

Summary of submissions on the public consultation paper: Regulations to give effect to the new alcohol laws

Ministry of Justice

October 2013

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Introduction

1. This report outlines submissions received between 1 July and 26 July 2013 on the consultation document *Regulations to give effect to the new alcohol laws* (the consultation document) released by the Ministry of Justice in July 2013. The consultation document contained options for achieving the objectives of the Sale and Supply of Alcohol Act 2012 (the Act).
2. The summary of the proposed regulations of the consultation document is included as Appendix A. This provides an overview of the original regulatory areas, covering:
 - public notification of local alcohol policies and a means of appealing them
 - licensee obligations to record specified information about their managers
 - a licensing system (principally the required forms)
 - defining grocery stores in such a way to be sure that the ‘principal business’ of a grocery store is the sale of food products
 - the qualification required as a prerequisite to obtaining a manager’s certificate
 - evidence of age documents
 - the fees, notices and reminders associated with infringement offences
 - remote (internet and telephone) sales
 - licensing and community trusts.
3. The public consultation lasted four weeks and included three public meetings (in Auckland, Wellington and Christchurch). Forty-seven people attended the public meetings, and representation ranged from local government, district health boards, hospitality and retail stakeholders, and industry groups.
4. A webinar, run through the New Zealand Society of Local Government Managers was also held. The webinar was open to the general public but directed more towards local authorities. Thirty-one Councils and one industry organisation signed on to the webinar and it is estimated that approximately 70 people attended.
5. A total of 56 submissions were received, broken down as follows:
 - territorial authorities including licensing inspectors – 21 submissions
 - district health boards – 9 submissions
 - hospitality stakeholders (individuals and representative bodies) – 6 submissions
 - retail stakeholders (individuals and representative bodies) – 7 submissions
 - other¹ – 13 submissions.
6. Submissions ranged from brief emails on specific issues to comprehensive documents containing question-by-question responses to the matters raised in the consultation document.
7. In the public meetings we sought feedback on the options, proposals, and questions in the consultation document. Overall, feedback from meetings aligned with submissions. This may be partly due to meeting attendees later providing a submission.

¹ Includes community groups, clubs, wineries, training organisations, and crown entities.

Local Alcohol Policies

Notification

8. The Act provides for communities to have more input into licensing decisions through the introduction of local alcohol policies (LAPs). The regulations to give effect to local alcohol policies need to balance the potential compliance burden on the Territorial Authorities (TAs), community engagement through access or awareness of the information, and transparency of the appeal process.
9. The Act requires LAPs to be 'publicly notified' at the provisional stage and once adopted. Regulations are needed for the method, content and timing of the public notification.
10. It was proposed that 'public notification', with respect to both provisional and adopted local alcohol policies, will mean giving notice in one or more newspapers and a prominent location on the TAs website and that notice of provisional and adopted local alcohol policies should be made on two occasions.
11. The proposed regulations will also require the publication of the final adopted policies on council websites, in public libraries, and available to view at their principal public offices.

Submissions summary and analysis

12. Of the 25 submissions on this topic, 20 submitters supported the proposals as outlined with limited or no modification.
13. Five submitters suggested that TAs should notify all parties that submitted on a draft LAP as part of this public notice requirement. This has not been considered viable due the significant increase in compliance burden and cost on TAs, for example Christchurch received over 4000 submissions on their draft LAP.
14. A single submitter proposed that TAs should give notice directly to every licensee. This has also not been considered viable due to the compliance burden and cost involved.
15. Use of other mediums for public notice was suggested, including use of social media (seven submissions), community based newspapers, radio and social services (two submissions each). It is considered that the increase in costs these represent is not warranted for the limited increase in community reach beyond existing proposals. A TA would likely use its social media as part of posting information to its website.
16. Two submitters proposed that only one notification be made, rather than two. This was not supported due to the need for full public awareness and consultation due to the significant implications of the LAP coming into force for licensees and for consumers of alcohol.
17. No changes were made to the proposed regulations as a result of consultation.

Appealing a provisional LAP

18. As the ability to appeal an LAP is new, there is currently no system through which people can appeal to the Alcohol Regulatory and Licensing Authority (ARLA). Regulations are required to specify the information that accompanies an appeal and any fee payable.

