

Sale and Supply of Liquor and Liquor Enforcement Bill

Government Bill

Explanatory note

General policy statement

This Bill proposes to amend the Sale of Liquor Act 1989, the Summary Offences Act 1981, and the Land Transport Act 1998, to implement recommendations arising from the Review of the Sale and Supply of Liquor to Minors and the Review of the Sale of Liquor and Liquor Enforcement Issues (the **Targeted Review**).

The Bill also introduces into the Sale of Liquor Act 1989 a new system of enforced self-regulation of alcohol advertising arising out of the Review of the Regulation of Alcohol Advertising.

Objectives

In seeking to address the drinking behaviours of minors an integrated approach is necessary. Solutions rely on changing the behaviour of individuals and communities. This involves a supportive regulatory environment, public awareness and ownership of issues, understanding of rights and responsibilities, and consistent and effective enforcement. Improving compliance by industry will also make a contribution. The proposals in the Bill are intended to contribute to this change.

Research indicates that parents are the main suppliers of alcohol to minors (60% of minors identify parents as the primary source of sup-

ply). Around 30% of supply is by friends and 10 to 15% is purchased from licensed premises by minors themselves. In the context of these findings, the large majority (92%) of parents agree that the primary responsibility for helping teenagers learn how to handle alcohol responsibly belongs to parents.

Common locations where minors consume alcohol are their own home, someone else's home and public places.

There is also increasing concern regarding the extent of alcohol-related harm, and communities are frustrated by their inability to manage that harm. There is a need to improve local control over where, to whom, when, and how alcohol can be sold in communities, to ensure that social impact is taken into account in licensing conditions.

In this context, the policy objectives of the Bill are to:

- support a more moderate drinking environment and culture to reduce the normalisation of youth drinking;
- enhance the responsibility of friends and adults who supply alcohol to minors;
- increase youth responsibility and accountability; and
- improve compliance and responsibility of industry; and
- increase community input into licensing decisions; and
- clarify the types of premises that may hold off-licences.

Amendments to Land Transport Act 1998

Inexperienced drivers are particularly at risk of alcohol-related crashes. These proposals aim to make it clear to young, inexperienced drivers that alcohol and driving do not mix. So there can be no doubt, drivers aged under 20 years who do not have a full licence will have an alcohol limit of zero.

Enforced self-regulation of alcohol advertising

A review of the current voluntary self-regulatory system for alcohol advertising found a small but significant association between the level of exposure to alcohol advertising and alcohol consumption. The review recommended improvements to move to a system of enforced self-regulation. This Bill proposes a new legislative system that outlines the public policy goals of the proposed system, roles of the responsible body, and offences and sanctions.

The policy objectives are to:

- ensure that alcohol advertising is not inconsistent with the promotion of responsibility and moderation in liquor consumption; and
- minimise overall exposure to alcohol advertising to children and young people under the minimum legal purchasing age; and
- ensure that alcohol advertising does not hold strong appeal to minors.

Clause by clause analysis

This Bill is an omnibus Bill, making to 3 Acts amendments relating to liquor.

Part 1 amends the Sale of Liquor Act 1989, *Part 2* the Summary Offences Act 1981, and *Part 3* the Land Transport Act 1998; and it is intended that at the Committee of the Whole House stage of the Bill, it will be split into a Sale of Liquor Amendment Bill, a Summary Offences Amendment Bill, and a Land Transport Amendment Bill.

Clause 1 states the Bill's title.

Clause 2 relates to the Bill's commencement. It provides that—

- *Part 1* (the amendments to the Sale of Liquor Act 1989) come into force on a date appointed by Order in Council;
- *Part 3* (the amendments to the Land Transport Act 1998) comes into force 6 months after assent;
- the rest of the Bill (the amendments to the Summary Offences Act 1981, and certain formal provisions) comes into force on the day after assent.

Clause 3 states the Bill's purpose, which is to make to the Sale of Liquor Act 1989, the Summary Offences Act 1981, and the Land Transport Act 1998, amendments that—

- reduce the opportunity for society and individuals to be harmed by the misuse or excessive consumption of alcohol; or
- deter people from undertaking behaviour related to alcohol that is likely to result in the harming of society or individuals by its misuse or excessive consumption; or
- increase community input into licensing decisions; or
- have 2 or more of those effects.

Part 1

Amendments to Sale of Liquor Act 1989

Clause 4 provides that the principal Act amended by *clauses 5 to 24* is the Sale of Liquor Act 1989.

Clause 5 inserts 8 new definitions into section 2 of the principal Act. Five relate to the new provisions about advertising proposed to be inserted into the principal Act by *clause 35*, and are definitions of—

- **cease and desist order**, which is a notice under proposed *new section 136C*; and
- **LAAB**, which is the liquor advertising advisory body recognised under proposed *new section 136B*; and
- **liquor advertisement**; and
- **liquor product**; and
- **liquor promotion**.

Two (**applicable local alcohol plan** and **local alcohol plan**) relate to the new provisions about local alcohol plans.

The other definition is of **shop**.

Amendments relating to on-licences

Clause 6 amends section 9 of the principal Act, which relates to applications for on-licences, by inserting a *new subsection (4A)* requiring an applicant for an on-licence to notify the District Licensing Agency of the publications in which the public notice of the application will be given, and the day or days on which the notice will be given.

Clause 7 amends section 12 of the principal Act, which at present provides for the District Licensing Agency to grant all unopposed applications for on-licences, and forward opposed applications to the Licensing Authority.

In future—

- unopposed applications will have to be forwarded to the Authority if the Agency thinks them inconsistent with a local alcohol plan; and
- the Agency will have to impose conditions on on-licences it grants (even if the application for the licence is unopposed) if it thinks that granting the licence without the conditions would be inconsistent with the plan.

Clause 8 amends section 13 of the principal Act, which states matters to which regard must be had when an application for an on-licence is being considered.

The Licensing Authority must have regard to any local alcohol plan, and must not grant an on-licence if—

- there is an applicable local alcohol plan; and
- it thinks that granting the licence would be inconsistent with the plan; and
- the local authority has not notified the Authority that it supports the granting of the licence.

The Licensing Authority must impose conditions on any on-licence it grants if—

- there is an applicable local alcohol plan; and
- it thinks that granting the licence without the conditions would be inconsistent with the plan.

Clause 9 amends section 14 of the principal Act, which states the conditions imposed on on-licences, so that the Licensing Authority and District Licensing Agency may impose on on-licences conditions provided for in an applicable local alcohol plan.

Clause 10 amends section 16 of the principal Act, which provides for the variation of conditions imposed on on-licences.

A new *subsection (8)* is added, to the effect that the Licensing Authority or District Licensing Agency must not vary any conditions imposed on an on-licence if—

- the conditions are provided for in an applicable local alcohol plan; and
- holding an on-licence, or the consequences of holding an on-licence, that is subject to the conditions as varied would be inconsistent with the plan.

Clause 11 amends section 18 of the principal Act, which relates to the renewal of on-licences, by inserting a *new subsection (3A)* requiring an applicant for the renewal of an on-licence to notify the District Licensing Agency of the publications in which the public notice of the application will be given, and the day or days on which the notice will be given.

Clause 12 amends section 21 of the principal Act, which at present provides for the District Licensing Agency to grant all unopposed

applications for renewal of an on-licence, and forward opposed applications to the Licensing Authority.

In future—

- unopposed applications will have to be forwarded to the Licensing Authority if the District Licensing Agency thinks them inconsistent with a local alcohol plan; and
- the District Licensing Agency will have to impose conditions on on-licences it renews (even if the application for the renewal is unopposed) if it thinks that renewing the licence without the conditions would be inconsistent with the plan.

Clause 13 amends section 22 of the principal Act, which states matters to which regard must be had when an application for the renewal of an on-licence is being considered.

The Licensing Authority must have regard to any local alcohol plan, and must not renew an on-licence if—

- there is an applicable local alcohol plan; and
- it thinks that renewing the licence would be inconsistent with the plan; and
- the local authority has not notified the Authority that it supports the renewal of the licence.

The Licensing Authority must impose conditions on any on-licence it renews if—

- there is an applicable local alcohol plan; and
- it thinks that renewing the licence without imposing the conditions would be inconsistent with the plan.

These requirements are, however, subject to the transitional arrangements provided for in proposed *new section 255*.

Amendments relating to off-licences

Clause 14 amends section 31 of the principal Act, which relates to applications for off-licences, by inserting a *new subsection (3A)* requiring an applicant for an off-licence to notify the District Licensing Agency of the publications in which the public notice of the application will be given, and the day or days on the notice will be given.

Clause 15 amends section 34 of the principal Act, which at present provides for the District Licensing Agency to grant all unopposed

applications for an on-licence, and forward opposed applications to the Licensing Authority.

In future—

- applications relating to groceries with an area under 150 m² will have to be dealt with by the Authority, even if they are unopposed; and
- unopposed applications will have to be forwarded to the Authority if the Agency thinks them inconsistent with a local alcohol plan; and
- the Agency will have to impose conditions on on-licences it renews (even if the application for the renewal is unopposed) if it thinks that renewing the licence without the conditions would be inconsistent with the plan.

Clause 16 amends section 35 of the principal Act, which states matters to which regard must be had when an application for an off-licence is being considered.

The Licensing Authority must have regard to any local alcohol plan, and must not grant an off-licence if—

- there is an applicable local alcohol plan; and
- in its opinion, granting the licence, or the consequences of granting the licence, would be inconsistent with the plan; and
- the local authority has not notified the Authority that it supports the granting of the licence.

Also, the Licensing Authority must not grant an off-licence in respect of any premises situated within a shop other than a supermarket, or a grocery store with a floor area of at least 150 m². This will not prevent the granting of an off-licence in respect of any premises situated within such a shop; but, by virtue of the amendments proposed to be made to section 37 of the principal Act by *clause 18*, they will be limited to selling wine, fruit wine, mead, and beer.

Both the Licensing Authority and District Licensing Agency must impose conditions on any off-licence it grants if—

- there is an applicable local alcohol plan; and
- granting the licence, or the consequences of granting the licence, without those conditions would be inconsistent with the plan.

Clause 17 amends section 36 of the principal Act, which relates to the types of premises in respect of which off-licences may be granted, so as to restrict the ability of groceries with a floor area of less than 150 m² to obtain off-licences.

These smaller groceries will now not be able to be granted an off-licence unless the Licensing Authority (which, by virtue of the amendment proposed to be made by *clause 15*, will have to consider every application relating to a grocery of this size, even if it is unopposed) is satisfied that—

- the principal business of the grocery is the sale of main order household foodstuff requirements; and
- there is not within 10 km of the grocery a supermarket with a floor area of 1 000 m² or more, or premises whose principal business is the manufacture or sale of liquor; and
- it would not be economic to establish within 10 km of the grocery a supermarket with a floor area of 1 000² or more, or premises whose principal business is the manufacture or sale of liquor.

Clause 18 makes several amendments to section 37 of the principal Act, which states the conditions of off-licences.

New subsections (3B) to (3D) are inserted.

New subsection (3B) restricts the range of liquor that may be sold in premises with an off-licence that are within a shop, or adjacent to a supermarket and under the same management as the supermarket, to what may be sold by a supermarket—wine, fruit wine, mead, and beer.

New subsection (3C) defines certain terms used in *new subsection (3B)*.

New subsection (3D) imposes on every off-licence granted in respect of premises in which the principal business is the manufacture or sale of liquor the condition that its principal business continues to be the manufacture or sale of liquor.

The other amendments are consequential on the amendments to section 36 of the principal Act proposed to be made by *clause 17*.

Clause 19 amends section 39 of the principal Act, which provides for the variation of conditions imposed on off-licences

A new *subsection (8)* is added, to the effect that the District Licensing Agency or Licensing Authority must not vary any conditions imposed on an off-licence if—

- the conditions are provided for in an applicable local alcohol plan; and
- holding an on-licence, or the consequences of holding an on-licence, that is subject to the conditions as varied would be inconsistent with the plan.

Clause 20 amends section 41 of the principal Act, which relates to the renewal of off-licences, by inserting a *new subsection (3A)* requiring an applicant for the renewal of an off-licence to notify the District Licensing Agency of the publications in which the public notice of the application will be given, and the day or days on which the notice will be given.

Clause 21 amends section 44 of the principal Act, which at present provides for the District Licensing Agency to grant all unopposed applications for renewal of an off-licence, and forward opposed applications to the Licensing Authority.

In future—

- applications relating to groceries with an area under 150 m² will have to be dealt with by the Authority, even if they are unopposed; and
- unopposed applications will have to be forwarded to the Authority if the Agency thinks them inconsistent with a local alcohol plan; and
- the Agency will have to impose conditions on off-licences it renews (even if the application for the renewal is unopposed) if it thinks that renewing the licence without the conditions would be inconsistent with the plan.

Clause 22 amends section 45 of the principal Act, which states the criteria for the renewal of off-licences, so that in future the District Licensing Agency and Licensing Authority—

- must consider whether the premises in respect of which a renewal has been applied for are situated within a shop, or are premises of a kind described in section 36(1)(d) or *new section 36(1A)*; and

- must refuse to renew the licence if they are premises of a kind in respect of which it will no longer be possible to grant an off-licence.

The District Licensing Agency must also have regard to any local alcohol plan, and must not renew an off-licence if—

- there is an applicable local alcohol plan; and
- in its opinion, renewing the licence, or the consequences of renewing the licence, would be inconsistent with the plan.

The Licensing Authority must also have regard to any local alcohol plan, and must not renew an off-licence if—

- there is an applicable local alcohol plan; and
- in its opinion, renewing the licence, or the consequences of renewing the licence, would be inconsistent with the plan; and
- the local authority has not notified the Authority that it supports the renewal of the licence.

Both the Licensing Authority and District Licensing Agency must impose conditions on any off-licence it renews if—

- there is an applicable local alcohol plan; and
- renewing the licence, or the consequences of renewing the licence, without imposing those conditions would be inconsistent with the plan.

These requirements are, however, subject to the transitional arrangements provided for in proposed *new section 256*.

Amendments relating to club licences

Clause 23 amends section 55 of the principal Act, which relates to applications for club licences, by inserting a *new subsection (3A)* requiring an applicant for a club licence to notify the District Licensing Agency of the publications in which the public notice of the application will be given, and the day or days on which the notice will be given.

