



Key Aspects of the Sale and Supply of Alcohol Act 2012

The following are selected clauses, in full, directly from the Sale and Supply of Alcohol Act 2012 or comment/summary (*in italics*) prepared by Alcohol Healthwatch. These clauses have been selected because they represent the main changes and areas of opportunity within the new legislation.

This document is intended as a quick guide to the key aspects of the new legislation. To view the entire Act please see: <http://www.legislation.govt.nz/act/public/2012/0120/latest/DLM3339333.html>

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Object of the Act

(1) The object of this Act is that—

- the sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and
- (b) the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.

(2) For the purposes of subsection (1), the harm caused by the excessive or inappropriate consumption of alcohol includes—

- any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and
- (b) any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a).

Who can hold a licence?

In order to sell alcohol you must have a licence. Clauses 26 – 42 specify those people who can and cannot hold a licence and what types of premises can be issued an on-licence, off-licence, clubs and specials licence – similar to SOLA 89

Supermarkets remain permitted to sell wine, beer and mead (only), but are expressly prohibited from selling spirits/spirit-based drinks.

Clause 36 expressly prohibits petrol stations, certain garages, dairies, convenience stores, conveyances, or shops within shops from being issued a liquor licence.

Some exemptions apply e.g. Clause 34 allows for an off-licence to be granted to a premise not otherwise permitted, if authorities are satisfied that it would not be economic for a permitted premise; and that the granting of licence would not significantly increase alcohol-related harm.

And Clause 35 allows for an off-licence to be granted to shops considered to have “complementary goods”- likely to mean to places that sell gift baskets but open to interpretation and potential abuse.

Default national maximum trading hours

(1) The default maximum national trading hours—

- are the hours between 8 am on any day and 4 am on the next day for the sale and supply of alcohol for consumption on premises for which an on-licence or a club licence is held;
- (b) are the hours between 7 am and 11 pm on any day for the sale of alcohol on premises for which an off-licence is held.

(2) Subsection (1) is subject to [sections 47](#) and [48](#) (which impose restrictions on the sale and supply of alcohol on Anzac Day morning, Good Friday, Easter Sunday, and Christmas Day).

These hours can be changed through a Local Alcohol Policy which allows for hours to be more or less restrictive.

Local Alcohol Policies

Territorial authorities may have local alcohol policies

(1) Any territorial authority may have a policy relating to the sale, supply, or consumption of alcohol within its district (or to 2 or all of those matters).

(2) A local alcohol policy—

- may provide differently for different parts of its district; and
- (b) may apply to only part (or 2 or more parts) of its district; and
- (c) may apply differently to premises for which licences of different kinds are held or have been applied for.

(3) A local alcohol policy must be produced, adopted, and brought into force, in accordance with this subpart.

(4) No territorial authority is required to have a local alcohol policy.

Territorial authorities may adopt joint local alcohol policy

Two or more territorial authorities may adopt a single local alcohol policy for their districts; and in that case this subpart applies as if they were a single territorial authority with a single district.

Contents of policies

(1) A local alcohol policy may include policies on any or all of the following matters relating to licensing (and no others):

- (a) location of licensed premises by reference to broad areas:
- (b) location of licensed premises by reference to proximity to premises of a particular kind or kinds:
- (c) location of licensed premises by reference to proximity to facilities of a particular kind or kinds:
- (d) whether further licences (or licences of a particular kind or kinds) should be issued for premises in the district concerned, or any stated part of the district:
- (e) maximum trading hours:
- (f) the issue of licences, or licences of a particular kind or kinds, subject to discretionary conditions:
- (g) one-way door restrictions.

(2) Paragraphs (a) to (d) of subsection (1) do not apply to special licences, or premises for which a special licence is held or has been applied for.

(3) A local alcohol policy must not include policies on any matter not relating to licensing.

Territorial authorities must produce draft policy

(1) A territorial authority that wishes to have a local alcohol policy must produce a draft policy.

(2) When producing a draft policy, a territorial authority must have regard to—

- (a) the objectives and policies of its district plan; and
- (b) the number of licences of each kind held for premises in its district, and the location and opening hours of each of the premises; and
- (c) any areas in which bylaws prohibiting alcohol in public places are in force; and
- (d) the demography of the district's residents; and

- (e) the demography of people who visit the district as tourists or holidaymakers; and
- (f) the overall health indicators of the district's residents; and
- (g) the nature and severity of the alcohol-related problems arising in the district.