Submissions summary and analysis

19. Eighteen submitters agreed with the information proposals outlined, with no modifications suggested.

20. One submitter requested that a remedy to the grounds of appeal be required, however the general remedy for an appeal on an element of a LAP would either be a rejection of the appeal, or the removal of that element from the LAP so it is not necessary to regulate this.
21. Submissions regarding the level of the potential fee have been addressed during the development of the separate fees regulations.
22. A submission was received requesting consideration be given to exempting Police from the fees for appealing an LAP. Police and Medical Officers of Health are already exempt from the requirement that only those who submit on a draft policy can submit on a provisional policy and are unlikely to make vexatious appeals. There is little to be gained from small amounts of revenue moving between agencies.
23. No changes are to be made to the consulted processes appealing a provisional LAP, except to introduce regulations that exempt Police and Medical Officers of Health from the requirement to pay a fee to ARLA when appealing a provisional LAP.

Licensee Obligations

24. Under section 232(1) of the new Act, licensees are required to keep a record (in a form that is readable or retrievable) of certain information about each manager, acting manager, or temporary manager appointed for the premises. The required information that is to be kept must be prescribed by regulations. The consultation document outlined the proposed information that the licensee must record by manager type.

Submissions summary and analysis

25. Sixteen submissions were received on this topic, 15 of which supported the proposed information requirements.
26. The single submission opposing the requirements was an industry based organisation that wanted an exemption to the requirements to their industry only. This was not supported on the grounds of fairness to all affected stakeholders.
27. Four submissions questioned the need for the gender of the managers to be included in the information requirements. Gender was requested by enforcement agencies as it adds a level of clarity around the identity of a manager due to the generic nature of some names.
28. Individual submissions were received suggesting the addition of additional information such as copies of identity documents, photographs, place of birth and immigration status. These will not be progressed as they add a compliance burden without adding a significant level of surety to the information already required.
29. Some submitters questioned the overall requirement and any privacy implications. The Act requires this information, and while there is a compliance burden upon licensees, the information should be readily available from employment records. The requirements are not retrospective, so on 18 December 2013 only information on current and future managers of all types needs to be held. There are limited privacy concerns as this information is already held by licensees and it is not proposed that the information be taken off site.
30. No changes were made to the proposed regulations as a result of consultation.

Licensing System

Forms

31. The proposals, outlined in the consultation document, for the information required on the new suite of application and renewal licence forms were a merger of some current information requirements and some additional information required by the Act. It was proposed that the forms also contain reference to all the information required to accompany the application or renewal request.

Submissions summary and analysis

32. Forty-two submissions were received on the proposals. The overall consensus supported the merger of the forms and the inclusion of the requirements for accompanying material.

33. There was no clear support either for or against the proposals to add sections on amenity and good order or for the inclusion of a business case.

- Subsequent to consultation it is proposed that amenity and good order could be best dealt with at a local level during interviews with inspectors. This would link to questions on local issues, such as proximity to premises such as schools or compliance with a LAP if relevant. Adding this section as a requirement for all applicants would add a compliance burden which would not always be necessary.
- Subsequent to consultation it is proposed that a full business case is not required. Information contained in a business case is often commercially sensitive and the detailed financial information is not required for the application process. However, to ensure that information necessary for robust decision making is available, it is proposed to ensure that more specific information regarding staff training as well as information on the experience and training of the licensee be part of the required information.

34. The following changes to the information requirements are also proposed as a result of the consultation process:

- The requirement for a floor plan is to stay with the addition of 'single area(s)',² However, to reduce the compliance burden, a floor plan will only be required for a new application, at the time of first renewal under the new Act, when seeking a variation to existing floor layout, or for renewals where the floor plan has changed since the last application.
- The requirement for a photo of the principal entrance and the location map are removed; they add little value as an inspector will likely visit the site.
- The requirement for the certificate of fitness for a vehicle and the certificate of airworthiness from the conveyance section is removed as it adds limited value to the licensing process.
- Under the special licences section removal of the terms 'high risk' and 'large scale' as these will be determined at local level and is not a decision for the applicant. However, to support decision makers an additional requirement in the 'nature of event section' will be a requirement to provide information on the targeted age of attendees as well as the estimated number of attendees.