Clause 24 amends section 58 of the principal Act, which at present provides for the District Licensing Agency to grant all unopposed applications for a club licence, and forward opposed applications to the Licensing Authority.

In future—

- unopposed applications will have to be forwarded to the Authority if the Agency thinks them inconsistent with a local alcohol plan; and
- the Agency will have to impose conditions on club licences it renews (even if the application for the renewal is unopposed) if it thinks that renewing the licence without the conditions would be inconsistent with the plan.

Clause 25 amends section 59 of the principal Act, which states matters to which regard must be had when an application for a club licence is being considered.

The Licensing Authority must have regard to any local alcohol plan, and must not grant a club licence if—

- there is an applicable local alcohol plan; and
- it thinks that granting the licence would be inconsistent with the plan; and
- the local authority has not notified the Authority that it supports the granting of the licence.

The Licensing Authority must impose conditions on any club licence it grants if—

- there is an applicable local alcohol plan; and
- it thinks that granting the licence without the conditions would be inconsistent with the plan.

Clause 26 amends section 60 of the principal Act, which states the conditions imposed on club licences, so that the Licensing Authority and District Licensing Agency may impose on club licences conditions provided for in an applicable local alcohol plan.

Clause 27 amends section 62 of the principal Act, which provides for the variation of conditions imposed on club licences.

A *new subsection (8)* is added, to the effect that the Licensing Authority or District Licensing Agency must not vary any conditions imposed on a club licence if—

- the conditions are provided for in an applicable local alcohol plan; and
- holding a club licence, or the consequences of holding a club licence, that is subject to the conditions as varied would be inconsistent with the plan.

Clause 28 amends section 64 of the principal Act, which relates to the renewal of club licences, by inserting a *new subsection (3A)* requiring an applicant for the renewal of a club licence to notify the District Licensing Agency of the publications in which the public notice of the application will be given, and the day or days on which the notice will be given.

Clause 29 amends section 67 of the principal Act, which at present provides for the District Licensing Agency to grant all unopposed applications for renewal of a club licence, and forward opposed applications to the Licensing Authority.

In future—

- unopposed applications will have to be forwarded to the Authority if the Agency thinks them inconsistent with a local alcohol plan; and
- the Agency will have to impose conditions on club licences it renews (even if the application for the renewal is unopposed) if it thinks that renewing the licence without the conditions would be inconsistent with the plan.

Clause 30 amends section 68 of the principal Act, which states the criteria for the renewal of club licences.

The Licensing Authority must have regard to any local alcohol plan, and must not renew a club licence if—

- there is an applicable local alcohol plan; and
- it thinks that renewing the licence would be inconsistent with the plan; and
- the local authority has not notified the Authority that it supports the renewal of the licence.

The Licensing Authority must impose conditions on any club licence it renews if—

- there is an applicable local alcohol plan; and
- it thinks that renewing the licence without imposing the conditions would be inconsistent with the plan.

These requirements are, however, subject to the transitional arrangements provided for in proposed *new section 257*.

Amendments relating to special licences

Clause 31 inserts into the principal Act a *new section 78A* requiring the District Licensing Agency (which at present handles all applications for special licences)—

- to forward applications for decision by the Licensing Authority if the Agency thinks them inconsistent with a local alcohol plan; and
- to impose conditions on special licences it renews if it thinks that renewing the licence without the conditions would be inconsistent with a local alcohol plan.

Clause 32 amends section 79 of the principal Act, which states matters to which regard must be had when an application for a special licence is being considered.

The Licensing Authority must have regard to any local alcohol plan, and must not grant a special licence if—

- there is an applicable local alcohol plan; and
- in its opinion, granting the licence, or the consequences of granting the licence, would be inconsistent with the plan; and
- the local authority has not notified the Authority that it supports the granting of the licence.

Both the Licensing Authority and District Licensing Agency must impose conditions on any special licence it grants if—

- there is an applicable local alcohol plan; and
- granting the licence, or the consequences of granting the licence, without those conditions would be inconsistent with the plan.

Clause 32 amends section 79 of the principal Act to reflect the fact that the Licensing Authority will now be handling certain applications for a special licence forwarded to it by the District Licensing Agency.

Clause 33 amends section 80 of the principal Act, which states the conditions imposed on special licences, so that the Licensing Authority and District Licensing Agency may impose on special licences conditions provided for in an applicable local alcohol plan.

Clause 34 amends section 82 of the principal Act to reflect the fact that the Licensing Authority will now be handling certain applica-

tions for a special licence forwarded to it by the District Licensing Agency.

Clause 35 amends section 83 of the principal Act to reflect the fact that the Licensing Authority will now be handling certain applications for a special licence forwarded to it by the District Licensing Agency.

Clause 36 amends section 84 of the principal Act to reflect the fact that the Licensing Authority will now be handling certain applications for a special licence forwarded to it by the District Licensing Agency.

Local alcohol plans

Clause 37 inserts into the principal Act a *new Part 4A* providing for local alcohol plans.

New section 84A empowers any territorial authority to adopt, amend, or revoke a plan relating to the sale or consumption of alcohol within its district, or any part or parts of its district (a **local alcohol plan**).

A local alcohol plan can be adopted (or amended or revoked) only by using the special consultative procedure provided for in the Local Government Act 2002.

New section 84B states that a local alcohol plan may include requirements relating to any or all of the following matters (in relation to outlets for the sale of liquor generally, outlets for the sale of liquor holding a licence of any particular kind, or both):

- the hours during which liquor may be sold:
- where outlets may be located:
- a maximum density for outlets:
- a minimum distance outlets must be from—
 - particular community premises; or
 - community premises of any particular kind:
- responsible business practices and event management:
- information to be submitted with applications for the granting or renewal of a licence:
- the submission of social impact reports with applications for the granting or renewal of licences:
- the matters to be contained in social impact reports:
- the persons by whom social impact reports are to be prepared:

- conditions that are to be or may be imposed on licences:
- criteria to be used in assessing applications for the granting or renewal of licences:
- a policy on how any criteria or conditions in the plan are to be applied to applications for the granting or renewal of licences.

Any policy stated may include a statement of circumstances in which applications for licences are to be granted or refused.

New section 84C defines **community premises**, **district**, **outlet**, **special consultative procedure**, and **territorial authority**.

Amendment relating to management of licensed premises

Clause 38 inserts into the principal Act 3 new sections putting into effect a “three strikes and you’re out” policy for managers who have 3 adverse findings relating to people under 18 (**young people**) made against them within 2 years. It will have the effect of preventing them from being a manager, temporary manager, or acting manager for 5 years after the third conviction.

New section 135A provides for a member of the police or an inspector to apply to the Licensing Authority for an order cancelling a manager’s certificate.

The only grounds on which an application can be made are that—

- during the 6 months before the application is made,—
 - the manager has been convicted of an offence, committed after the commencement of the section, relating to selling or supplying liquor to a young person or allowing a young person to enter a restricted or supervised area on licensed premises; or
 - the Licensing Authority has found that the manager has, after the commencement of the section, sold or supplied liquor to a young person or allowed a young person to enter a restricted or supervised area on licensed premises; and
- at least 2 other similar convictions or findings have been made against the manager (after the commencement of the section) in respect of incidents occurring during the 2 years before the day on which the latest conviction or finding occurred.

If satisfied that those grounds have been established, the Licensing Authority must cancel the certificate.

New section 135B relates to the procedure for applications under *new section 135A*.

Applications must be made to the Licensing Authority, in the form and manner prescribed for applications under section 135 for an order suspending or cancelling a manager's certificate.

The Secretary of the Licensing Authority must—

- send a copy of the application to the manager, and the licensee of the licensed premises in relation to which the latest conviction occurred; and
- fix the earliest practicable date for a public hearing of the application; and
- give at least 10 working days' notice of the hearing to the applicant and manager.

The applicant and the manager can appear and be heard at the hearing (personally or by counsel) and call, examine, and cross-examine witnesses; but evidence and submissions must be limited to whether it can be established that 3 findings have been made against the manager in 2 years.

Any cancellation of a manager's certificate takes effect immediately.

New section 135C applies to a person whose manager's certificate has been cancelled under *new section 135A(5)* if less than 5 years has passed since the latest of the convictions on the grounds of which it was cancelled, and provides that—

- a manager's certificate must not be issued, and an application for a licence must not be granted, to him or her:
- he or she must not be appointed as a temporary manager or an acting manager:
- any purported appointment as a temporary manager or an acting manager is void (whether or not the licensee concerned knows that the section applies to him or her).

Advertising and promotions

Clause 39 inserts a *new Part 6A* into the principal Act. The Part contains *new sections 136A to 136G*.

New section 136A states principles for the purposes of the Part. They are that—

- liquor advertising and liquor promotion should not be inconsistent with the promotion of responsibility and moderation in the consumption of alcohol; and
- the overall exposure of children and people under the age of 18 years to liquor advertising and liquor promotion should be minimised; and
- liquor advertising and liquor promotion should not hold strong appeal to children or young people.

New section 136B empowers the Ministers of Justice and Health to recognise any body corporate for the purpose of—

- developing and reviewing codes (for liquor advertising and liquor promotion); and
- when reviewing its codes, devising appropriate ways of engaging with the community to elicit a range of views on them; and
- administering a complaints process; and
- referring to any relevant agency complaints outside its jurisdiction; and
- referring serious or persistent breaches of its codes to the Director-General of Health; and
- conducting internal process monitoring of its undertaking those matters; and
- arranging independent auditing of its undertaking those matters.

In undertaking those matters, the body will act in accordance with a memorandum of understanding agreed with the Director-General of Health.

New section 136C empowers the Director-General of Health to make cease and desist orders in relation to a liquor advertisement or liquor promotion.

An order may be made if the Director-General is satisfied that the advertisement or promotion is contrary to the principles of *new Part 6A*, or is likely to have an effect contrary to them.

An order made in relation to a liquor advertisement—

- may require a person by or on whose behalf it was published—

- not to publish any similar liquor advertisement in the future; and
- if the advertisement is still being published, to take all reasonably practicable steps to withdraw it; and
- may also order the person to publish corrective advertising described in the notice.

An order made in relation to a liquor promotion may require a person by or on whose behalf it was organised—

- not to organise any similar liquor promotion in the future; and
- if the promotion is still continuing, to take all reasonably practicable steps to discontinue it.

New section 136D requires the Director-General of Health to act only on the written advice of LAAB (the liquor advertising advisory body recognised under *new section 136B* as the Government's advisory body on liquor advertising).

And LAAB must not advise the Director-General to act under *new section 136C* unless it is satisfied of the same matters the Director-General is required by that section to be satisfied of.

New section 136E permits LAAB to have regard to codes relating to advertising or promoting liquor (whether established by itself or some other person or body) in deciding whether *new section 136D(2)* applies to an advertisement or promotion.

New section 136F allows LAAB to act—

- in relation to liquor advertisements or promotions referred to it by the Director-General; or
- in relation to liquor advertisements or promotions referred to it or complained about to it by some other person; or
- in relation to liquor advertisements or promotions that have come to its attention in some other way.

New section 136G makes it an offence to fail or refuse to comply with a cease and desist order.

The penalty is—

- a fine of up to \$200,000 in the case of a body corporate;
- a fine of up to \$60,000 in any other case.

*Amendments relating to offences and
enforcement*

Clause 40 replaces subsections (4) and (4A) of section 155 of the principal Act (which state a defence available to people charged with the offence of selling or supplying liquor to a young person on or from the licensed premises) with a *new subsection (4)* making available a new and more restrictive defence.

The existing defence is that the defendant believed on reasonable grounds that the young person was 18 or older; and section 164(2A) states that the defendant had reasonable grounds if he or she sighted an evidence of age document indicating that the young person was 18 or older. But reasonable grounds may be proved in some other way. (An evidence of age document is a passport, New Zealand driving licence, or document of some other approved kind, containing a photograph of the person to whom it is issued and information enabling his or her age to be determined.)

The effect of the new defence is that only an evidence of age document (or what seems to be an evidence of age document) will be able to be the basis for having reasonable grounds for believing that a young person is 18 or older.

The *new subsection (4)* provides that it is a defence if the defendant proves that what seemed to be an evidence of age document was produced to the person who sold or supplied the liquor, and the person believed on reasonable grounds that the document—

- was in fact an evidence of age document; and
- related to the young person; and
- indicated that the young person was 18 or older.

Clause 41 amends section 160 of the principal Act (which makes it an offence to buy or acquire liquor with the intention of supplying it to a young person) so as to align it with the *new section 37A* proposed to be inserted into the Summary Offences Act 1981 by *clause 47*.

At present, it is not an offence if—

- the supplier is a parent or guardian of the young person supplied; or
- the young person supplied is attending a private social gathering.

In future, it will not be an offence if—

- the supplier is a parent or guardian of the young person supplied; or
- the young person supplied is attending a private social gathering, and the supplier has the consent (express or implied) of a parent or guardian of the young person.

Clause 42 makes to section 164 of the principal Act (which relates to the offence of allowing young people to enter or remain in restricted areas or supervised areas on licensed premises) amendments having the same effect as those made to section 155 by *clause 36*.

At present,—

- it is a defence if the defendant believed on reasonable grounds that the young person was 18 or older; and
- the defendant has reasonable grounds if he or she sighted an evidence of age document indicating that the young person was 18 or older, but may prove reasonable grounds in some other way.

In future it will be a defence only if the defendant proves that what seemed to be an evidence of age document was produced to the defendant or an agent or employee of the defendant, and the defendant, agent, or employee believed on reasonable grounds that the document—

- was in fact an evidence of age document; and
- related to the young person; and
- indicated that the young person was 18 or older.

Clause 43 inserts into the principal Act a *new section 164A*, enabling the police to refer a young person served with an infringement notice under section 162C (or under section 38C of the Summary Offences Act 1981) to an approved alcohol early intervention programme.

The infringement notice process will be discontinued if the police are given a certificate stating that the young person has satisfactorily completed the programme before—

- the infringement fee is paid; or
- a copy of a reminder notice is filed in a court; or
- a reminder notice is deemed to have been filed in a court.

Clause 44 substitutes a new section for section 172 of the principal Act (which makes it an offence to represent falsely to the licensee or

manager of licensed premises that you are a person to whom liquor may be sold or supplied).

The new section relates to false evidence of age documents.