(3) For the purposes of subsection (2), a district's residents include people who have holiday homes there.

(4) The authority must not produce a draft policy without having consulted the Police, inspectors, and Medical Officers of Health, each of whom must, if asked by the authority to do so, make reasonable efforts to give the authority any information they hold relating to any of the matters stated in subsection (2)(c) to (g).

Territorial authority must produce provisional policy by consulting on draft policy using special consultative procedure

(1) If, after producing a draft policy under [section 78](#), a territorial authority continues to wish to have a local alcohol policy, it must produce a provisional policy by using the special consultative procedure to consult on the draft policy.

(2) When producing a provisional policy, a territorial authority must have regard to the matters stated in [section 78\(2\)](#).

Territorial authority wishing to adopt provisional policy must give public notice

(1) If, after producing a provisional policy under [section 79](#), a territorial authority continues to wish to have a local alcohol policy, it must then give public notice of—

- the provisional policy; and
- (b) rights of appeal against it; and
- (c) the ground on which an appeal may be made.

(2) The public notice must be given in accordance with regulations made under this Act.

Right of appeal to licensing authority

(1) A person or agency that made submissions as part of the special consultative procedure on a draft local alcohol policy may, within 30 days of its public notification, appeal to the licensing authority against any element of the resulting provisional local alcohol policy.

(2) The Police or a Medical Officer of Health may, within 30 days of the public notification of a draft local alcohol policy, appeal to the licensing authority against any element of the resulting provisional local alcohol policy.

(3) Except as provided in subsection (2), a person or agency that did not make submissions as part of the special consultative procedure on a draft local alcohol policy cannot appeal against any element of the resulting provisional local alcohol policy.

(4) The only ground on which an element of the provisional policy can be appealed against is that it is unreasonable in the light of the object of this Act.

(5) The appeal must be made in accordance with regulations made under this Act.

(6) The territorial authority concerned is the respondent in an appeal under this section.

Note that if a person or agency (except the Police or Medical Officer of Health) did not make a submission during the special consultative procedure on the draft LAP, then they are unable to appeal against the provisional policy.

Appeals to be dealt with in public

The licensing authority must deal with every appeal under [section 81](#) by way of public hearing (but may consider, and come to its decisions, in private).

Consideration of appeals by licensing authority

(1) The licensing authority must dismiss an appeal against an element of a provisional local alcohol policy if it—

- is not satisfied that the element is unreasonable in the light of the object of this Act; or
- (b) is satisfied that the appellant did not make submissions as part of the special consultative procedure on the draft local alcohol policy concerned.

(2) The licensing authority must ask the territorial authority concerned to reconsider an element of a draft local alcohol policy appealed against if it is satisfied that—

- the appellant made submissions as part of the special consultative procedure on the draft local alcohol policy concerned; and
- (b) the element is unreasonable in the light of the object of this Act.

(3) The licensing authority must notify the appellant and territorial authority of its decision.

(4) The appellant has no right of appeal against the decision of the licensing authority.

(5) Subsection (4) does not limit or affect the [Judicature Amendment Act 1972](#).

Actions territorial authority may take if asked to reconsider element of provisional policy

(1) If the licensing authority asks a territorial authority to reconsider an element of a provisional local alcohol policy, the territorial authority must—

- resubmit the policy to the licensing authority with the element deleted; or
- (b) resubmit the policy to the licensing authority with the element replaced with a new or amended element; or
- (c) appeal to the High Court against the licensing authority's finding that the element is unreasonable in the light of the object of this Act; or
- (d) abandon the provisional policy.

(2) In an appeal to the High Court against the licensing authority's finding that an element of a provisional local alcohol policy is unreasonable in the light of the object of this Act, every person who appealed to the licensing authority against the element is a respondent.

Effect of High Court decisions on appeal by territorial authority

(1) If the High Court overturns the licensing authority's finding that an element of a provisional local alcohol policy is unreasonable in the light of the object of this Act, the element stands as part of the policy.