² A single area is to limit (so far as is reasonably practicable) the exposure of shoppers in supermarkets and grocery stores to displays and promotions of alcohol, and advertisements for alcohol

35. The following additions to the information requirements are also proposed as a result of feedback from medical officers of health:

- Addition of a question regarding the nature of the freely available water – including where and how it will be available and, for locations or events without access to mains water supply, the potability of the water.
- Addition of information on the promotion of food, water and low-alcohol beverages.

Notification of District Licensing Committee (DLC) Decisions to ARLA

36. Regulations are required to specify the information to be forwarded by the DLCs to ARLA and the timing of this information. This information forms the register decisions related to licences and managers' certificates and is a new requirement. A list of potential information was developed in conjunction with ARLA and was included in the public consultation document.

Submissions summary and analysis

37. Few submissions were received. Most were generally supportive of the information requirements. Based on submissions, three minor and technical revisions have been made to improve the standard of the information.

38. The consultation document also proposed that district licensing committees must provide ARLA with the relevant information within ten working days of their decision about a licence. Three submissions suggested a longer timeframe, but this is not supported. It is important to ensure that the register provides an accurate and up to date picture of licensing in New Zealand, as the public can request and pay for an extract from the register at any time.

Grocery Stores

Definition of Principal Business

39. The Act clarifies the law on the types of stores eligible for an off-licence, to ensure dairies and 'convenience stores' can no longer sell alcohol. Under the Act a grocery store is a premises that is eligible for an off-licence. A grocery store is a premises that meets the following three factors:

39.1. It has the characteristics commonly associated with a grocery store³ AND

39.2. it sells food products (as defined in the Act) and other household items AND

39.3. its 'principal business' is the sale of food products.

40. The term 'principal business' is required to be defined by regulation. The definition needs to ensure that DLCs have a clear formula for determining which premises are eligible for off-licences as a grocery store.

41. Three options were considered in developing the definition of principal business.

41.1. Option one requires food products must exceed a specified figure as a percentage of the premises' gross annual sales revenue (excluding GST)

³ Based on case law determined through licensing authority and Court decisions

- 41.2. Option two requires food products to be, proportionally, the largest single category of a premises' gross sales revenue (excluding GST). The categories are:
- food products (already defined in the Act)
 - household items
 - alcohol
 - tobacco
 - convenience foods - being confectionary, 'ready-to-eat prepared food', 'snack food', or a drink (other than milk) sold in a container with a capacity of 1 litre or less.
- 41.3. Option three used criteria such as the size of premises or the range of products on sale as determinants to develop the definition of 'principal business'.
42. Option 3 was dismissed prior to the the public consultation process. The types of criteria considered in this option are too broad and imprecise to be useful for an assessment of 'principal business'. Previous legislation, which was later withdrawn, proposed that grocery stores should be 150m². At the time, there was considerable objection raised to using size as a criterion.
43. Options one and two are illustrated in greater detail in appendix B.

Submissions summary and analysis

44. Option two for measuring principal business was supported by a clear majority of submitters (29 of 33), including the major food retail organisations and the organisation representing over 4000 small businesses in the dairy / grocery retail sector.
45. The four submitters who supported option one put up a variety of figures for the percentage that food products had to exceed. Discussions with industry indicate that higher percentages would potentially exclude a significant number of premises from selling alcohol, including many premises that can easily be considered genuine grocery stores when measured against the other factors.
46. A number of submissions questioned the inclusion of turnover from LOTTO and similar sales. It has been agreed that the revenue from New Zealand lotteries promoted by the New Zealand Lotteries Commission (e.g. LOTTO and Instant Kiwi) be excluded from the revenue figure. These sales are made on an agency basis and are transacted at a separate terminal hosted by the Lotteries Commission with the proceeds belonging to the Commission. Including these figures in the analysis would artificially skew the data used to assess premises.
47. A single submission was received suggesting that the categories in option two be expanded to include an 'others' category that would include items that did not exactly fit under the 'household items' category. Suggested inclusions in the 'others' category included gardening products and service items such as gift or phone cards. This was discounted as it also added a level of complexity and would be the source of disagreement as to what would be included in the category – leading to lack of consistency and likely impacts upon the appeal and court systems.