A **false evidence of age document** can be—

- a document that appears to be an evidence of age document but is not; or
- in relation to a particular person,—
 - a genuine evidence of age document containing false information appearing to relate to the person; or
 - a genuine evidence of age document relating to some other person.

In the section, a false evidence of age document appearing to be a document of an approved kind (that is to say, other than a passport or New Zealand driving licence) is referred to as a **false prescribed evidence of age document**.

It becomes an offence—

- to present a false evidence of age document at licensed premises;
- to sell, hire, lend, give, or otherwise dispose of a false prescribed evidence of age document to another person.

Clause 45 amends section 173 of the principal Act, which empowers a senior member of the police to obtain from a District Court Judge (or 2 or more Justices or one or more Community Magistrates) an order that every licensee in or within a specified distance of a place where there is or seems likely to be a riot to close his or her licensed premises for the sale of liquor.

At present, such an order does not have effect beyond the expiry of the day on which it is made. The amendment has the effect that—

- such an order does not have effect beyond the expiry 48 hours after the time at which it is made; and
- orders made during the evening may therefore have effect the next day.

Clause 46 amends section 174 of the principal Act, which empowers a member of the police to—

- order the licensee or a manager of licensed premises where fighting or serious disorder has broken out or seems likely to

break out to close the premises (or a part of them) for the sale of liquor until good order has been restored; and

- order any person to leave the premises or part.

At present, such an order does not have effect beyond the expiry of the day on which it is given. The amendment has the effect that—

- such an order does not have effect beyond the expiry 48 hours after the time at which it is given; and
- orders made during the evening may therefore have effect the next day.

Amendment of regulation-making power

Clause 47 amends section 229 of the principal Act, which is the regulation-making power, so that it empowers the making of regulations providing for the preparation and contents local alcohol plans.

Clause 48 inserts into the principal Act *new sections 255 to 258*.

New section 255 relates to on-licences, and applies to a transitional period of 3 years after *clause 12* (relating to the effect of local alcohol plans on the renewal of on-licences) comes into force.

During this transitional period, every existing on-licence will be able to be renewed as if the principal Act had not been amended. But in the case of premises in respect of which it will no longer be possible to grant an on-licence because to do so would be inconsistent with the a local alcohol plan, the period of renewal must not extend beyond the transitional period.

New section 256 relates to off-licences, and applies to a transitional period of 3 years after the earlier of—

- the commencement of *clause 17* (limiting the ability of small groceries to have off-licences); and
- the commencement of *clause 22* (relating to the effect of local alcohol plans on the renewal of off-licences).

During this transitional period, every existing off-licence will be able to be renewed as if the principal Act had not been amended. But the period of renewal must not extend beyond the transitional period in the case of premises of a kind in respect of which it will no longer be possible to grant an off-licence—

- because to do so would be inconsistent with the a local alcohol plan; or

- because the premises are a small grocery that no longer fits the criteria for holding an off-licence.

New section 257 relates to club licences, and applies to a transitional period of 3 years after *clause 29* (relating to the effect of local alcohol plans on the renewal of club licences) come into force.

During this transitional period, every existing club licence will be able to be renewed as if the principal Act had not been amended. But in the case of premises in respect of which it will no longer be possible to grant a club licence because to do so would be inconsistent with the a local alcohol plan, the date stated for it to expire unless renewed again (which at present can be up to 3 years after renewal) must not be after the end of the transitional period.

New section 258 provides that no compensation is to be paid for—

- the eventual impossibility of renewing certain licences because—
 - they are licences that it will no longer be possible to renew, because to do so would be inconsistent with the a local alcohol plan; or
 - they are off-licences granted in respect of premises of a kind in respect of which it will no longer be possible to grant an off-licence.
- the imposition by the Licensing Authority on any licence it renews of conditions required by
- the limitation on renewals provided for by *new sections 255(1)(b), 256(2)(b), and 257(1)(b)*.

Part 2

Amendments to Summary Offences Act 1981

Clause 49 provides that the principal Act amended by *clauses 50 to 53* is the Summary Offences Act 1981.

Clause 50 amends section 2(1) of the principal Act (which defines certain terms used in the principal Act) by—

- replacing the definition of **intoxicating liquor** with a definition of **liquor** (so aligning the terminology of the Act with that of the Sale of Liquor Act 1989); and

- inserting a new definition of **young person**, who is a person under 18.

Clause 51 inserts *new section 37A* into the principal Act.

The section makes it an offence, with a fine of up to \$2 000, for an adult to supply liquor to a young person (other than a young person whose parent or guardian the adult is) without the consent of a parent or guardian of the young person.

The offence will not apply to supply to certain young people who do not have a guardian (for example a young person who is married).

The offence is committed whether or not the adult—

- knows that the young person has a parent or guardian; or
- knows that a parent or guardian of the young person has not consented to the supply of liquor to the young person.

But it is a defence if the adult shows that he or she believed on reasonable grounds that a parent or guardian of the young person had consented to the supply of liquor to the young person.

Clause 52 amends section 38A of the principal Act (which defines terms used in provisions relating to infringement offences) by adding to the definition of **infringement offence** references to the new provision (*new section 37A*) creating an offence in respect of which infringement notices may be issued.

Clause 53 replaces section 45 of the principal Act (which relates to the seizure and forfeiture of liquor intended, in contravention of section 38, for consumption in a public place, and the seizure and forfeiture of burglary instruments) with 2 new sections.

At present, section 45—

- empowers members of the police to seize liquor intended, in contravention of section 38, for consumption in a public place (and to seize also the containers it is in), and provides that if the person from whom it is seized is convicted of an offence against section 38 in respect of the liquor, it and the containers it is in become forfeit to the Crown; and
- also provides that if a person is convicted of an offence against section 14 (which relates to the possession of instruments capable of being used for burglary), the Court—

- may order that the instruments be forfeited to the Crown, or disposed of as the Court directs at the expense of the person convicted; and
- may also order the person to pay costs incurred by the police in retaining the instruments.

New section 44A is to the same effect as the part of existing section 45 that deals with the seizure and forfeiture of burglary instruments. The principal effect of *new section 45* is to provide for the forfeiture of liquor seized by the police from a young person who is issued with an infringement notice in respect of an offence against *new section 37B* alleged to have been committed by the young person's drinking it in a public place, if the infringement fee is later paid.

In addition, *new section 45* updates the part of the existing section that deals with the seizure and forfeiture of liquor, by—

- including references to the new offences created by the Bill in respect of which it will be possible for members of the police to seize liquor; and
- making more explicit the fact that the liquor forfeited to the Crown is the liquor in respect of which the person who was in possession of it has been convicted of an offence.

Part 3 Amendments to Land Transport Act 1998

Clause 54 provides that the principal Act amended by *clauses 55 to 60* is the Land Transport Act 1998.

Clauses 55 to 60 implement various aspects of amendments making it an offence for young people who do not have a full licence to drive with any alcohol at all in their blood.

Clause 55 replaces the definition in section 2(1) of the principal Act of **positive evidential breath test** with a new definition that extends to people apparently younger than 20 who do not have a full licence. In the case of such a person, the term covers an evidential breath test indicating that the person's breath contains alcohol.

Clause 56 amends section 11 of the principal Act (which states the alcohol limits that drivers may not exceed) so that people younger than 20 who do not have a full licence may not drive or attempt to drive a motor vehicle while there is alcohol in their breath or blood.

Clause 57 amends section 57 of the principal Act (which creates offences involving exceeding breath and blood alcohol limits) so that people younger than 20 who do not have a full licence commit an offence if they drive or attempt to drive a motor vehicle while there is alcohol in their breath or blood.

Clause 58 amends section 64 of the principal Act (which relates to defences to charges involving exceeding breath or blood alcohol limits) so that it is no defence in proceedings for an offence relating to failing or refusing to comply with requirements, directions, notices, requests, and prohibitions given or imposed under the principal Act in circumstances in respect of which a breath screening test or an evidential breath test or a blood test was undergone by a person that the test later indicated that the person's breath or blood did not contain alcohol.

Clause 59 amends section 77(3) of the principal Act (which states that the result of a positive evidential breath test is not admissible in evidence unless—

- the person tested is advised by an enforcement officer that the test was positive and that, if the person does not request a blood test within 10 minutes, the test could on its own be conclusive evidence to lead to the person's conviction for an offence against the principal Act; and
- the person advises an enforcement officer that the person wishes to undergo a blood test, and allows a blood specimen to be taken).

The effect of the amendment is to add to the circumstances in respect of which advice must be given, those in which a person younger than 20 who does not have a full licence returns a positive test indicating that the person's breath contains alcohol.

Clause 60 amends section 79(4) of the principal Act (which restricts the circumstances in which a court may order the doctor or medical analyst who gave a certificate, or the person who posted or delivered part of a specimen or gave it to the courier, to appear as a witness at a hearing) so that, in the case of a person younger than 20 who does not have a full licence, an order may be made on an application accompanied by an affidavit, sworn by a private analyst, to the effect that the person's blood contained no alcohol.

***Regulatory impact statement: proposed
changes to regulation of alcohol advertising***

Executive summary

A review of the current self-regulatory system for alcohol advertising found an association between the level of exposure to alcohol advertising and alcohol consumption. It recommended improvements to move to a system of enforced self-regulation through providing a legislative system in line with international best practice for alcohol advertising regulation. The preferred option is that the enhanced system is implemented through amendments to the Sale of Liquor Act 1989 alongside non-legislative actions for government agencies and industry. The main impacts arising from this proposal are that a wider range of types of advertising will be regulated, and the legislative framework and sanctions will mean there is a greater expectation that advertisements comply with the Code(s) for Advertising Liquor.

Adequacy statement

The Ministry of Health has reviewed the RIS and it is adequate according to the criteria agreed by Cabinet.

Status quo and problem

Problem

An expert multi-disciplinary Steering Group reviewed the self-regulatory system for alcohol advertising. It considered a broad range of evidence and concluded that alcohol advertising plays a role in shaping the culture of drinking, and that it reflects and amplifies drinking practices in the context of a country's social, economic and cultural history. The evidence suggests a small but statistically significant association between the level of exposure to alcohol advertising and the level and patterns of alcohol consumption.

The Steering Group's public consultation on alcohol advertising regulation elicited a range of feedback from stakeholders. Some stakeholders argued that alcohol advertising has some benefits, including sponsorship of community and sports groups and events and the provision of information to consumers. Other stakeholders identified harms from alcohol advertising including contributing to harmful drinking patterns, particularly among youth and people

recovering from alcohol dependence, linking alcohol to desirable behaviour, and promoting the positive side of alcohol use without balancing these with the negative consequences.

Currently alcohol advertising is regulated by a self-regulatory system administered by the industry-funded Advertising Standards Authority (ASA). The ASA has a voluntary Code for Advertising Liquor (CAL) and its Advertising Standards Complaints Board (ASCB) resolves complaints alleging breaches of the CAL. On receipt of a complaint, the ASA considers whether the relevant advertisement breaches the CAL. Where a breach is determined the ASA may request the advertiser to withdraw the advert.

Strengths and weaknesses of status quo

The review concluded that the current self-regulatory system has the following strengths:

- it is a low-cost system compared with co-regulation or government regulation:
- there is a high level of compliance by industry participants when a complaint is upheld:
- it is able to adapt easily and respond in a timely way to emerging issues:
- the Advertising Standards Complaints Board and the Advertising Standards Complaints Appeal Board have a majority of public members:
- a significant proportion of complaints are upheld:
- all decisions are published.

The review also found the following gaps or weaknesses in the current system:

- the industry is largely accountable for the system with limited opportunity for influence by the Government:
- there is no legislative framework:
- the system is not underpinned by clear policy goals:
- there are no enforcement powers in cases of persistent or serious non-compliance:
- the system relies on complaints to identify and address breaches of the rules, with no facility for proactive investigation of potential breaches:

- there is a lack of systematic, independent monitoring, audit and research of the system processes and outcomes:
- the jurisdictional scope does not extend to all forms of commercial promotion and marketing communications:
- public consultation during previous reviews of the Code of Advertising Liquor has not elicited a diverse range of views from stakeholders.

Although the current system compares well against international standards and has a number of strengths, several features of an effective regulatory framework for alcohol advertising are lacking or insufficient. Therefore a move to enforced self-regulation is recommended through a package of improvements to the existing system.

Objectives

The review considered alcohol advertising regulation options against criteria of effectiveness, efficiency and fairness. Effectiveness was tested against the Government's alcohol policy goals: minimising alcohol-related harm and reducing inequalities; changing the drinking culture; and minimising the exposure of young people to alcohol marketing messages.

Alternative options

In addition to the status quo (outlined above) and the preferred option of enforced self-regulation outlined below, the review considered moving to co-regulation or government regulation of alcohol advertising. The options differ as to the level of regulatory oversight of alcohol advertising.

Option 1: Co-regulation of alcohol advertising

Co-regulation involves a government agency with specific statutory functions that might include adjudicating on appeals against rulings of the body that considers advertising complaints, appointing a proportion of the members of the body that considers advertising complaints and approving the advertising codes.

Co-regulation is similarly effective to the preferred option plus it has advantages of a higher level of government control and accountabil-

ity and more opportunity for engagement between key stakeholders. However, it also has the disadvantages of some reduction in the level of industry compliance and “good will” and some loss of flexibility and fast-paced decision-making. It is less efficient than the preferred option because it is more costly, with some costs shifted to government, and is administratively complex, possibly requiring the creation of a new agency. It is comparable to the preferred option in terms of fairness.

Option 2: Full government regulation of alcohol advertising

Government regulation would require legislated rules for alcohol advertising. A government agency would be responsible for many of the functions and processes currently undertaken by self-regulatory organisations, particularly monitoring and reviews. Infringements of the rules would be punishable primarily by fines administered by the government agency.

Government regulation would have some benefits for effectiveness, including reduced exposure to children and young people in traditional media, enabling wide extension of coverage, and improved monitoring and research ensuring future issues would be addressed. Disadvantages with respect to effectiveness are that it may displace advertising to methods that are harder to regulate, that future issues may be addressed more slowly, that flexibility and pace of decision-making would be compromised, and that loopholes would be exploited increasingly as technology progresses. Government regulation is the most costly, significantly shifts costs from industry to government, and is administratively complex. This option may also raise issues under the Bill of Rights Act 1990.

