to practices and procedures under the Act would you find beneficial?

- Simplification of the 'Temporary Managers' and 'Acting Managers' (or event better, get rid of them completely), when they can be used, how they can be used and for how long they can be used. No licensees or staff fully understand the difference, even after it's explained numerous times. All staff should be required to pass the LCQ course (or a modified more in depth version) if they want to be employed in the hospitality industry. Premises then can have whichever staff member they want in charge with no need to apply for manager's certificates or appointing temporary or acting managers.
- Consideration around changes to remote seller licenses and how they are linked to a physical address. Most of our remote sellers have their home address licensed however due to the nature of the housing market in Queenstown, most of these homes are rented. Every time a licensee leaves their rental a new licence needs to be issued for the new address. This process creates unnecessary work for the inspectors and licensee while also putting additional stress on licensees as most don't know or don't remember that their licence is linked to the address and once they move that licence can no longer be used. This is explained to all new licensees when they apply for a remote licence linked to a residential address however this has caused another concern. Some licensees, after this is explained to them, link their licence to a different location and it's questionable if many of these licensees ever actually use these addresses for the sale of alcohol. The manager nominated by the applicant to "oversee" sales

may not reside in the district but there is no clear guidance in relation to remote sellers that prohibits this practice.

- Clarification and/or restrictions around “on demand” delivery services (see question 14) and whether they are legal under the “Object of the Act”.
- Guidance around the compliance of the “Object of the Act” in regards to buy now, pay later services (like Afterpay).
- Clarification around so called “black sites” or “dark stores” for grocery stores.
- The Act is lacking in general when it comes to modern technology and its use in purchasing alcohol.
- Creation of a ‘brewery cellar door’ (or something similar) licence category (and a definition) as breweries can’t be defined as cellar doors currently meaning they must be licensed as taverns which, when considering the risk a micro-brewery creates as opposed to winery cellar doors and traditional taverns is unfair.
- Clarification also around cellar doors and the expectation of where these can be i.e. does a cellar door have to be located on the land the wine is produced or manufactured or can it be located in another building located in a township.
- In section 32(1)(c)(ii) it mentions “...85% of the annual income of the person to whom it is issued is... expected to be earned from the remote sale of alcohol”. This is the only section that uses this type of wording, all other sections that set out certain percentages speak of revenue of the applicant. A legal opinion was sought on this section as many applicants run remote sites as either a side business or one business in an umbrella that they have. The legal opinion was that they considered the language may have been used in error as its not consistent with the language used in all other sections of the Act and they also questioned, if it was correct, whether it may be a restraint of trade if a person is being dictated to that 85% of their income must be from the sale of alcohol. Clarification from the Authority around this section and/or amendment of the wording would be useful.
- Private residence and hotels i.e luxury accommodation – definition updated or more clearly defined for hotels and some guidance provided around what premises can be considered in the “other” category. Issues that are being experienced around the country is when a luxury house is rented out during parts of the year to guests, when the property is not rented out it is resided in by the owners. The definition of “hotel” is then being applied to applications for these types of properties because strictly speaking a “hotel” generates its principal income from accommodation. As it is a “hotel” a supervised designation needs to be applied to an area of the premises. This then makes things difficult for the owner of the home as the property is considered licensed at all times, an au pair couldn’t look after the owner’s children without them present. Other premises which are accommodation providers are motels where they may have mini-bars but may not have a main dining room, only rooms and a reception area. To designate a supervised area to the reception area would prohibit the likes of youth sports team members from entering the reception area to return keys, request more milk, report issues, etc.

- Bottomless brunches which are held by some premises around the country whereby they advertise “bottomless” food and alcohol. There is no real way that an inspector will be provided with funds and permission from employers to undertake CPO’s to see if they can actually receive bottomless amounts of alcohol, similarly, Council’s will not pay for volunteers to undertake this practice either. It seems that by licensees being creative with wording around this type of event, that they may indeed be able to get around certain subparts under s.237. Again, it would be considered extremely difficult to take a suspension application to the ARLA given the evidence needed would be lacking. Guidance would be appreciated or adjustments made to this section to assist in making it clear promotions such as this are inappropriate in the context of the object of the Act and its intentions.
- Inspector in one district and on another district’s DLC – wording around the selection criteria of DLC’s particularly in relation to inspectors who work in one district being members on a DLC in a neighbouring district needs to be clarified. Section 193(3)(b) states the an inspector must not be appointed as a commissioner of the TA. What is occurring is some inspectors are on DLC’s in neighbouring TA’s, this does not appear to be the actual intention of a DLC. This section needs to be amended so that no inspector should be able to be on a DLC as some licensees have premises in many different districts.
- Clarity needs to be provided around whether non- alcoholic spirits are able to be sold and supplied in supermarkets. Spirits are not able to be sold in supermarkets however products that are less than 1.15% are not considered alcohol and are able to be sold in the same area as beer and wine.
- Changes to the requirement of having to have a quorum of DLC report on TA’s seems heavy handed particularly when only one member reports on a substantive application.