Outcome

48. Cabinet has agreed that option two, as consulted, will form the definition of 'principal business'. The only change will be the exclusion of revenue from New Zealand lotteries promoted by the New Zealand Lotteries Commission (e.g. LOTTO and Instant Kiwi).

Definition of 'Ready-to-eat' and 'snack foods'

49. To support defining principal business for grocery stores, it was proposed to define 'ready-to-eat' and 'snack' foods more clearly. Although defining these terms is optional, it would support DLC decision making by providing clarity and guidance lacking in current legislation. It closes a loophole in current legislation that has allowed some dairies and convenience stores to gain licences.
50. Common sense is required with respect to these definitions and so the regulatory definitions will not be all inclusive.

Submissions summary and analysis

51. Thirty-three submissions were received on the proposed definitions all supporting the basic outline.
52. Four submissions were received that suggested modifications, principally regarding products that needed to be excluded from the definitions to enhance clarity. These modifications were all agreed to, and the final definitions are included as appendix C.

Providing evidence for assessment of principal business

53. Prescribing the means of 'principal business' in regulation also requires prescribing in regulation a statement of the annual sales revenue (or predicted annual sales revenue) of the premises.
54. It was proposed that on application for a licence the applicant would be required to submit average sales revenue data for a period of up to three years (dependant on how long the business has been operating) or a projection of future revenue (for new premises).

Submissions summary and analysis

55. Two submissions were received that said the three year period was too long and older data would not likely be relevant. This was supported and the requirement will be to provide revenue figures for a single year of trading.
56. A single submission suggested that the data provided for the measurement of principal business be presented on a volume basis as well as a \$value basis. This was discounted as it was considered to add a level of unnecessary complexity and corresponding compliance cost.

Managers Qualifications

Licence Controller Qualification

57. Managers of premises selling alcohol need to understand and comply with alcohol-related laws. Minimum standards for these managers, reflected in the achievement of a qualification, are required to be prescribed in regulations. This prescribed qualification known as the Licence Controller Qualification (LCQ) is a prerequisite for applications for a manager's certificate.
58. The Act is a continuation of the current system and it was proposed to carry over this approach into the new regulations.

Submissions summary and analysis

59. This approach was supported by nine submitters during the public submission process. Two submitters opposed the LCQ due to concerns with the level of the standards themselves. After discussion with education sector agencies, the Ministry of Justice determined that the design of the LCQ is the responsibility of the education sector based on the requirements of the justice sector. The only changes required to the LCQ are to update it to reflect the new legislation.

Transitional provisions

60. When the Act comes into force existing manager's certificates remain valid until their expiry date. At the point of expiry, a DLC can issue a limited renewal certificate for one year. After that year, the district licensing committee may deem the limited renewal certificate to be a manager's certificate issued under the Act if its holder can prove that they understand their responsibilities under the Act.

61. It was proposed in the discussion document that the regulations should specify that this could be achieved by each manager who already holds an LCQ under the previous Act (Sale of Liquor Act 1989) sitting a short 'bridging' test about the new laws. This test would be developed by the relevant industry training organisation. It will provide national consistency and confidence that managers understand their obligations for compliance with the new alcohol laws.

Submissions summary and analysis

62. Only two (from 26) submissions opposed the use of a bridging test. They suggested that all managers should re-sit the LCQ. The costs of this would outweigh the benefits and involve significant compliance burden. Furthermore, the New Zealand Qualifications Authority does not allow people to re-sit standards already achieved.

Evidence of Age Documents

63. Regulations are needed to specify what documents constitute approved evidence of age documents for the purposes of the Act. It was proposed that no change be made to the current evidence of age documents. These are:

63.1. a New Zealand passport

63.2. an overseas passport

63.3. a driver's licence issued under the Land transport Act 1998

63.4. a document of the type described in regulations issued by Hospitality New Zealand, commonly known as the '18+ Card'.

Submissions summary and analysis

64. During the public consultation 15 submissions supported the status quo, 4 sought an expansion of the documents to include a firearms licence and one supported inclusions of overseas driver's licences.

65. Police have expressed concerns about any change to the current evidence of age documentation as they consider that there is a lack of familiarity with other forms of identification in both the retail and hospitality industry.

66. The current suite of approved evidence of age documents, without expansion, are considered fit for purpose due to their common use / familiarity and that the majority of people have the ability to obtain these documents with ease.