(2) If the High Court upholds the licensing authority's finding that an element of a provisional local alcohol policy is unreasonable in the light of the object of this Act, the territorial authority must—

- (a) resubmit the policy to the licensing authority with the element deleted; or
- (b) resubmit the policy to the licensing authority with the element replaced with a new or amended element; or
- (c) abandon the provisional policy.

Effect of resubmission of provisional policy to licensing authority

(1) The licensing authority must deal with the resubmission of a provisional local alcohol policy under [section 84\(1\)\(b\)](#) or [85\(2\)\(b\)](#) as if it were an appeal against every new or amended element that has replaced an earlier element appealed against; and [sections 81 to 85](#) apply accordingly.

(2) The licensing authority may deal with all or any part of the resubmission in private.

(3) Subsection (2) overrides subsection (1) and [section 82](#).

When local alcohol policy adopted

- (1) If no appeal against any element of a provisional local alcohol policy is made earlier, the policy is adopted 30 days after its public notification.
- (2) If appeals against elements of a provisional local alcohol policy have been made but they have all been dismissed by the licensing authority, the policy is adopted 30 days after the last of them is dismissed.
- (3) If a provisional local alcohol policy has been resubmitted to the licensing authority under [section 84\(1\)\(b\)](#) or [85\(2\)\(b\)](#) and the licensing authority decides that it is satisfied that every element it asked the territorial authority to reconsider (other than an element in respect of which the High Court has overturned the licensing authority's finding that it is unreasonable in the light of the object of this Act) has been either deleted or replaced by a new or amended element that is not unreasonable in the light of the object of this Act, the resubmitted policy is adopted when the licensing authority makes its decision.
- (4) If the High Court has overturned every finding of the licensing authority that an element of a provisional local alcohol policy is unreasonable in the light of the object of this Act, the policy is adopted when the High Court makes its decision.
- (5) A provisional local alcohol policy ceases to be provisional when it is adopted.
- (6) Even after it has been adopted, a local alcohol policy or amendment of a local alcohol policy has no effect until it is brought into force.

Territorial authority may discontinue development of local alcohol policy

- (1) A territorial authority may at any time before the adoption of a local alcohol policy discontinue its development.
- (2) Subsection (1) overrides [section 87\(1\) to \(4\)](#).

Disallowance of local alcohol policy

- (1) Once a provisional local alcohol policy has been adopted and ceased to be provisional,—
 - any elements of it relating to maximum trading hours or a one-way-door policy must be treated as regulations within the meaning of [section 2](#) of the Regulations (Disallowance) Act 1989; and [sections 5 to 10](#) of that Act apply accordingly; but
 - (b) the rest of it must be treated as not being regulations within the meaning of that Act.
- (2) The disallowance under the [Regulations \(Disallowance\) Act 1989](#) of an element of a local alcohol policy (or of a local alcohol policy that has been brought into force) does not affect the rest of the policy.
- (3) Subsections (1) and (2) apply to any element of an amendment of a local alcohol policy relating to maximum trading hours or a one-way-door policy (whether an amendment of an existing element relating to one of those matters or the insertion of a new or substituted element relating to one of those matters) as if the adoption of the amendment were the adoption of a new policy.

When local alcohol policy is in force

- (1) Once a provisional local alcohol policy has been adopted and ceased to be provisional, the territorial authority concerned—
 - must give public notice of its adoption; and
 - (b) may then bring it into force on a day stated by resolution.
- (2) If subsection (6) applies to a local alcohol policy (or an amendment of a local alcohol policy),—

- (a) the element or elements (or modification or modifications) by virtue of which that subsection applies must not be brought into effect under subsection (1)(b) on a day earlier than the day 3 months after the day on which public notice of its adoption was given; but
- (b) the rest of the policy or amendment may be brought into effect under subsection (1)(b) on any day stated by resolution.

(3) Subsection (2) overrides subsection (1).

(4) Regulations prescribing the manner in which public notice of the adoption of a local alcohol policy must be given may require publication of the whole of a local alcohol policy adopted (or, in the case of an amendment of a local alcohol policy, the whole of the policy as amended).

(5) Promptly after adopting a local alcohol policy or an amendment of a local alcohol policy to which subsection (6) applies, the territorial authority must take all reasonably practicable steps to give licensees affected by an element by virtue of which the subsection applies written notice of the adoption of the policy or amendment, and a brief written description of the effect of the element.