Preferred option: enforced self-regulation

Enforced self-regulation is similar to the status quo but changes would be made to strengthen and improve the existing self-regulatory system, including a legislative system. It would ensure a greater role for government, wider coverage, systematic monitoring and research, independent auditing, and strengthening compliance incentives by introducing new “back stop” enforcement measures in legislation.

Enforced self-regulation is preferred because it has benefits for effectiveness, efficiency and fairness over the other options considered. It retains the current system's flexibility and fast-paced decision-making, will have a good level of industry participation and compliance, will ensure deliberate non-compliers are held to account if legislative enforcement power is included, gives an increased opportunity for government influence, facilitates wide extension of coverage, ensures emerging and future issues are addressed through improved monitoring and research, reduces the exposure of children and young people, has the potential for wider restrictions on placement and volume of advertisements, is a relatively low-cost model, and is less to lead to severe restrictions with respect to the Bill of Rights Act 1990.

The disadvantages of the preferred option are that it is more complex than the status quo, risks reduced industry engagement and "good will", and increases compliance costs for the industries involved. There would be moderate cost increases to government.

Steps to mitigate the major risks have been incorporated in the policy proposal. The risk that the responsible body will not refer cases of serious or persistent non-compliance to the Crown for prosecution will be mitigated by ongoing monitoring of the outcomes of the system and the option for prosecution regardless of the responsible body's decision if necessary. The risk of the system failing to deliver on its public policy goals will be mitigated by reviewing progress after two years. The risk of reduced industry engagement limiting effectiveness will be mitigated by investing in engaging with industry to improve compliance. The risk that increased compliance costs reduce industry cooperation will be mitigated by government funding of proactive investigation to reduce costs to the responsible body and its members.

The preferred option does not affect the stock of regulation because alcohol advertising is currently self-regulated. A move to enforced self-regulation brings the alcohol advertising regulation closer to the system for the regulation of broadcast programming, which is a co-regulatory system through the Broadcasting Act 1989.

Implementation and review

An amendment to the Sale of Liquor Act 1989 will be required to implement the proposals. The Ministry of Health will engage with the responsible body (i.e. the ASA) and arrange a memorandum of understanding to ensure that all expectations for compliance are explicit. Public health units will work with industry to assist it to comply with new requirements. Along with the responsible body, Public Health Units and District Licensing Agencies will contribute to enforcement, particularly by referring cases of suspected breaches to the responsible body. There may be an increase in costs to the responsible body depending on the volume of complaints under the extended system. This is likely to result in increased compliance costs for industry.

The responsible body will be expected to conduct internal process monitoring and to arrange independent audit. The Ministry of Health will be responsible for research and outcomes monitoring, including developing and implementing indicators to ensure the system is meeting its goals. The system will be reviewed after two years of operation.

Consultation

The results of public consultation via written submissions, hui and fono were considered during the alcohol advertising review as part of the analysis leading to the final conclusions and recommendations of the Steering Group. A youth version of the consultation document was used to encourage youth input. The Ministry of Health received 252 submissions from a wide variety of individuals, liquor and advertising industry representatives, researchers, regulatory bodies, the health sector and sponsored groups. The Report of the Steering Group for the Review of the Regulation of Alcohol Advertising was published in May 2007. Stakeholders were invited to provide further feedback on the Steering Group's recommendations at this stage. In total, 26 submissions were received. The main findings were that industry prefers full self-regulation but generally supports the review's recommendations, while members of the public, researchers, and the public health and social sectors would prefer a greater level of government regulation.

The Ministry of Health has led the Advertising Review and has consulted with the Ministries of Justice, Youth Development, Culture

and Heritage, Social Development, Education, Pacific Island Affairs, and Economic Development, the Alcohol Advisory Council, Child Youth and Family, Police, Parliamentary Counsel Office and Treasury.

***Regulatory impact statement: proposed
changes to Sale of Liquor Act 1989 arising
from the Review of the sale and Supply of
Liquor to Minors***

Executive summary

Broadly, New Zealand has a permissive drinking environment. There is particular concern around the extent of social supply of liquor to minors, and unsupervised drinking by minors in large quantities. The proposed reforms aim to reduce the harm associated with the consumption of alcohol by minors. The legislative amendments are part of a package of proposals with non-legislative interventions to encourage public and industry compliance with liquor laws that restrict the sale and supply of liquor to minors.

A small number of technical proposals arising from the Review of the Sale of Liquor and Liquor Enforcement Issues are also included.

Adequacy statement

The Ministry of Justice confirms that the principles of the *Code of Good Regulatory Practice* and the regulatory impact analysis requirements, including the consultation requirements, have been complied with.

Status quo and problem

New Zealand has a permissive drinking environment with particular concern around the social supply of liquor to minors, and unsupervised drinking by minors in large quantities. Overall, the level of compliance by industry is good, however some licensed premises continue to sell liquor to minors. An effective government response needs to be multi-faceted and comprehensive, in line with the approach taken for similar problems such as childhood obesity and smoking. An integrated package of responses is required, including not only amendments to the Sale of Liquor Act 1989, but also non-legislative action.

Objectives

The policy objectives are to:

- support a more moderate drinking environment and culture to reduce the normalisation of youth drinking;
- enhance the responsibility of people who supply alcohol to minors;
- increase youth responsibility and accountability; and
- improve compliance and responsibility of industry.

Alternative options

Non-regulatory options

The research shows that legal restrictions on the sale and supply of liquor to minors, while necessary, must be complemented by effective enforcement and efforts to change attitudes. Therefore non-regulatory options such as communication and the provision of information form part of the package of policy responses to the issues identified. However, if implemented as isolated strategies, these approaches will not be sufficient for lasting behavioural change. Most of the proposed reforms therefore require legislative change.

Regulatory options: status quo

New Zealand's regulatory environment for liquor is enabling rather than restrictive. Permissive attitudes and an acceptance of binge drinking and intoxication are pervasive throughout society and are considered a rite of passage for young people. Research shows that adults are the main suppliers of alcohol to minors.

The status quo is not preferred, as current liquor laws:

- generally do not address the social supply of liquor to minors; and
- some premises continue to sell liquor to minors, despite the current restrictions.

Maintaining the status quo would not therefore achieve the policy objectives.

Preferred option: legislative and non-legislative package

Summary and key features of preferred option

The preferred option is to reform liquor laws to allow for more emphasis on addressing social and commercial supply. Key proposals include:

- prohibiting the supply of alcohol by an adult to a minor without the consent of a parent or guardian;
- developing a communications strategy;
- diversion of minors to early alcohol intervention programmes;
- restricting the defence for selling liquor to a minor to having actually sighted an evidence of age document;
- zero alcohol content limit for drivers under 20 who do not have a full licence; and
- reviewing the operation of controlled purchase operations.

These proposals must be complemented by effective enforcement and efforts to change attitudes through mechanisms such as social marketing and education.

Benefits

The proposed liquor reforms are intended to reduce the harm associated with the consumption of alcohol by minors, primarily by encouraging positive behavioural change of those who sell or supply liquor to minors.

Costs

There may be some compliance costs for licensees from two proposals. This first will impact on licensed premises who persistently sell to minors. The Liquor Licensing Authority (LLA) will be required to cancel a manager's certificate upon a third conviction for sale to a minor (including both court convictions and suspensions/cancellations of the manager's certificate by the LLA).

The Ministry of Justice considers that the sale of liquor to minors is a serious offence and the proposal sets out the minimum circumstances to reflect that seriousness.

The second proposal that may involve financial costs for licensees is to limit defences when a sale to a minor is made. A mandatory age

identification regime was considered but rejected due to the cost implications for businesses and consumers. Instead, an option to limit the reasonable defence belief was adopted where the sole defence is proof that an approved form of age identification has been sighted. This option involves lower compliance costs while creating an incentive for businesses to ensure they have systems in place to prevent the sale of liquor to minors.

Implementation and review

The proposals will be implemented through the Liquor and Young People Bill.

Consultation

The Review of the Sale and Supply of Liquor to Minors considered a range of perspectives, including those contributed at a key stakeholder workshop and through informal submissions. In addition, the following government departments and agencies were involved in the preparation of the proposals: the Ministry of Health, Ministry of Transport, the Police, the Alcohol Advisory Council of New Zealand, and the Ministry of Youth Development.

A discussion paper was circulated to key stakeholders for the Review of the Sale of Liquor and Liquor Enforcement issues and submissions were received from local government and non-government agencies, as well as industry representatives.

Regulatory impact statement: community input and restrictions on off-licences

Status quo

The Sale of Liquor Act 1989 provides a regulatory framework for the sale and supply of liquor to the public. Since the Act was passed, the effectiveness of the regulatory regime has been reviewed, sometimes requiring legislative amendment. These amendments have resulted in:

- a change to the minimum legal purchasing age from 20 years to 18 years;
- allowing the sale of wine, beer, mead and cider from supermarkets and grocery stores;

- establishing the principle that, as far as possible, applications for a liquor licence should be determined locally by the District Licensing Agency (DLA);
- providing a legal defence for minors purchasing alcohol in the context of a controlled purchase operation with Police (i.e. to identify premises selling liquor to minors);
- • requiring all general managers to hold a prescribed qualification.

Since 1997, there has been a gradual increase in the availability of liquor, after a decade-long decline.

Increased availability of liquor sits alongside other significant environmental changes:

- • an increase in liquor advertising (media, display on premises);
- • an increase in the number of outlets;
- • new alcohol products e.g., “ready to drink” products developed and marketed;
- • longer hours of operation by on-licence premises;
- • highly discounted prices at off-licence premises.

Problem

Alcohol-related harm is a social problem. There are concerns about the increased number of liquor outlets (particularly off-licence outlets) since the 1999 amendment, which allowed supermarkets and grocery stores to sell wine and beer. Recent studies have shown that increased availability of alcohol is connected with harm, including alcohol-related trauma, injuries and violence. Police Alco-Link data shows that 31% to 59% of all alleged offenders and 32% to 68% of all alleged violent offenders had consumed alcohol prior to arrest. An ALAC study indicates there are about 350,000 binge drinkers in New Zealand [Ref: Alcohol Advisory Council of New Zealand (2004). Are you a binge drinker? Alcohol.org.nz, vol. 4, no. 4.]. Binge drinking can cause additional health and social problems.

The 1999 amendment explicitly prohibited the sale of liquor from dairies. However, there is a difference between how the respective District Licensing Agencies consider licensing these types of premises and there is no clear legal definition distinguishing a dairy

from a grocery store. As a result, many dairies have been able to obtain a liquor licence under the Sale of Liquor Act.

Enforcement proceedings against grocery stores holding off-licences represent 15% of the 878 licence applications determined by the Liquor Licensing Authority since 2003. In addition, the Liquor Licensing Authority determined 132 applications that sought to suspend or cancel a liquor licence held by these types of premises, of which 122 licences were suspended from one day to three months, three licences were cancelled and seven applications were dismissed without a suspension or cancellation ordered.

While the types of liquor that can be sold from supermarkets and grocery stores is restricted to wine, beer, mead and cider, there have been recent applications by these premises to expand the types of liquor sold using a “store within a store” concept (e.g. a bottle store operating within a supermarket). In addition, liquor stores have started expanding the range of products that they sell beyond alcohol. This is circumventing the intention of the Act to restrict the nature of the business and sales from these premises and needs to be clarified.

Communities have expressed frustration at the harm caused by the proliferation of outlets. Greater community input is needed at the licensing stage, to ensure that the needs of the community are taken into account.

Adequacy statement

The Ministry of Justice confirms that the principles of the Code of Good Regulatory Practice and the regulatory impact analysis requirements, including the consultation requirements, have been complied with in developing the preferred option. The Ministry considers this Regulatory Impact Statement to be adequate.

Objectives

The object of the Sale of Liquor Act 1989 is to provide a reasonable system of control over the sale and supply of liquor, while contributing to the reduction of liquor abuse, as far as that can be achieved through legislative means.

Alternative objectives

Community input into licensing decisions

One of the concerns that has arisen is that the licensing process is not sufficiently flexible to meet individual communities' needs. Territorial authorities can develop alcohol plans to better manage the availability of alcohol in their communities. Although it appears that such plans have, on occasion, been taken into account by licensing authorities, the plans do not actually have any legal standing under the Sale of Liquor Act.

To ensure that Local Alcohol Plans allow the community a genuine means of exercising a measure of control and influence over the type, number, and operating hours of outlets in their area, they must be given some official status. Making it mandatory for territorial authorities to have a Local Alcohol Plan would ensure communities had greater control over the availability of alcohol in their area. However, it would create a considerable compliance burden, and Local Alcohol Plans will not be necessary or useful in all communities. The preferred option is to make having such a plan optional, but require licensing decision-makers to give effect to a plan if there is one.

A further aspect of giving communities greater control over local licensing decisions is ensuring that there is an effective opportunity to consider the social impact of a proposed licence. However, making social impact assessments mandatory for all licence applications would create a significant compliance burden that is unlikely to be justified in all cases. The preferred option is to allow communities to decide in their Local Alcohol Plan, if they have one, whether and when a social impact assessment is required.

Off licences

The Sale of Liquor Act prohibits dairies from holding off-licenses and only allows supermarkets to sell beer, wine, mead and cider pursuant to an off-licence. It appears that applicants have been finding or looking for ways to circumvent this underlying policy. Because the current legislation appears to be ineffective in achieving the underlying policy of the Act, the only realistic option is to amend the Act to clarify what that policy is. The preferred option is, therefore, to amend the Sale of Liquor Act.

In relation to dairies, the difficulty is that dairies are obtaining liquor licences by arguing that they are in fact “grocery stores”. The current definition of “grocery store” in the Sale of Liquor Act therefore appears to be inadequate. The most effective means of ensuring that dairies are excluded is by introducing a minimum size for outlets. Introducing a minimum size of 300 square metres was considered, but was thought to be larger than was actually necessary to capture the targeted outlets. Supplementing the definition of “grocery store” with a lower size limit of 150 square metres is the preferred option.

In relation to supermarkets, the concern is that they are seeking to get around the prohibition on selling alcohol other than beer, wine, mead and cider by setting up adjacent “stores” or “store within a store” arrangements. Because the current legislation appears to be ineffective in achieving the underlying policy of the Act, the only realistic option is to amend the Act to clarify what that policy is. It is also necessary to amend the Act to ensure that there is no loop hole that will allow the underlying policy to be avoided by letting liquor stores diversify into selling groceries.