The '18+ Card'

67. Currently, applicants for an 18+ Card need to already be 18 years of age at the time when they apply. Hospitality NZ advised that they received numerous, time-consuming, calls and complaints from people who are waiting for a card to be issued (approximately a three to four week process).
68. The consultation document proposed a regulation that would allow young people to apply for an 18+ Card in the month leading up to their 18th birthday, so that they will have the Card shortly after their 18th birthday.

Submissions summary and analysis

69. Seven submissions supported this proposal, one was opposed. Hospitality New Zealand has assured the Ministry of Justice that no card will be issued until the person actually has turned 18 years of age.
70. We intend to proceed with this change. This approach will allow young people to be able to identify themselves as soon as possible as being of legal purchase age. It will not impose any additional compliance costs.

Infringement Fees

71. There are ten infringement offences under the legislation. The levels of fees associated with these infringements remain to be prescribed in the regulations. The Act requires that any infringement fee does not exceed \$1,000.
72. Three of the nine infringement offences under the new Act and the infringement offence under the Local Government Act have already had their fees agreed by Government. The level of the remainder of the proposed fees was based on the penalty in the Act (if the offender was proceeded against through the court) and who can commit the offence (i.e., their ability to pay, and their level of responsibility).

Submissions summary and analysis

73. Thirty-eight submissions were received on the proposed fees and there was general agreement with the proposals.
74. Seven submitters proposed that the fees relating to young people should be raised to between \$500 and the maximum \$1000. This has not been progressed as the proposals take into account young peoples' limited financial resources, potential non-payment, subsequent escalation, and potential additional costs for the young person and the criminal justice system. If an unpaid fee is lodged with the court it immediately incurs a \$30 filing fee and there is a potential \$102 enforcement fee. Subsequent debt recovery action is possible against an individual with unpaid fees, which may lead to a conviction. This is not the intention of infringement notices.
75. Fourteen submitters considered that the fees for more technical breaches of the Act were too high. It is agreed that the fees proposed in the discussion document for more technical offences were too high when compared with the level of fee for other offending and they have been reduced from \$500 to \$250.
76. Section 259 'failure to comply with certain requirements and restrictions imposed by or under this Act' covers a wide variety of offences, some of which could be considered technical and minor. Three submitters proposed that a breach of section 259 be differentiated by the 'level of offending'. However, it is considered that these offences directly support the object of the Act and reducing them below the level of \$250 would remove incentive to comply with the Act.

77. The fees already approved by Cabinet relate to serious offences (numbers 4, 5, 7 in the following table) and yet their agreed fees fall below all other fees. A higher penalty for these is desirable in order to act as a deterrent and to better reflect the culpability of offenders. This is particularly the case for the fees relating to managers and employees being intoxicated on duty. These people have a special duty of care and should be fully competent when complying with the Act.

Outcome

78. The following table outlines the fees proposed in the consultation document, and the fees agreed by Cabinet subsequent to consultation.

	Infringement Offence	Section of Act	Fee agreed by Cabinet in 2010⁴	Proposed Fee in Consultation Document	Final Fee agreed by Cabinet
1	Buying of alcohol by people under purchase age	243		\$250	\$250
2	Minors in restricted areas or supervised areas	244		\$250	\$250
3	Permitting minors to be in restricted or supervised areas	245		\$500	\$250
4	Manager intoxicated on duty	250	\$200		\$500
5	Employee intoxicated on duty	251	\$200		\$500
6	Sales of spirit in vessel exceeding 500 ml	254		\$250	\$250
7	Offences relating to evidence of age documents	257	\$200		\$250
8	A breach of section 214(3): name of manager on duty to be displayed	258(1)(b)		\$500	\$250
9	Failure to comply with certain requirements and restrictions imposed by or under this Act	259		\$500	\$250
10	Breach of an alcohol control bylaw	239A	\$250		\$250

Remote (internet and telephone) sales

79. Those who sell alcohol remotely (such as over the internet or by phone) currently are not required to verify the purchaser's age. Some websites do require a declaration of age prior to purchase, however many do not. All remote sellers are now required by the Act to take 'reasonable steps' to verify that the remote buyers (or recipient if a different person) are over the purchase age.