(6) This subsection—

- (a) applies to a local alcohol policy if—
 - (i) it contains an element having the effect of stating maximum trading hours for licensed premises, or licensed premises of any kind, that differ from those applying previously; or
 - (ii) it contains an element having the effect of stating a new one-way door restriction for licensed premises, or licensed premises of any kind; and
- (b) applies to an amendment of a local alcohol policy if—
 - (i) it modifies (in such a way as to change the maximum trading hours stated for licensed premises, or licensed premises of any kind) an element having the effect of stating maximum trading hours for licensed premises; or
 - (ii) it modifies (in such a way as to change the one-way door restriction stated for licensed premises, or licensed premises of any kind) an element having the effect of stating a one-way door restriction for licensed premises.

Licensing authority to be given copy of local alcohol policy

(1) Promptly after a local alcohol policy has been brought into force, the territorial authority concerned must give the licensing authority a copy.(2) Promptly after an amendment of a local alcohol policy has been brought into force, the territorial authority concerned must give the licensing authority a copy of the amendment, or of the policy as amended.

(3) Promptly after the revocation of a local alcohol policy takes effect, the territorial authority concerned must notify the licensing authority that it has been revoked.

Licensing authority to keep register of local alcohol policies

(1) The secretary of the licensing authority must keep a register of local alcohol policies in force (reflecting all amendments notified under [section 91\(2\)](#)).

(2) Any member of the public may, on payment of any prescribed fee, obtain an extract from the register from the secretary.

Relationship of local alcohol policies and district plans

(1) A local alcohol policy may contain a policy more restrictive than the relevant district plan.

(2) A local alcohol policy does not authorise any thing forbidden by the relevant district plan.

Local alcohol policies to be consistent with general law

(1) A local alcohol policy must be consistent with this Act and the general law.

(2) Subsection (1) is subject to [section 93\(1\)](#).

95 Amendment of local alcohol policies

(1) A territorial authority may amend its local alcohol policy.

(2) This Act, with any necessary modifications, applies to the amendment of a local alcohol policy as if it were the adoption of a local alcohol policy.

Revocation of local alcohol policies

(1) A territorial authority may, by using the special consultative procedure,—

- (a) revoke its local alcohol policy, and adopt another in its place; or
- (b) revoke its local alcohol policy without adopting another in its place.

(2) This Act, with any necessary modifications, applies to the revocation of a local alcohol policy and adoption of another in its place as if it were the adoption of a local alcohol policy.

Local alcohol policies to be reviewed every 6 years

A territorial authority that has a local alcohol policy must review it, using the special consultative procedure,—

- (a) no later than 6 years after it came into force; and
- (b) no later than 6 years after the most recent review of it was completed.

Criteria for issue of licences

(1) In deciding whether to issue a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:

- (a) the object of this Act:
- (b) the suitability of the applicant:
- (c) any relevant local alcohol policy:
- (d) the days on which and the hours during which the applicant proposes to sell alcohol:
- (e) the design and layout of any proposed premises:
- (f) whether the applicant is engaged in, or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods:
- (g) whether the applicant is engaged in, or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services:
- (h) whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the licence:
- whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that—
 - (i) they would be unlikely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects of the issue of the licence; but
 - (ii) it is nevertheless desirable not to issue any further licences:

- (j) whether the applicant has appropriate systems, staff, and training to comply with the law;
- (k) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under [section 103](#).

(2) The authority or committee must not take into account any prejudicial effect that the issue of the licence may have on the business conducted pursuant to any other licence.

Considering effects of issue or renewal of licence on amenity and good order of locality

(1) In forming for the purposes of [section 105\(1\)\(h\)](#) an opinion on whether the amenity and good order of a locality would be likely to be reduced, by more than a minor extent, by the effects of the issue of a licence, the licensing authority or a licensing committee must have regard to—

- (a) the following matters (as they relate to the locality):
 - (i) current, and possible future, noise levels;
 - (ii) current, and possible future, levels of nuisance and vandalism;
 - (iii) the number of premises for which licences of the kind concerned are already held; and
- (b) the extent to which the following purposes are compatible:
 - (i) the purposes for which land near the premises concerned is used;
 - (ii) the purposes for which those premises will be used if the licence is issued.