Preferred option

Summary and key features of preferred option

The preferred option focuses on regulating who can sell alcohol and how that is decided. The aim is to reduce alcohol-related harm arising from the proliferation of liquor outlets and includes four main changes:

- Changes to restrict the types of outlets that can hold an off-licence, according to size;
- Allowing greater opportunity for the community to influence licensing decisions, such as the number and situation of off-licence outlets in their locality, by allowing territorial authorities to create local alcohol plans;
- If set out in the local alcohol plan, requiring a social impact statement to be considered by the District Licensing Agency or Liquor Licensing Authority when they are determining an application for a new licence or changes to the conditions of an existing licence; and
- Giving effect to local alcohol plans in licensing decisions.

Benefits

These proposals form part of a package to reform how alcohol is sold and supplied to the public, and sit alongside the earlier proposals that target the sale and supply of liquor to young people, and regulate liquor advertising. As alcohol-related harm is a multi-faceted issue, benefits arising from the preferred option are likely to be enhanced by working in tandem with a range of strategies.

Changes to the types of premises that can hold liquor licences are expected to reduce the availability of liquor, through reducing the number of liquor outlets. Research supports a reduction in the availability of alcohol. In particular, research suggests that these changes are likely to result in a reduction in the number of violent offences in that area, and alcohol-related harm arising in University areas.

Requiring effect to be given to a local alcohol plan (if developed), changing the criteria for an objection to a licence application and requiring the development and consideration of social impact statements will allow greater opportunity for community input and a wider range of factors to be taken into account in licensing decisions. This is likely to limit the potential harm arising from licensed premises according to the needs of the community. Social impact statements are a requirement in many comparable international jurisdictions, such as NSW.

Allowing local authorities to develop local alcohol plans that must then be given effect in licensing decisions means that deliberate thought will be given to the role that alcohol plays in the community. These plans are developed in consultation with the community, and provide an opportunity for the community to strategically consider how liquor should be sold and regulated in the community to best meet the needs of their community. This may mean reducing the trading hours for licensed premises or restricting the areas where liquor can be sold. Some communities have developed an “entertainment area” to isolate liquor sales in one area. Aligning local alcohol plans with licensing decisions provides a tailored and coordinated response to meet the needs of the particular community in relation to the sale and supply of liquor.

Costs

There will be industry costs arising from the preferred option, as grocery stores will be prevented from obtaining a liquor licence, unless they meet the new minimum size criteria. No compensation is payable. However, there are transitional arrangements to help minimise the financial loss of losing an off-licence and allows businesses time to prepare for the change. For example, a licence held in relation to these premises will not be cancelled during its licence term as a result of these proposals. This proposal is likely to increase costs for consumers, who may need to travel further to obtain alcohol.

Clarifying the types of sales suitable from a supermarket or liquor store may result in the loss of potential sales from these premises. However, it will save costs associated with testing the law by applying to the District Licensing Agency or Liquor Licensing Authority to obtain a licence for these types of sales, or for enforcement agencies to challenge these types of licences.

If a local alcohol plan requires applicants to include a social impact statement within their licensing application, which will impose additional costs on applicants for a liquor licence.

There are also potential costs arising from increased community input into licensing decisions through a broader range of criteria being considered and applicants being able to object to licences or licence conditions. Restrictions arising from these objections may reduce earnings from liquor sales and add costs for potential licensees responding to objections at hearings.

There will be costs associated with local authorities developing local alcohol plans, where they do not already exist. There may also be costs for individual licensed premises that have additional licence conditions imposed through the application of the local alcohol plan during licensing decisions.

Conclusion

Overall, the benefits arising from the preferred option are expected to outweigh any costs. Each proposal is expected to contribute a small amount towards the reduction of liquor abuse, and is part of a package that should be considered together. The cost of alcohol related harm to society, e.g. violent offences, traffic crashes and disturbances

including property damage is high. Even a small reduction means a substantial savings in social costs.

Implementation and review

The proposals will be implemented through the Sale and Supply of Liquor and Liquor Enforcement Bill.

Consultation

The following government departments and agencies were involved in the development of the preferred option: the Ministries of Health and Economic Development, New Zealand Police, the Alcohol Advisory Council of New Zealand, Local Government New Zealand (which also consulted with stakeholders from various territorial authorities) and the Department of Internal Affairs. The Department of the Prime Minister and Cabinet was informed.

Hon Lianne Dalziel

Sale and Supply of Liquor and Liquor Enforcement Bill

Government Bill

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**Sale and Supply of Liquor and Liquor
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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Sale and Supply of Liquor and Liquor Enforcement Act **2008**.
- 2 Commencement** 5
- (1) **Part 1** comes into force on a date to be appointed by the Governor-General by Order in Council; and one or more orders may be made bringing different provisions into force on different dates.
- (2) **Part 3** comes into force on the day 6 months after the date on which this Act receives the Royal assent. 10
- (3) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Purpose**
- The purpose of this Act is to make to the Sale of Liquor Act 1989, the Summary Offences Act 1981, and the Land Transport Act 1998, amendments that—
- (a) reduce the opportunity for society and individuals to be harmed by the misuse or excessive consumption of alcohol; or 20
- (b) deter people from undertaking behaviour related to alcohol that is likely to result in the harming of society or individuals by its misuse or excessive consumption; or
- (c) increase community input into licensing decisions; or
- (d) have 2 or more of those effects. 25

Part 1

Amendments to Sale of Liquor Act 1989

- 4 Principal Act amended**
- This Part amends the Sale of Liquor Act 1989.
- 5 Interpretation** 30
- Section 2 is amended by inserting the following definitions in their appropriate alphabetical order:

- “**applicable local alcohol plan**, in relation to any premises, or an application for a licence in respect of any premises, or a licence in respect of any premises, means a local alcohol plan relating to the sale or consumption of alcohol within the area in which the premises are situated 5
- “**cease and desist order** means a notice under **section 136C**
- “**LAAB** means the body recognised under **section 136B(1)**
- “**liquor advertisement**—
- “(a) means words (whether written, printed, or spoken, including on film, video recording, or other medium, broadcast or telecast), or a pictorial representation, design, or device, used— 10
- “(i) to encourage the use, notify the availability, or promote the sale of a liquor product; or
- “(ii) to promote the use of a liquor product; and 15
- “(b) includes—
- “(i) a label, trade circular, or advertisement in a trade journal, relating to liquor; and
- “(ii) the depiction, in a film, video recording, telecast, or other visual medium, of a liquor or liquor product trade mark, where in return for the depiction any money is paid, or any valuable thing is given (whether to the maker or producer of the medium or to any other person); and 20
- “(c) includes the use in an advertisement or promotion to the public of the company name of a manufacturer, distributor, or seller of liquor products, where the name or any part of it is used as, or included in, a trade mark used for liquor products; and 25
- “(d) includes words (whether written, printed, or spoken, including on film, video recording, or other medium, broadcast or telecast), or a pictorial representation, design, or device, used to encourage attendance at or participation in a liquor promotion 30
- “**liquor product** includes— 35
- “(a) liquor of a particular kind or description; and
- “(b) liquor manufactured, distributed, or sold by a particular person; and
- “(c) liquor distributed or sold under a particular label; and

“(d) liquor in general

“**liquor promotion** means a competition, event, offer, performance, or other promotion having the effect of encouraging people to use or buy liquor

“**local alcohol plan** means a plan adopted under **section 84A(a)** 5

“**shop** means a building, place, or part of a building or place, where the principal business carried out is—

“(a) the sale of goods by retail; or

“(b) the keeping or offering of goods for sale by retail”. 10

Amendments relating to on-licences

6 Applications for on-licences

Section 9 is amended by inserting the following subsection after subsection (4):

“(4A) Before giving public notice under subsection (4), the applicant must give the District Licensing Agency written notice of— 15

“(a) the publication or publications in which the public notice will be given; and

“(b) in respect of each publication, the day or days on which the public notice will be given.” 20

7 Unopposed applications may be granted by District Licensing Agency, opposed applications to be forwarded to Licensing Authority

(1) The heading to section 12 is amended by omitting “**Unopposed**” and substituting “**Unless inconsistent with local alcohol plan, unopposed**”. 25

(2) Section 12 is amended by inserting the following subsections after subsection (1):

“(1A) The District Licensing Agency must not grant an on-licence if— 30

“(a) there is an applicable local alcohol plan; and

“(b) in the opinion of the Agency, the granting of the licence, or the consequences of the granting of the licence, would be inconsistent with the plan. 35

- “(1B) The District Licensing Agency must impose conditions on any on-licence it grants if—
- “(a) there is an applicable local alcohol plan; and
 - “(b) in the opinion of the Agency, the granting of the licence, or the consequences of the granting of the licence, without those conditions imposed on it would be inconsistent with the plan. 5
- “(1C) **Subsections (1A) and (1B)** override subsection (1).”

8 Criteria for on-licences

- (1) Section 13(1) is amended by inserting the following paragraph before paragraph (a): 10

“(aa) any local alcohol plan.”

- (2) Section 13 is amended by inserting the following subsections after subsection (1):

“(1A) The Licensing Authority must not grant an on-licence if— 15

- “(a) there is an applicable local alcohol plan; and
- “(b) in the opinion of the Authority, the granting of the licence, or the consequences of the granting of the licence, would be inconsistent with the plan; and

- “(c) the local authority whose plan it is has not notified the Authority in writing that it supports the granting of the licence. 20

“(1B) The Licensing Authority must impose conditions on any on-licence it grants if—

- “(a) there is an applicable local alcohol plan; and 25

- “(b) in the opinion of the Authority, the granting of the licence, or the consequences of the granting of the licence, without those conditions imposed on it would be inconsistent with the plan.”

9 Conditions of on-licences 30

Section 14 is amended by inserting the following subsection after subsection (5):

“(5A) On granting an application for an on-licence in relation to any premises, the District Licensing Agency or Licensing Authority— 35

- “(a) may impose any conditions provided for in an applicable local alcohol plan; and
- “(b) must impose any conditions provided for in an applicable local alcohol plan if required to do so by **section 12(1B) or 13(1B)**.”

5

10 Variation of conditions

Section 16 is amended by adding the following subsection:

- “(8) The Licensing Authority or District Licensing Agency must not vary any conditions imposed on an on-licence for any premises if—

10

“(a) the conditions are provided for in an applicable local alcohol plan; and

“(b) in the opinion of the Authority or Agency, as the case may be, the holding in relation to the premises of an on-licence, or the consequences of the holding in relation to the premises of an on-licence, that is subject to the conditions as varied would be inconsistent with the plan.”

15

11 Renewal of on-licences

Section 18 is amended by inserting the following subsection after subsection (3):

20

- “(3A) Before giving public notice under subsection (3), the applicant must give the District Licensing Agency written notice of—

“(a) the publication or publications in which the public notice will be given; and

25

“(b) in respect of each publication, the day or days on which the public notice will be given.”

12 Unopposed applications may be granted by District Licensing Agency, opposed applications to be forwarded to Licensing Authority

30

- (1) The heading to section 21 is amended by omitting “Unopposed” and substituting “**Unless inconsistent with local alcohol plan, unopposed**”.

- (2) Section 21 is amended by inserting the following sections after subsection (1A):
- “(1B) The District Licensing Agency must not renew an on-licence if—
- “(a) there is an applicable local alcohol plan; and 5
 - “(b) in the opinion of the Agency, the renewal of the licence, or the consequences of the renewal of the licence, would be inconsistent with the plan.
- “(1C) The District Licensing Agency must impose conditions on any on-licence it renews if— 10
- “(a) there is an applicable local alcohol plan; and
 - “(b) in the opinion of the Agency, the renewal of the licence, or the consequences of the renewal of the licence, without those conditions imposed on it would be inconsistent with the plan. 15
- “(1D) **Subsections (1B) and (1C)** override subsection (1).”
- 13 Criteria for renewal**
- (1) Section 22 is amended by inserting the following paragraph before paragraph (a):
- “(aa) any local alcohol plan.”. 20
- (2) Section 22 is amended by adding the following subsections as **subsections (2) and (3)**:
- “(2) The Licensing Authority must not renew an on-licence if—
- “(a) there is an applicable local alcohol plan; and
 - “(b) in the opinion of the Authority, the renewal of the licence, or the consequences of the renewal of the licence, would be inconsistent with the plan; and 25
 - “(c) the local authority whose plan it is has not notified the Authority in writing that it supports the renewal of the licence; and 30
- “(3) The Licensing Authority must impose conditions on any on-licence it renews if—
- “(a) there is an applicable local alcohol plan; and
 - “(b) in the opinion of the Authority, the renewal of the licence, or the consequences of the renewal of the licence, without those conditions imposed on it would be inconsistent with the plan.” 35

Amendments relating to off-licences

14 Applications for off-licences

Section 31 is amended by inserting the following subsection after subsection (3):

- “(3A) Before giving public notice under subsection (3), the applicant must give the District Licensing Agency written notice of—
- “(a) the publication or publications in which the public notice will be given; and
 - “(b) in respect of each publication, the day or days on which the public notice will be given.”

15 Unopposed applications may be granted by District Licensing Agency, opposed applications to be forwarded to Licensing Authority

- (1) The heading to section 34 is amended by omitting “**Unopposed applications**” and substituting “**Unless inconsistent with local alcohol plan, unopposed applications (other than applications relating to small groceries)**”.
- (2) Section 34(1) is amended by inserting the following paragraph before paragraph (a):
- “(aa) it is not an application for an off-licence made in respect of premises of a kind described in **section 36(1A)**; and”.
- (3) Section 34 is amended by inserting the following subsections after subsection (1):
- “(1A) The District Licensing Agency must not grant an off-licence if—
- “(a) there is an applicable local alcohol plan; and
 - “(b) in the opinion of the Agency, the granting of the licence, or the consequences of the granting of the licence, would be inconsistent with the plan.
- “(1B) The District Licensing Agency must impose conditions on any off-licence it grants if—
- “(a) there is an applicable local alcohol plan; and
 - “(b) in the opinion of the Agency, the granting of the licence, or the consequences of the granting of the licence, with-

out those conditions imposed on it would be inconsistent with the plan.

“(1C) **Subsections (1A) and (1B)** override subsection (1).”

16 Criteria for off-licences

(1) Section 35(1) is amended by inserting the following paragraph 5
before paragraph (a):

“(aa) any local alcohol plan:”.