⁴ Set by previous Cabinet decisions in Cab Min (10) 28/8

80. The Act allows regulations to be made that provide examples of 'reasonable steps'. If remote sellers follow those examples, they will meet the 'reasonable steps' test. Remote sellers may, however, decide to introduce other procedures that they consider to be reasonable steps – these would then be subject to oversight by the regulatory agencies.
81. A number of options for what could constitute reasonable steps were outlined in the consultation document.

Submissions summary and analysis

82. Submissions received on these proposals were very mixed. Of the 35 submissions received:
- Ten considered that internet sales provided little opportunity for alcohol related harm due to the delays in delivery and the more specialised or expensive alcohol that tends to be purchased.
 - Eight considered that the double tick system was a reasonable approach and saw no need for further requirements.
 - Thirteen considered that proof of age could only be given at point of delivery.
 - Eight considered that provision of scanned evidence of age documents would be possible and sufficient.

Outcome

83. Cabinet has agreed to regulate, as an example of reasonable steps, that remote sellers could require purchasers to declare at least twice that they are over the purchase age either through tick boxes, or entering their birth date, (for internet and catalogue sales) or verbally (for telephone orders).
84. This approach has limitations, but evidence of alcohol related harm in this area is limited. The other options would add significant compliance costs and have technological, privacy and legal issues that would have to be resolved through a wider and more targeted consultation process.
85. The Minister of Justice has asked the Ministry of Justice to revisit this in two years when a more detailed assessment can be made of the harm caused by remote sales and how a technological solution like Real Me could be used to verify a purchaser's age.

Licensing and Community Trusts

86. Trusts are an alternative to the private sector dominating the sale of alcohol in an area. It was proposed to model the regulations needed for trusts on previous regulations, with necessary changes to align them with the Act. Stakeholders in this area are familiar with the current suite of regulations which are effective and provide the necessary certainty and balance between risk and compliance.

Submissions summary and analysis

87. This proposal was agreed by the five submitters on this topic.
88. A single issue was raised during the consultation. The privileges of licensing trusts can be challenged by way of a 'competition poll'. This is a referendum that the licensing trust is obliged to call if requested by at least 15 percent of the electors in the district. Through this legal mechanism, the community has the ability to decide whether it wants the licensing trust to continue to have monopoly trading rights.

89. Currently the names, addresses and occupations of all the petitioners are required to be given directly to the trust. The trust then sends the petition and notice to ARLA for appointment of a scrutineer to peruse the request and advise the trust. The submitter pointed out that there is a conflict of interest inherent in this approach - the trust which is being challenged is also the organisation which initially administers the poll.
90. Direct consultation was undertaken with the submitter and the New Zealand Licensing Trust Association and a solution was suggested by officials that both parties and ARLA have accepted.
91. In response to advice about competition polls, the regulations will state that a petition on a competition poll be submitted directly to ARLA for administration, but that at the same time:
- a notice of the petition be submitted to the affected trust as soon as practicable
 - a copy of the petition be provided to the affected trust as soon as the validity of the petition has been established.

Issue raised during consultation – Notification of licence applications

92. The Act requires that everyone applying for a new or renewed on-license, off-license, or club licence must publicly notify that application in a form defined by regulations. During submissions questions were raised as to the compliance burden (cost) on industries that pose a lower risk of alcohol harm.
93. Following submitter feedback, it has been decided that the regulations will specify that public notifications of any application for or renewal of, an alcohol licence are to be either in a newspaper or on a website page established by territorial authorities, or both.
94. These proposals reflect submitter feedback that stressed the desirability of a balance of transparency and compliance burden. Local communities will have the ability to choose notification methods that suit local conditions and improve their opportunity to have input into licence applications.
95. Following submitter feedback it has been decided that the number of public notifications be linked to the licensee risk framework (included as Appendix D). Low risk premises will make two notifications for a new licence, but only a single notification of any licence renewal application. All other premises will need to notify twice, between 5 and 10 days apart, for both new and renewal applications.
96. Reducing compliance burden for those licensed premises considered low risk is an underpinning principle of the licence fees regime and rewards compliance with the Act. If low and very low risk organisations are only be required to notify once, at point of renewal, compliance costs will reduce for organisations such as wineries (there are just over 400), clubs with under 1000 members (about 1500 local clubs), theatres, cinemas, BYO restaurants, and restaurants that operate only table service of alcohol.