(2) In forming for the purposes of [section 131\(1\)\(b\)](#) an opinion on whether the amenity and good order of a locality would be likely to be increased, by more than a minor extent, by the effects of a refusal to renew a licence, the licensing authority or a licensing committee must have regard to the following matters (as they relate to the locality):

- (a) current, and possible future, noise levels;
- (b) current, and possible future, levels of nuisance and vandalism.

Conditions of licence

One Way Door Restrictions

(1) A condition imposing one-way door restriction on a licence may be created simply by issuing or renewing the licence subject to a condition—

- (a) stating that the licence is subject to a one-way door restriction; and
- (b) stating the day or days on which and the periods when the restriction applies.

(2) To the extent (if any) that elements of a one-way door restriction imposed on a licence are more restrictive than the equivalent elements of an applicable one-way door restriction in a relevant local alcohol policy, the more restrictive elements prevail.

Compulsory conditions relating to display and promotion of alcohol in single area in supermarkets and grocery stores

(1) The purpose of this section and [sections 113](#) and [114](#) 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.

(2) The licensing authority or licensing committee concerned must ensure that, when it issues or renews an off-licence for premises that are a supermarket or grocery store, it imposes on the licence a condition describing one area within the premises as a permitted area for the display and promotion of alcohol.

(3) On the renewal of an off-licence for premises that are a supermarket or grocery store, any single-area condition imposed when the licence was issued (or was last renewed) expires.

(4) Subsection (3) is subject to [section 115\(4\)](#).

There is possibly an issue in the latest version of the Act regarding the ability to “describe” up to 3 ‘sub-areas’ where alcohol can be displayed.

Alcohol Regulatory and Licensing Authority (ARLA)

(1) This section continues in existence an authority to be called the Alcohol Regulatory and Licensing Authority.

(2) The licensing authority is the body established by [section 85\(1\)](#) of the former licensing Act (and immediately before the commencement of this section called the Liquor Licensing Authority).

Functions of licensing authority

The licensing authority's functions are—

- (a) to consider and determine the following matters when referred to it by licensing committees:
 - (i) applications for licences:
 - (ii) applications by licensees for the renewal or variation of licences:
 - (iii) applications for manager's certificates:
 - (iv) applications for the renewal of manager's certificates; and
- (b) to consider and determine appeals from decisions of licensing committees; and
- (c) to consider and determine appeals against elements of draft local alcohol policies; and
- (d) to consider and determine applications by inspectors and constables for the variation, suspension, or cancellation of licences and manager's certificates; and (e) any other functions conferred on it by or under this Act or any other enactment.

District Licensing Committees (DLCs)

Territorial authorities to appoint district licensing committees

Each territorial authority must appoint 1 or more licensing committees as, in its opinion, are required to deal with licensing matters for its district.

Functions of licensing committees

A licensing committee's functions are—

- (a) to consider and determine applications for licences and manager's certificates; and
- (b) to consider and determine applications for renewal of licences and manager's certificates; and
- (c) to consider and determine applications for temporary authority to carry on the sale and supply of alcohol in accordance with [section 136](#); and
- (d) to consider and determine applications for the variation, suspension, or cancellation of special licences; and
- (e) to consider and determine applications for the variation of licences (other than special licences) unless the application is brought under [section 280](#); and

- (f) with the leave of the chairperson for the licensing authority, to refer applications to the licensing authority; and
- (g) to conduct inquiries and to make reports as may be required of it by the licensing authority under [section 175](#); and
- (h) any other functions conferred on licensing committees by or under this Act or any other enactment.