(2) Section 35 is amended by inserting the following subsections 10
after subsection (1):

“(1A) The Licensing Authority must not grant an off-licence if— 10

“(a) there is an applicable local alcohol plan; and

“(b) in the opinion of the Authority, the granting of the licence, or the consequences of the granting of the licence, would be inconsistent with the plan; and

“(c) the local authority whose plan it is has not notified the Authority in writing that it supports the granting of the licence. 15

“(1B) The District Licensing Agency or Licensing Authority must not grant an off-licence in respect of any premises if—

“(a) they are situated (wholly or partially) within a shop; 20
and

“(b) that shop is not a shop of a kind described in section 36(1)(d).

“(1C) The Licensing Authority must impose conditions on any off-licence it grants if— 25

“(a) there is an applicable local alcohol plan; and

“(b) in the opinion of the Authority, the granting of the licence, or the consequences of the granting of the licence, without those conditions imposed on it would be inconsistent with the plan.” 30

17 Types of premises in respect of which off-licences may be granted

(1) Section 36(1)(d)(ii) is amended by inserting “having a floor area of at least 150 m²” after “grocery store”.

(2) Section 36 is amended by inserting the following subsection 35
after subsection (1):

- “(1A) The Licensing Authority may grant an off-licence in respect of a grocery store having a floor area of less than 150 m², if satisfied that—
- “(a) the principal business of the store is the sale of main order household foodstuff requirements; and 5
 - “(b) there are not within 10 km of the store premises of a kind described in subsection (1)(c) or (d); and
 - “(c) it would not be economic to establish within 10 km of the store premises of a kind described in subsection (1)(c) or (d).” 10
- (3) Section 36(3) is amended by omitting “subsection (1) or subsection (2) of this section” and substituting “any of subsections (1) to (2)”.
- (4) Section 36 is amended by inserting the following subsection after subsection (3): 15
- “(3A) Nothing in subsection (2) authorises the grant of an off-licence in respect of any grocery store having a floor area of less than 150 m².”
- 18 Conditions of off-licences**
- (1) Section 37(3) is amended by omitting “section 36(1)(d) of this Act” and substituting “section 36(1)(d) or **(1A)**”. 20
- (2) Section 37(3A) is amended by inserting “or **(1A)**” after “section 36(1)(d)”.
- (3) Section 37 is amended by inserting the following subsections after subsection (3A): 25
- “(3B) Subsections (3) and (3A) apply to premises as if they were premises to which section 36(1)(d) applies if—
- “(a) they are situated (wholly or partially) within a shop; or
 - “(b) they are adjacent to premises to which section 36(1)(d) or **(1A)** applies (the **other premises**), and— 30
- “(i) their licensee holds a licence in respect of the other premises; or
 - “(ii) a person who is their owner or lessee, or who occupies them under a licence (not being a licence within the meaning of this Act) is the owner or 35
- lessee of the other premises, or occupies the other

- premises under a licence (not being a licence within the meaning of this Act); or
- “(iii) their licensee and the owner, lessee, or occupier of the other premises are a reporting entity and subsidiary, a subsidiary and reporting entity, or 2 subsidiaries of a reporting entity. 5
- “(3C) In **subsection (3B)(b)(iii), reporting entity and subsidiary** have the meanings given to them by section 2(1) of the Financial Reporting Act 1993.
- “(3D) It is a condition of every off-licence granted in respect of premises in which the principal business is the manufacture or sale of liquor that its principal business continues to be the manufacture or sale of liquor.” 10
- (4) Section 37 is amended by inserting the following subsection after subsection (5A): 15
- “(5B) On granting an application for an off-licence in relation to any premises, the Licensing Authority or District Licensing Agency, as the case may be,—
- “(a) may impose any conditions provided for in an applicable local alcohol plan; and 20
- “(b) must impose any conditions provided for in an applicable local alcohol plan if required to do so by **section 34(1B) or 35(1C).**”
- 19 Variation of conditions**
- Section 39 is amended by adding the following subsection: 25
- “(8) The Liquor Licensing Authority or District Licensing Agency must not vary any conditions imposed on an off-licence for any premises if—
- “(a) the conditions are provided for in an applicable local alcohol plan; and 30
- “(b) in the opinion of the Authority or Agency, as the case may be, the holding in relation to the premises of an off-licence, or the consequences of the holding in relation to the premises of an off-licence, that is subject to the conditions as varied would be inconsistent with the plan.” 35

20 Renewal of off-licences

Section 41 is amended by inserting the following subsection after subsection (3):

- “(3A) Before giving public notice under subsection (3), the applicant must give the District Licensing Agency written notice of— 5
- “(a) the publication or publications in which the public notice will be given; and
 - “(b) in respect of each publication, the day or days on which the public notice will be given.” 10

21 Unopposed applications to be granted, opposed applications to be forwarded to Licensing Authority

- (1) The heading to section 44 is amended by omitting “**Unopposed applications**” and substituting “**Unless inconsistent with local alcohol plan, unopposed applications (other than applications relating to small groceries)**”. 15
- (2) Section 44(1) is amended by inserting the following paragraph before paragraph (a):
 - “(aa) it is not an application for an off-licence made in respect of premises of a kind described in **section 36(1A)**; and” 20
- (3) Section 44 is amended by inserting the following sections after subsection (1A):
 - “(1B) The District Licensing Agency must not renew an off-licence if— 25
 - “(a) there is an applicable local alcohol plan; and
 - “(b) in the opinion of the Agency, the renewal of the licence, or the consequences of the renewal of the licence, would be inconsistent with the plan.
 - “(1C) The District Licensing Agency must impose conditions on any off-licence it renews if— 30
 - “(a) there is an applicable local alcohol plan; and
 - “(b) in the opinion of the Agency, the renewal of the licence, or the consequences of the renewal of the licence, without those conditions imposed on it would be inconsistent with the plan. 35
 - “(1D) **Subsections (1B) and (1C)** override subsection (1).”

22 Criteria for renewal

- (1) Section 45 is amended by inserting the following paragraphs before paragraph (a):
- “(aaa) any local alcohol plan:
 - “(aab) whether the premises concerned are— 5
 - “(i) situated (wholly or partially) within a shop; or
 - “(ii) premises of a kind described in section 36(1)(d) or **(1A)**.”.
- (2) Section 45 is amended by adding the following subsections as **subsections (2) to (5)**: 10
- “(2) The Licensing Authority must refuse to renew an off-licence—
- “(a) if—
 - “(i) the premises concerned are situated (wholly or partially) within a shop; and
 - “(ii) that shop is not a shop of a kind described in 15 section 36(1)(d); or
 - “(b) if—
 - “(i) its holder is not a person of a kind described in section 36(1)(a) or (b); and
 - “(ii) the premises concerned are not premises of a kind 20 described in section 36(1)(c) or (d); and
 - “(iii) the premises concerned are premises of a kind described in **section 36(1A)**, but the Authority is not satisfied of the matters stated in **paragraphs (a) to (c) of section 36(1A)**. 25
- “(3) The Licensing Authority must not renew an off-licence if—
- “(a) there is an applicable local alcohol plan; and
 - “(b) in the opinion of the Authority, the renewal of the licence, or the consequences of the renewal of the licence, would be inconsistent with the plan. 30
 - “(c) the local authority whose plan it is has not notified the Authority in writing that it supports the renewal of the licence; and
- “(4) The Licensing Authority must impose conditions on any off-licence it renews if— 35
- “(a) there is an applicable local alcohol plan; and
 - “(b) in the opinion of the Authority, the renewal of the licence, or the consequences of the renewal of the licence,

without those conditions the imposed on it would be inconsistent with the plan.

“(5) **Subsections (2) to (4)** override section 46(2).”

Amendments relating to club licences

- 23 Applications for club licences** 5
Section 55 is amended by inserting the following subsection after subsection (3):
- “(3A) Before giving public notice under subsection (3), the applicant must give the District Licensing Agency written notice of— 10
- “(a) the publication or publications in which the public notice will be given; and
 - “(b) in respect of each publication, the day or days on which the public notice will be given.”
- 24 Unopposed applications may be granted by District Licensing Agency, opposed applications to be forwarded to Licensing Authority** 15
- (1) The heading to section 58 is amended by omitting “**Unopposed**” and substituting “**Unless inconsistent with local alcohol plan, unopposed**”. 20
- (2) Section 58 is amended by inserting the following subsections after subsection (1):
- “(1A) The District Licensing Agency must not grant a club licence if—
- “(a) there is an applicable local alcohol plan; and 25
 - “(b) in the opinion of the Agency, the granting of the licence, or the consequences of the granting of the licence, would be inconsistent with the plan.
- “(1B) The District Licensing Agency must impose conditions on any club licence it grants if— 30
- “(a) there is an applicable local alcohol plan; and
 - “(b) in the opinion of the Agency, the granting of the licence, or the consequences of the granting of the licence, without those conditions imposed on it would be inconsistent with the plan. 35
- “(1C) **Subsections (1A) and (1B)** override subsection (1).”

25 Criteria for club licences

(1) Section 59(1) is amended by inserting the following paragraph before paragraph (a):

“(aa) any local alcohol plan:”.

(2) Section 59 is amended by inserting the following subsections after subsection (1):

“(1A) The Licensing Authority must not grant a club licence if—

“(a) there is an applicable local alcohol plan; and

“(b) in the opinion of the Authority, the granting of the licence, or the consequences of the granting of the licence, would be inconsistent with the plan; and

“(c) the local authority whose plan it is has not notified the Authority in writing that it supports the granting of the licence.

“(1B) The Licensing Authority must impose conditions on any club licence it grants if—

“(a) there is an applicable local alcohol plan; and

“(b) in the opinion of the Authority, the granting of the licence, or the consequences of the granting of the licence, without those conditions imposed on it would be inconsistent with the plan.”

26 Conditions of club licences

Section 60 is amended by adding the following subsection:

“(5) On granting an application for a club licence in relation to any premises, the Licensing Authority or District Licensing Agency, as the case may be,—

“(a) may impose any conditions provided for in an applicable local alcohol plan; and

“(b) must impose any conditions provided for in an applicable local alcohol plan if required to do so by **section 58(1B) or 59(1B)**.”

27 Variation of conditions

Section 62 is amended by adding the following subsection:

“(8) The Liquor Licensing Authority or District Licensing Agency must not vary any conditions imposed on a club licence for any premises if—

- “(a) the conditions are provided for in an applicable local alcohol plan; and
- “(b) in the opinion of the Authority or Agency, as the case may be, the holding in relation to the premises of a club licence, or the consequences of the holding in relation to the premises of a club licence, that is subject to the conditions as varied would be inconsistent with the plan.” 5

28 Renewal of club licences

Section 64 is amended by inserting the following subsection after subsection (3): 10

“(3A) Before giving public notice under subsection (3), the applicant must give the District Licensing Agency written notice of—

- “(a) the publication or publications in which the public notice will be given; and 15
- “(b) in respect of each publication, the day or days on which the public notice will be given.”

29 Unopposed applications to be granted, opposed applications to be forwarded to Licensing Authority

(1) The heading to section 67 is amended by omitting “**Unopposed**” and substituting “**Unless inconsistent with local alcohol plan, unopposed**”. 20

(2) Section 67 is amended by inserting the following sections after subsection (1A):

“(1B) The District Licensing Agency must not renew a club licence if— 25

- “(a) there is an applicable local alcohol plan; and
- “(b) in the opinion of the Agency, the renewal of the licence, or the consequences of the renewal of the licence, would be inconsistent with the plan. 30

“(1C) The District Licensing Agency must impose conditions on any club licence it renews if—

- “(a) there is an applicable local alcohol plan; and
- “(b) in the opinion of the Agency, the renewal of the licence, or the consequences of the renewal of the licence, with- 35

out those conditions imposed on it would be inconsistent with the plan.

“(1D) **Subsections (1B) and (1C)** override subsection (1).”

30 Criteria for renewal

(1) Section 68 is amended by inserting the following paragraph 5
before paragraph (a):

“(aa) any local alcohol plan:”.

(2) Section 68 is amended by adding the following subsections as
subsections (2) and (3):

“(2) The Licensing Authority must not renew a club licence if— 10

“(a) there is an applicable local alcohol plan; and

“(b) in the opinion of the Authority, the renewal of the licence, or the consequences of the renewal of the licence, would be inconsistent with the plan; and

“(c) the local authority whose plan it is has not notified the 15
Authority in writing that it supports the renewal of the licence; and

“(3) The Licensing Authority must impose conditions on any club licence it renews if—

“(a) there is an applicable local alcohol plan; and 20

“(b) in the opinion of the Authority, the renewal of the licence, or the consequences of the renewal of the licence, without the imposition of those conditions on it would be inconsistent with the plan.”