Overview of consulted regulatory areas

Area of Regulation	Regulations proposed:
1. Local alcohol policies (LAPs)	<ul style="list-style-type: none"> • how territorial authorities must give public notice of a provisional LAP including where and how often the notification should occur, • the process for appealing a provisional LAP including timeframes and the information required • how territorial authorities must give public notice of the adoption of a LAP including where and how often the notification should occur, • where the adopted LAP should be published
2. Licensee obligations	<ul style="list-style-type: none"> • information that the licensee must record, by manager type
3. Licensing system	<ul style="list-style-type: none"> • records to be forwarded to and kept on a register by the licensing authority, and the timeframe within which those records need to be provided to the authority • forms for applying for or renewing a licence or a manager's certificate – we propose to consolidate the current forms and to include more of the information on the forms, relevant to the application, that has previously only been contained in the regulations
4. Defining grocery stores	<ul style="list-style-type: none"> • options are provided for feedback, based on the premises' actual or predicted sales revenue, on defining 'principal business', in order to give effect to the Act's definition that a grocery store has three determinants: <ul style="list-style-type: none"> (i) characteristics of a grocery store (ii) the range of food products and other household items (iii) the principal business being the sale of food products • the requirement that actual or predicted sales revenue data should be provided to a district licensing committee for its assessment of 'principal business' • definitions of 'ready-to-eat prepared food' and 'snack food', so that these items can be accurately categorised for the purposes of determining 'principal business'
5. Manager's qualifications	<ul style="list-style-type: none"> • the qualification necessary for applying for a managers' certificate • following the 'grace period', the bridging certificate requirements for managers who already hold a Licence Controller Qualification, and implications for managers of clubs
6. Evidence of age documents	<ul style="list-style-type: none"> • the forms and application processes for the evidence of age document prescribed in law (known as the 18+ Card) – these are not expected to change from those in place currently • the timing of applications for an 18+ Card
7. Infringement offences	<ul style="list-style-type: none"> • the level of fees associated with infringement offences for which Police and, in some cases, licensing inspectors can issue infringement notices
8. Remote sales	<ul style="list-style-type: none"> • the information to be displayed on remote sellers' websites and in their catalogues and, in the case of telephone orders, on the receipt, to align practices between the remote sale of alcohol and the sale of alcohol from a premise • examples of 'reasonable steps' to verify that the purchaser is over the purchase age, such as a two-step declaration of being over age • As well as the proposed regulations, your thoughts are also sought on whether, and how, 'proof of age' procedures could be included as examples of 'reasonable steps' for the purpose of verification of age
9. Licensing and community trusts	<ul style="list-style-type: none"> • how trusts should publicly notify financial statements • the provision of maps of the boundaries of 'exclusive right' trusts.

Grocery Stores –

Descriptions of option one and two for defining principal business

Option one

- Option one requires that food products (as defined in the Act) must exceed a specified percentage of the premises' gross annual sales revenue (excluding GST).
- The hypothetical examples below illustrate the implications of various percentage thresholds for option one. Stores one to three are considered typical of a dairy / convenience store. Stores four and five are typical of grocery stores.

Store	% of turnover by basic category (actual for existing stores and predicted for establishing)				Eligible?		
	Food products	Household items	Alcohol	Other	35% threshold	40% threshold	50% threshold
1	30	10	10	50	No	No	No
2	15	8	11	66	No	No	No
3	20	10	15	55	No	No	No
4	45	14	15	26	Yes	Yes	No
5	50	12	14	24	Yes	Yes	Yes

Option two

- Option two requires food products to be, proportionally, the largest single category of of a premise's gross sales revenue (excluding GST). While a grocery store has to sell food products and other household items, the categories below identify those groupings which are commonly sold by groceries which do not fit into the two main categories but contribute significantly to the overall revenue.
- The implications of option two are demonstrated below for the same hypothetical stores as option one.

Store	% of turnover by regulated category (actual for existing stores and predicted for establishing)					Eligible?
	Food products	Household Items	Alcohol	Tobacco	Convenience Foods	
1	30	10	10	10	40	No
2	15	8	11	15	51	No
3	20	10	15	10	45	No
4	45	14	15	5	21	Yes
5	50	12	14	5	19	Yes

Definitions of 'ready-to-eat' and 'snack' foods

Ready to eat prepared food

- prepared or cooked food ready to be eaten immediately in the form it is sold without further preparation (such as heating or assembly) AND
- including but not limited to:
 - sandwiches (using any type of bread, roll or wrap)
 - pizzas, pizza subs, pizza pockets or similar food
 - fish and chips, hot dogs, burgers and similar or related food
 - pies (meat, vegetable or fruit), pasties and sausage rolls
- for the purposes of clarity the following foods are not included under the definition of ready to eat prepared food:
 - unprocessed raw fruit and vegetables, presented whole or cut
 - home meal components such as rotisserie chicken, prepared salads, fresh pasta and pasta sauces
 - beverages, other than plain milk, sold in single serve multi-packs with an aggregate volume of 1 litre or more
 - dairy foods such as cheese, yoghurt, cream, and ready-made custard
 - packaged biscuits, except in snack food portions
 - full sized cakes
 - deli-items such as anti-pasta, cold sliced meats, smoked chicken, smoked fish
 - lunch-box items including multipacks of single serve snack food and multipacks of lunch-box beverages
 - dried fruit
 - bread, unfilled bread rolls and buns
 - condiments and spreads.

Snack food

- foods with the characteristics of a food normally considered to be a snack food (that is, small proportions and eaten between meals) AND
- prepared food sold in a form for immediate consumption AND
- including but not limited to:
 - potato chips, crisps, sticks or straws, corn crisps or chips, pretzels and other similar products
 - bacon or pork crackling or prawn chips / and other similar products
 - ice-cream, ice-cream cakes, ice-creams and ice-cream substitutes, sold as individual items in a volume of less than 1L
 - food that is, or consists principally of, biscuits, bars, cookies, crackers, pretzels, cones or wafers sold as individual items in quantities of less than 60gms
 - seeds or nuts that have been processed or treated by salting, spicing, smoking or roasting, or in any other similar way sold in quantities less than 60gms
 - popcorn
- for the purposes of clarity the following foods are not included under the definition of snack food:
 - unprocessed raw fruit and vegetables, presented whole or cut
 - multipacks of snack foods, typically sold to be lunch-box items.

Licensed Premises Risk Framework

Table 1: Risk weightings

Type of licensed premise	Weighting		Latest alcohol sales time	Weighting		Number of enforcements in the last 18 months	Weighting
Liquor store, Supermarket, Grocery off-licence	15	+	On-licences & clubs before 2:01am; Off-licences before 10:01pm	0	+	None	0
Night clubs, Taverns, Adult premises, "Class 1" restaurants	15		On-licences and clubs 2:01am-3:01am; Off-licences 10:01pm and later	3		1	10
Off-licence in a Tavern	10		On-licences & clubs – all other closing times	5		2 or more	20
Hotels, Function centres, "Class 1" clubs, "Class 2" restaurants, Universities, and Polytechnics	10						
Remote sales, "Class 2" clubs, "Class 3" restaurants, Other	5						
Theatres/ cinemas, Wine cellar doors, BYO restaurants, "Class 3" clubs	2						

Table 2: Risk categories by weightings

Total weighting	Cost/risk & fees category
0-2	Very low
3-5	Low
6-15	Medium
16-25	High
26 plus	Very high

Definitions

- Class 1 restaurants – restaurants with a significant separate bar area and which operate that bar at least one night a week in the nature of a tavern, such as serving alcohol without meals to tables situated in the bar area.
- Class 2 restaurants – restaurants that do not fit class 1 or class 3 definitions.
- Class 3 restaurants – restaurants that only serve alcohol to the table and do not have a separate bar area.
- Class 1 clubs – clubs which, in the opinion of the TA, are large clubs (with 1,000 or more members of drinking age) and operate in the nature of a tavern.
- Class 2 clubs – clubs which do not fit class 1 or class 3 definitions.
- Class 3 clubs - clubs which, in the opinion of the TA, are small clubs (with up to 250 members of drinking age) and which operate a bar for 50 hours or less per week.
- Enforcement – has the same meaning as a "Holding" under section 288 of the Act.