Amendments relating to special licences 25

31 New section 78A inserted

The following section is inserted after section 78:

“**78A District Licensing Agency to grant applications appearing to be consistent with local alcohol plan, other applications to be forwarded to Licensing Authority** 30

“(1) Where there is an applicable local alcohol plan, the District Licensing Agency must consider whether the granting of any special licence for which an application has been made, and the consequences of the granting of the licence, would be consistent with the plan; and— 35

- “(a) if, in its opinion, the granting of the licence, and the consequences of the granting of the licence, would not be inconsistent with the plan, must decide whether to grant the application in accordance with this Act; and
- “(b) if, in its opinion, the granting of the licence, the consequences of the granting of the licence, or both, would be inconsistent with the plan, must forward the complete file relating to the application to the Secretary of the Licensing Authority, and the Licensing Authority must determine the application in accordance with this Act. 5 10
- “(2) The District Licensing Agency must impose conditions on any special licence it grants if—
- “(a) there is an applicable local alcohol plan; and
- “(b) in the opinion of the Agency, the granting of the licence, or the consequences of the granting of the licence, without those conditions imposed on it would be inconsistent with the plan. 15
- “(3) For the purposes of **subsection (1)(b)**, the **complete file**, in relation to an application, means— 20
- “(a) the application and any papers filed in support of the application; and
- “(b) a copy of the public notice of the application, and a statement of the dates of publication of the notice; and
- “(c) any objection, and any papers filed in support of any objection; and 25
- “(d) any reports made under section 78.”
- 32 Criteria for special licences**
- (1) Section 79(1) is amended by inserting “or Licensing Authority” after “Agency”. 30
- (2) Section 79(1) is amended by inserting the following paragraph before paragraph (a):
- “(aa) any local alcohol plan.”
- (3) Section 79 is amended by inserting the following subsections after subsection (1): 35
- “(1A) The Licensing Authority must not grant a special licence if—
- “(a) there is an applicable local alcohol plan; and

- “(b) in the opinion of the Authority the granting of the licence, or the consequences of the granting of the licence, would be inconsistent with the plan; and
- “(c) the local authority whose plan it is has not notified the Authority in writing that it supports the granting of the licence. 5
- “(1B) The Licensing Authority must impose conditions on any special licence it grants if—
- “(a) there is an applicable local alcohol plan; and
- “(b) in the opinion of the Authority, the granting of the licence, or the consequences of the granting of the licence, without those conditions imposed on it would be inconsistent with the plan.” 10
- (4) Section 79(2) is amended by inserting “or Licensing Authority” after “Agency”. 15
- 33 Conditions of special licences**
- (1) Section 80(2) is amended by inserting “or Licensing Authority” after “Agency”.
- (2) Section 80(3) is amended by inserting “or Licensing Authority” after “Agency” in both places where it occurs. 20
- (3) Section 80 is amended by adding the following subsection:
- “(4) On granting an application for a special licence in relation to any premises, the Licensing Authority or District Licensing Agency, as the case may be,—
- “(a) may impose any conditions provided for in an applicable local alcohol plan; and
- “(b) must impose any conditions provided for in an applicable local alcohol plan if required to do so by **section 78A(2) or 79(1B)**.” 25
- 34 Duration of special licences** 30
- Section 82(1)(c) is amended by inserting “or Licensing Authority” after “Agency”.
- 35 Display of licence**
- Section 83 is amended by—

- (a) inserting “or Licensing Authority” after “Licensing Agency”; and
- (b) inserting “or Licensing Authority, as the case may be,” after “Agency” where it secondly occurs.

- 36 Managers** 5
Section 84(2) is amended by inserting “or Licensing Authority” after “Agency”.

Local alcohol plans

- 37 New Part 4A inserted** 10
The following Part is inserted after Part 4:

“Part 4A

“Local alcohol plans

“84A Territorial authorities may adopt local alcohol plans

A territorial authority may at any time, by using the special consultative procedure,—

“(a) adopt a plan relating to the sale or consumption of alcohol within its district, or any part or parts of its district; or

“(b) amend any local alcohol plan it has adopted; or

“(c) revoke any local alcohol plan it has adopted, and adopt another in its place; or

“(d) revoke any local alcohol plan it has adopted without adopting another in its place.

“84B Contents of local alcohol plans

A local alcohol plan may include requirements relating to any or all of the following matters (in relation to outlets for the sale of liquor generally, outlets for the sale of liquor holding a licence of any particular kind, or both):

“(a) the hours during which liquor may be sold:

“(b) where outlets may be located:

“(c) a maximum density for outlets:

“(d) a minimum distance outlets must be from—

“(i) particular community premises:

“(ii) community premises of any particular kind or description:

“(e) responsible business practices and event management:	
“(f) information to be submitted with applications for the granting or renewal of a licence:	
“(g) the submission with applications for the granting or renewal of a licence of a social impact report:	5
“(h) the matters to be contained in social impact reports:	
“(i) the persons or kinds of persons by whom social impact reports are to be prepared:	
“(j) conditions that are to be or may be imposed on licences under sections 14, 37, 60, or 80:	10
“(k) criteria to be used in assessing applications for the granting or renewal of licences, or licences of particular kinds:	
“(l) a policy (which may include a statement of circumstances in which applications are to be granted or refused) on how any criteria or conditions in the plan are to be applied to applications for the granting or renewal of licences, or licences of particular kinds.	15
“84C Terms used in sections 84A and 84B	
In sections 84A and 84B,—	20
“community premises—	
“(a) means any premises to which the public has a right of access, regardless of who may own, occupy, or have control of them; and	
“(b) includes pre-school institutions, schools, tertiary education institutions, and premises owned, occupied, or under the control of a district health board; and	25
“district, special consultative procedure, and territorial authority have the meanings given by section 5(1) of the Local Government Act 2002	30
“outlet means premises in respect of which a licence is held.”	
<i>Amendment relating to management of licensed premises</i>	
38 New sections 135A to 135C inserted	
(1) The following sections are inserted after section 135:	35

“135A Mandatory cancellation of manager’s certificate after 3 incidents relating to minors within 2 years

- “(1) This subsection applies to a holding if—
- “(a) it is a conviction of a person for an offence against section 155(1) or 164 committed after the commencement of this section; or 5
 - “(b) it is a finding of the Licensing Authority that a person who is a manager of any licensed premises has, after the commencement of this section,—
 - “(i) sold or supplied any liquor, or allowed any liquor to be sold or supplied, on or from the licensed premises to any person who was under the age of 18 years; or 10
 - “(ii) allowed any person who was under the age of 18 years to enter or remain in any restricted area or supervised area on the licensed premises in contravention of section 163. 15
- “(2) A member of the police or an inspector may at any time make an application for an order by the Licensing Authority cancelling a manager’s certificate. 20
- “(3) The application must be made on the grounds that—
- “(a) during the 6 months before the application is made, a holding to which **subsection (1)** applies (**the latest holding**) has been made in respect of the manager concerned; and 25
 - “(b) at least 2 other holdings to which **subsection (1)** applies have been made in respect of the manager concerned in respect of incidents occurring during the period of 2 years ending with the day on which the latest holding was made. 30
- “(4) For the purposes of **subsection (3)**, if an incident results in both the conviction of a person for an offence against section 155(1) or 164 and a finding that the person has done a thing of a kind described in **subsection (1)(b)**, the finding must be disregarded. 35
- “(5) If satisfied that the grounds referred to in **subsection (3)** have been established, the Licensing Authority must cancel the certificate.

“135B Procedure for applications under section 135A

- “(1) An application under **section 135A** must be made in the form and manner prescribed for applications under section 135(2).
- “(2) The Secretary must—
- “(a) send a copy of the application to the manager, and to the licensee of the licensed premises in relation to which the latest conviction occurred; and 5
 - “(b) fix the earliest practicable date for a public hearing of the application; and
 - “(c) give at least 10 working days’ notice of the hearing to the applicant and manager. 10
- “(3) The applicant and the manager are entitled to appear and be heard at the hearing, whether personally or by counsel, and to call, examine, and cross-examine witnesses; but the evidence of the witnesses, and any submissions made, must be limited to whether the grounds referred to in **section 135A(3)** can be established. 15
- “(4) A cancellation under **section 135A(5)** takes effect immediately.

“135C Restrictions on person whose manager’s certificate has been cancelled under section 135A 20

- “(1) This subsection applies to a person whose manager’s certificate has been cancelled under **section 135A(5)** if less than 5 years has passed since the latest of the convictions on the grounds of which it was cancelled. 25
- “(2) The Licensing Authority or the District Licensing Agency must not issue a manager’s certificate, or grant an application for a licence, to a person to whom **subsection (1)** applies.
- “(3) A person to whom **subsection (1)** applies must not be appointed as a temporary manager or an acting manager under section 128 or 129. 30
- “(4) A purported appointment at any time of a person to whom **subsection (1)** applies as a temporary manager or an acting manager under section 128 or 129 is void (and in the case of a purported appointment of an acting manager under section 129, section 129(2) does not apply to him or her), whether or 35

not the licensee concerned then knows that **subsection (1)** applies to the person.

“(5) **Subsections (2) to (4)** override sections 116 to 130.”

(2) The heading to section 135 is consequentially amended by adding “**in other cases**”. 5

Advertising and promotions

39 New Part 6A inserted

The following Part is inserted after Part 6:

“Part 6A

“Advertising and promotions

10

“136A Principles

The principles of this Part are that—

“(a) liquor advertising and liquor promotion should not be inconsistent with the promotion of responsibility and moderation in the consumption of alcohol; and 15

“(b) the overall exposure of children and people under the age of 18 years to liquor advertising and liquor promotion should be minimised; and

“(c) liquor advertising and liquor promotion should not hold strong appeal to children or young people. 20

“136B Recognition of liquor advertising advisory body

“(1) The Minister and Minister of Health may jointly, by written notice to the body concerned, recognise any body corporate for the purpose of—

“(a) developing and reviewing codes (consistent with the principles of this Part) for liquor advertising and liquor promotion; and 25

“(b) when reviewing its codes, devising appropriate ways of engaging with the community to elicit a range of views on them; and 30

“(c) administering a complaints process; and

“(d) referring to any relevant agency complaints outside its jurisdiction; and

“(e) referring serious or persistent breaches of its codes to the Director-General of Health; and 35

- “(f) conducting internal process monitoring of its undertaking the matters described in **paragraphs (a) to (e)**; and
- “(g) arranging independent auditing of its undertaking the matters described in **paragraphs (a) to (e)**.
- “(2) In undertaking the matters described in **subsection (1)**, the 5
body must act in accordance with a memorandum of understanding agreed with the Director-General of Health.
- “(3) The Ministers may at any time,—
- “(a) by written notice to the body then recognised under **subsection (1)**, withdraw its recognition; and 10
- “(b) recognise some other body under **subsection (1)**.
- “**136C Director-General of Health may issue cease and desist order**
- “(1) If satisfied that a liquor advertisement is contrary to the principles of this Part, or has or is likely to have an effect contrary 15
to those principles, the Director-General of Health, by written notice to any person by or on whose behalf it was published—
- “(a) may order the person—
- “(i) not to publish or have published in the future the 20
same, or any similar, liquor advertisement; and
- “(ii) if the advertisement is still being published, to take all reasonably practicable steps to withdraw it within a time stated in the notice; and
- “(b) may also order the person to publish, in a manner and 25
at times stated in the notice, corrective advertising described in the notice.
- “(2) If satisfied that a liquor promotion is contrary to the principles of this Part, or has or is likely to have an effect contrary to those principles, the Director-General of Health may, by written notice to any person by or on whose behalf it was or is 30
being organised, order the person—
- “(a) not to organise or have organised in the future the same, or any similar, liquor promotion; and
- “(b) if the promotion is still continuing, to take all reasonably practicable steps to discontinue it within a time stated in 35
the notice.

“136D Director-General of Health to act on advice of LAAB

“(1) The Director-General of Health may issue a cease and desist order only on the written advice of LAAB.

“(2) LAAB may advise the Director-General of Health to issue a cease and desist order only if satisfied,— 5

“(a) in the case of an order relating to a liquor advertisement, that the advertisement is contrary to the principles of this Part, or has or is likely to have an effect contrary to those principles:

“(b) in the case of an order relating to a liquor promotion, that the promotion is contrary to the principles of this Part, or has or is likely to have an effect contrary to those principles. 10

“136E LAAB may have regard to codes

In deciding whether **section 136D(2)** applies to an advertisement or promotion, LAAB may have regard to any codes relating to advertising or promoting liquor (whether established by itself or by some other person or body). 15

“136F LAAB may act on complaint or reference from Director-General of Health, or of its own motion 20

LAAB may advise the Director-General of Health to issue a cease and desist order—

“(a) in relation to a liquor advertisement or liquor promotion that the Director-General of Health has referred to it for consideration; or 25

“(b) in relation to a liquor advertisement or liquor promotion that some other person has referred to it for consideration or complained to it about; or

“(c) in relation to a liquor advertisement or liquor promotion that has come to its attention in some other way. 30

“136G Offences in relation to cease and desist orders

“(1) A person commits an offence if the person fails or refuses to comply with a cease and desist order.

“(2) A person who commits an offence against **subsection (1)** is liable on summary conviction,— 35

- “(a) in the case of a body corporate, to a fine not exceeding \$200,000:
“(b) in any other case, to a fine not exceeding \$60,000.”

*Amendments relating to offences and
enforcement*

5

40 Sale or supply of liquor to minors

Section 155 is amended by repealing subsections (4) and (4A) and substituting the following subsection:

- “(4) In any proceedings for an offence against subsection (1) or (2) in respect of selling or supplying liquor, or allowing liquor to be sold or supplied, to a person (the **customer**), it is a defence if the defendant proves that—
- “(a) before or at the time of the sale or supply of liquor concerned, there was produced to the person who sold or supplied the liquor a document purporting to be an evidence of age document; and
- “(b) the person believed on reasonable grounds that the document—
- “(i) was in fact an evidence of age document; and
- “(ii) related to the customer; and
- “(iii) indicated that the customer had attained the age of 18 years.”

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41 Purchasing liquor for minors

Section 160 is amended by repealing subsection (3) and substituting the following subsection:

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- “(3) Subsection (1) does not apply to—
- “(a) the purchase or acquisition of liquor by any person with the intention of supplying it to a person whose parent or guardian that person is; or
- “(b) the purchase or acquisition of liquor by any person, at a time when the person has the consent (express or implied) of a parent or guardian of a person under the age of 18 years who is attending a private social gathering (the **young person**) to supply liquor to the young person, with the intention of supplying it to the young person.”

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42 Permitting minors to be in restricted areas or supervised areas

Section 164 is amended by repealing subsections (2) and (2A) and substituting the following subsection:

- “(2) In any proceedings for an offence against subsection (1) in respect of allowing a person (the **patron**) to enter or remain in a restricted area or supervised area, it is a defence if the defendant proves that—
- “(a) there was produced to the defendant or an agent or employee of the defendant a document purporting to be an evidence of age document; and
 - “(b) the defendant, agent, or employee believed on reasonable grounds that the document—
 - “(i) was in fact an evidence of age document; and
 - “(ii) related to the patron; and
 - “(iii) indicated that the patron had attained the age of 18 years.”

43 New section 164A inserted

The following section is inserted after section 164:

“164A Minor may be referred to alcohol early intervention programme instead of paying infringement fee

- “(1) A member of the police may refer a young person served with an infringement notice under section 162C, or under section 38C of the Summary Offences Act 1981, to an alcohol early intervention programme.
- “(2) If, before any of the things stated in **subsection (3)** has occurred, a member of the police receives from a young person referred to an alcohol early intervention programme under **subsection (1)** a certificate stating that the young person has satisfactorily completed the programme,—
- “(a) the member of the police must cause the infringement notice process to be discontinued; and
 - “(b) proceedings cannot be commenced in respect of the offence.
- “(3) The things referred to in subsection (2) are—
- “(a) the infringement fee is paid;
 - “(b) a copy of a reminder notice in respect of the offence to which the infringement notice relates is filed in a court:

“(c) a reminder notice in respect of the offence to which the infringement notice relates is deemed to have been filed in a court.”

44 New section 172 substituted

Section 172 is repealed and the following section substituted: 5

“172 False evidence of age documents

“(1) Every person commits an offence, and is liable to a fine not exceeding \$2,000, who without reasonable excuse—

“(a) presents to the licensee or a manager of any licensed premises, or an employee of the licensee, a document that the person knows is a false evidence of age document; or 10

“(b) sells, hires, lends, gives, or otherwise disposes of a document that he or she knows or has reason to suspect is a false prescribed evidence of age document to another person. 15

“(2) In **subsection (1)**,—

“false evidence of age document—

“(a) means a document that purports to be an evidence of age document but is not; and 20

“(b) in relation to a particular person, includes—

“(i) a genuine evidence of age document containing false information purporting to relate to the person; and

“(ii) a genuine evidence of age document containing information relating to some other person 25

“false prescribed evidence of age document means a false evidence of age document that is or purports to be an evidence of age document of the kind described in section 2A(2)(d).”

45 Closure of licensed premises in case of riot 30

(1) Section 173(1) is amended by omitting “during such time as may be specified” and substituting “until a time (not later than 48 hours after the order is made) stated”.

(2) Section 173(3) is repealed.

- 46 Closure of premises in case of fighting, etc**
Section 174(5) is amended by omitting “expiry of the day on which it is made” and substituting “time 48 hours after it is given.”.
- Amendment of regulation-making power* 5
- 47 Regulations**
Section 229 is amended by inserting the following paragraph after paragraph (ab):
- “(ac) providing for the preparation and contents of local alcohol plans:”.
- 10
- Provisions enabling limited renewal of certain otherwise unrenewable licences*
- 48 New heading and sections 255 to 258 inserted**
(1) The following heading and sections are inserted the after section 254:
- 15
- “Provisions consequential on enactment of Part 1 of Sale and Supply of Liquor and Liquor Enforcement Act 2008***
- “255 Limited renewal of certain on-licences**
- “(1) Until the day 3 years after the commencement of **section 7 of the Sale and Supply of Liquor and Liquor Enforcement Act 2008 (the transition day)**,—
- “(a) any on-licence granted before that commencement may be renewed to the same extent, and in the same manner, as if that section had not been enacted; but
- 25
- “(b) in the case of the renewal of an on-licence that, but for **paragraph (a)**, would (by virtue of **section 22(2)(a)**) be unable to be renewed, it must be renewed only for a further period ending with the close of the day before the transition day.
- 30
- “(2) **Subsection (1)(b)** overrides sections 21(1) and 44(1).
- “256 Limited renewal of certain off-licences**
- “(1) In this section, the **transition day** means the later of—

- “(a) the day 3 years after the commencement of **section 17 of the Sale and Supply of Liquor and Liquor Enforcement Act 2008**; and
- “(b) the day 3 years after the commencement of **section 22** of that Act. 5
- “(3) Until the transition day,—
- “(a) any on-licence granted before the transition day may be renewed to the same extent, and in the same manner, as if **sections 10 and 11 of the Sale and Supply of Liquor and Liquor Enforcement Act 2008** had not been enacted; but 10
- “(b) in the case of the renewal of an on-licence that, but for **paragraph (a)**, would (by virtue of **section 45(2) or (3)**) be unable to be renewed, it must be renewed only for a further period ending with the close of the day before the transition day. 15
- “(4) **Subsection (2)(b)** overrides sections 21(1) and 44(1).
- “**257 Limited renewal of certain club licences**
- “(1) Until the day 3 years after the commencement of **section 29 of the Sale and Supply of Liquor and Liquor Enforcement Act 2008 (the transition day)**,— 20
- “(a) any club licence granted before that commencement may be renewed to the same extent, and in the same manner, as if that section had not been enacted; but
- “(b) in the case of the renewal of a club licence that, but for **paragraph (a)**, would (by virtue of **section 68(2)(a)**) be unable to be renewed, the Licensing Authority must specify a date on which the licence will expire unless again renewed that is no later than the transition day. 25
- “(2) **Subsection (1)(b)** overrides section 67(1). 30
- “**258 No compensation for limited renewal or non-renewal of licence, or imposition of conditions**
- No compensation is payable to any person for, in respect of, or in respect of any consequences of,—
- “(a) a refusal of the Licensing Authority to renew a licence because its renewal, or the consequences of its renewal, would be inconsistent with a local alcohol plan; or 35

- “(b) in the case of an off-licence, a refusal of the Licensing Authority to renew the licence because (by virtue of the enactment of **section 15 of the Sale and Supply of Liquor and Liquor Enforcement Act 2008**) the premises to which it relates are no longer premises in respect of which an off-licence may be granted; or
- “(c) the imposition by the Licensing Authority on any licence it renews of conditions required by **section 22(3)(b) or 45(4)(b)**; or
- “(d) the renewal of a licence by the Licensing Authority for a period that is (by virtue of **section 255(1)(b) or 256(2)(b)**) less than 3 years; or
- “(e) the specification by the Licensing Authority, on renewing a club licence, of a date on which the licence will expire unless again renewed that is (by virtue of **section 257(1)(b)**) less than 3 years after the date of renewal.”
- (2) The following heading is consequentially inserted above section 231:
- “Provisions consequential on enactment of this Act”.*

Part 2 Amendments to Summary Offences Act 1981

- 49 Principal Act amended**
This Part amends the Summary Offences Act 1981.
- 50 Interpretation**
- (1) The definition of **intoxicating liquor** in section 2(1) is repealed and the following definitions are inserted in their appropriate alphabetical order:
- “**liquor** has the meaning given by section 2 of the Sale of Liquor Act 1989
- “**young person** means a person under the age of 18 years”.
- (2) Section 38(1) is consequentially amended by omitting “intoxicating” wherever it occurs.

51 New section 37A inserted

The following section is inserted after section 37:

“37A Supply of liquor to young people by adults

- “(1) Any person of or over the age of 18 years (**the adult**) is liable to a fine not exceeding \$2000 if— 5
- “(a) the adult supplies liquor to a young person who has a parent or guardian; and
- “(b) the adult is not a parent or guardian of the young person; and
- “(c) a parent or guardian of the young person has not consented (expressly or impliedly) to the adult’s supplying liquor to the young person. 10
- “(2) An offence against **subsection (1)** is committed whether or not, when the liquor is supplied to the young person, the adult— 15
- “(a) knows that the young person is a person under the age of 18 years; or
- “(b) knows that the young person has a parent or guardian; or
- “(c) knows that a parent or guardian of the young person has not consented to the adult’s supplying liquor to the young person. 20
- “(3) In any proceedings for an offence against **subsection (1)**, it is a defence if the defendant shows that he or she believed on reasonable grounds that— 25
- “(a) the young person was a person under the age of 18 years; or
- “(b) a parent or guardian of the young person concerned had consented to the defendant’s supplying liquor to the young person.” 30

52 Infringement offences

The definition of **infringement offence** in section 38A is amended by inserting “**section 37A** or” after “under”.

53 New sections 44A and 45 substituted

Section 45 is repealed and the following sections are substituted: 35

“44A Seizure and forfeiture of burglary instruments

If a person is found guilty of an offence against section 14, the court—

- “(a) may order the instrument or instruments concerned to be forfeited to the Crown, or disposed of as the court directs at the expense of the person convicted; and 5
- “(b) may also order the person to pay any reasonable costs incurred by the Commissioner of Police in holding the instrument or instruments.

“45 Seizure and forfeiture of liquor

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“(1) A member of the police may seize and remove any liquor that there is reasonable ground to suppose is intended for consumption in contravention of **section 37A** or 38, and the vessels containing it.

“(2) On a person’s being found guilty of an offence against any of the provisions stated in **subsection (1)** in respect any liquor seized, the liquor and the vessels containing it are forfeit to the Crown. 15

“(3) Liquor and the vessels containing it are forfeit to the Crown if— 20

- “(a) it is seized by the police from a young person who is issued with an infringement notice in respect of an offence against section 38(3) alleged to have been committed by the young person’s drinking it, or having it in his or her possession or control, in a public place; and 25
- “(b) the infringement fee is later paid.

“(4) If a person is acquitted of an offence against a provision stated in **subsection (1)**, liquor seized under that subsection in relation to the offence—

- “(a) may be collected from the relevant Police station by or on behalf of the person within 28 days of the acquittal; and 30
- “(b) if not collected within that time, may be disposed of in any manner the Commissioner of Police directs.”

Part 3

Amendments to Land Transport Act 1998

54 Principal Act amended

This Part amends the Land Transport Act 1998.

55 Interpretation

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Section 2(1) is amended by repealing the definition of **positive evidential breath test** and substituting the following definitions:

“**positive**, in relation to an evidential breath test, has a meaning corresponding to that of **positive evidential breath test**

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“**positive evidential breath test** means an evidential breath test indicating,—

“(a) in any case, that the proportion of alcohol in the breath of the person who underwent the test exceeds 400 micrograms of alcohol per litre of breath:

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“(b) in the case of a person apparently younger than 20 who holds (in relation to motor vehicles of the class to which the motor vehicle he or she was driving at the time in question belongs) a full licence that is not suspended, that the proportion of alcohol in the breath of the person who underwent the test exceeds 150 micrograms of alcohol per litre of breath:

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“(c) in the case of a person apparently younger than 20—

“(i) who holds (in relation to motor vehicles of the class to which the motor vehicle he or she was driving at the time in question belongs) a learner licence, a restricted licence, or a limited licence; or

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“(ii) who is an unlicensed or disqualified driver in relation to motor vehicles of that class; or

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“(iii) whose licence to drive motor vehicles of that class has been suspended or revoked,—

that the breath of the person who underwent the test contains alcohol”.

56 Drivers not to exceed specified alcohol limits

(1) Section 11 is amended by repealing paragraph (c) and substituting the following paragraphs:

“(c) if the person is younger than 20 and holds (in relation to motor vehicles of the class to which that motor vehicle belongs) a full licence that is not suspended,— 5

“(i) the proportion of alcohol in the person’s breath, as ascertained by an evidential breath test subsequently undergone by the person under section 69, exceeds 150 micrograms of alcohol per litre of breath; or 10

“(ii) the proportion of alcohol in the person’s blood, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, exceeds 30 milligrams of alcohol per 100 millilitres of blood; or 15

“(d) if **subsection (2)** applies to the person,—

“(i) it is ascertained by an evidential breath test subsequently undergone by the person under section 69 that the breath of the person who underwent the test contains alcohol; or 20

“(ii) it is ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, that the blood of the person who underwent the test contains alcohol.” 25

(2) Section 11 is amended by adding the following subsection as **subsection (2)**:

“(2) This subsection applies to a person younger than 20—

“(a) who holds (in relation to motor vehicles of the class to which the motor vehicle he or she was driving at the time in question belongs) a learner licence, a restricted licence, or a limited licence; or 30

“(b) who is (in relation to motor vehicles of that class) an unlicensed or disqualified driver; or

“(c) whose licence to drive motor vehicles of that class has been suspended or revoked.” 35

**57 Contravention of specified breath or blood-alcohol limit
by person younger than 20**

- (1) Section 57(1) is amended by inserting “who holds (in relation to motor vehicles of the class to which the motor vehicle he or she was driving at the time in question belongs) a full licence that is not suspended” after “20”. 5
- (2) Section 57(2) is amended by inserting “who holds (in relation to motor vehicles of the class to which the motor vehicle he or she was driving at the time in question belongs) a full licence that is not suspended” after “20”. 10
- (3) Section 57 is amended by inserting the following subsections after subsection (2):
- “(2A) This subsection applies to a person younger than 20 and a motor vehicle if—
- “(a) he or she holds (in relation to motor vehicles of the class to which the motor vehicle belongs) a learner licence, a restricted licence, or a limited licence; or 15
- “(b) he or she is (in relation to motor vehicles of that class) an unlicensed or disqualified driver; or
- “(c) whose licence to drive motor vehicles of that class has been suspended or revoked. 20
- “(2B) If **subsection (2A)** applies to a person younger than 20 and a motor vehicle, the person commits an offence if he or she drives or attempts to drive the motor vehicle on a road while his or her breath contains alcohol (as ascertained by an evidential breath test subsequently undergone by him or her under section 69). 25
- “(2C) If **subsection (2A)** applies to a person younger than 20 and a motor vehicle, the person commits an offence if he or she drives or attempts to drive the motor vehicle on a road while his or her blood contains alcohol (as ascertained from an analysis of a blood specimen subsequently taken from him or her under section 72 or 73).” 30
- (4) Section 57(3) is amended by omitting “subsection (1) or subsection (2)” and substituting “this section”. 35
- (5) Section 67(1) is consequentially amended by inserting “**57(1C)**,” after “56(2),”.

58 Defences

(1) Section 64(3) is amended by inserting the following paragraph before paragraph (a):

“(aa) the breath screening test or evidential breath test indicated that the person’s breath did not contain alcohol; or” 5

(2) Section 64(3) is amended by inserting the following paragraph after paragraph (a):

“(ab) any evidence given in respect of the results of a blood test indicates that the person’s blood did not contain alcohol; or” 10

59 Presumptions relating to alcohol-testing

Section 77(3)(a) is amended by adding the following subparagraph:

“(iii) in the case of a positive test that indicates that the person’s breath contains alcohol, the test could of itself be conclusive evidence to lead to the person’s conviction for an offence against this Act, unless the person— 15

“(A) is 20 or older; or 20

“(B) holds (in relation to motor vehicles of the class to which the motor vehicle he or she was driving at the time in question belongs) a full licence that is not suspended; or” 25

60 Circumstances in which certificate not admissible in proceedings

Section 79(4)(c) is amended by repealing subparagraph (i) and substituting the following subparagraphs:

“(i) in the case of a defendant who, at the time of the commission of the offence, was younger than 20 and held (in relation to motor vehicles of the class to which the motor vehicle he or she was driving at the time in question belongs) a full licence that was not suspended, not more than 30 milligrams of alcohol per 100 millilitres of blood; or 30 35

“(ia) in the case of a defendant who, at the time of the commission of the offence, was younger than 20 but did not hold (in relation to motor vehicles of the class to which the motor vehicle he or she was driving at the time in question belongs) a full 5 licence that was not suspended, no alcohol; or”.