Composition of licensing committees

- (1) Each licensing committee consists of 3 members appointed by the territorial authority for that territorial authority's district.
- (2) A territorial authority must appoint 1 member as the chairperson and that person must be a member of that territorial authority or a commissioner appointed to the licensing committee.
- (3) A territorial authority may appoint a member of that territorial authority to be deputy chairperson, and act in place of the chairperson if the chairperson is unable to act because of illness or absence from New Zealand, or for other sufficient reason.
- (4) While acting in place of the chairperson, the deputy chairperson is a member of the committee and has all the powers and duties of the chairperson.
- (5) No act done by the deputy chairperson serving as acting chairperson in the chairperson's absence, and no acts done by the committee while the deputy chairperson is so serving, can in any proceedings be questioned on the ground that the occasion for his or her so serving had not arisen or had ceased.
- (6) The other 2 members of each licensing committee must be appointed from the territorial authority's list maintained under section 192.
- (7) For the purposes of subsection (2), a member of a territorial authority means an elected member of a territorial authority and, in relation to the Auckland Council, includes a member of the governing body (as defined in [section 4](#) of the Local Government (Auckland Council) Act 2009) or a member of a local board established under [section 10](#) of that Act.

Irresponsible promotion of alcohol

- (1) A person commits an offence if, in the course of carrying on a business, that person—
 - (a) does anything that encourages people, or is likely to encourage people, to consume alcohol to an excessive extent, whether on licensed premises or at any other place; or
 - (b) promotes or advertises discounts on alcohol in a way that leads people, or is likely to lead people, to believe that the price is 25% or more below the price at which the alcohol is ordinarily sold (otherwise than—
 - (i) on licensed premises; or
 - (ii) in the catalogue or similar price-list of the holder of an off-licence endorsed under [section 40](#)); or
 - (c) holds or has on licensed premises a promotion or advertisement of discounts on alcohol that—
 - (i) leads people, or is likely to lead people, to believe that the price is 25% or more below the price at which the alcohol is ordinarily sold; and
 - (ii) can be seen (or, in the case of an audible promotion or advertisement, heard) from outside the premises; or
 - (d) promotes or advertises alcohol that is free of charge (otherwise than—

- (i) by promoting or advertising the complimentary sampling of alcohol for consumption on premises for which an off-licence is held; or
 - (ii) by a promotion or advertisement within licensed premises that cannot be seen (or, in the case of an audible promotion or advertisement, heard) from outside the premises); or
 - (e) offers (otherwise than by means of an offer made only on licensed premises, and made only in relation to the buying of alcohol on those premises) any goods or services, or the opportunity to obtain any goods or services, or the opportunity to win a prize, on the condition that alcohol is bought; or
 - (f) promotes or advertises alcohol in a manner aimed at, or that has, or is likely to have, special appeal to, minors.
- (2) Subsection (1)(e) does not apply to a loyalty programme that provides rewards or discounts, unless the rewards or discounts apply only or primarily to alcohol.
- (3) A person who commits an offence against this section is liable on conviction,—
- (a) in the case of a licensee, to either or both of the following:
 - (i) a fine of not more than \$10,000;
 - (ii) the suspension of the licensee's licence for a period of not more than 7 days;
 - (b) in the case of any other person, to a fine of not more than \$10,000.
- Compare: 1989 No 63 [s 154A](#)

Supplying alcohol to minors

- (1) A person who supplies alcohol to a minor commits an offence.
- (2) A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$2,000.
- (3) It is a defence to a charge under subsection (1) if the person supplying the alcohol (the **supplier**)—
- (a) is a parent or guardian of the minor, and supplies the alcohol in a responsible manner; or
 - (b) believes on reasonable grounds that the minor is not a minor; or
 - (c) believes on reasonable grounds that subsection (7) applies to the minor, and supplies the alcohol in a responsible manner; or
 - (d) believes on reasonable grounds that he or she has the express consent of the parent or guardian of the minor, and supplies the alcohol in a responsible manner.
- (4) When considering for the purposes of subsection (3)(a), (c), or (d) whether alcohol was supplied to any person in a responsible manner, the court may, in relation to the occasion on which the alcohol was supplied, take into account the following:
- (a) the steps taken by the supplier to supervise the consumption of alcohol;
 - (b) whether food was provided with the alcohol;
 - (c) whether a choice of low-alcohol or non-alcoholic beverages, or both, was offered;
 - (d) the nature of the occasion;
 - (e) any arrangements for, or provision of, safe transport;
 - (f) the period over which the alcohol was supplied;
 - (g) the strength and volume of the alcohol supplied;

- (h) the age of the minor;
- (i) any other matter it thinks relevant in the particular circumstances.

(5) Subsection (1) applies irrespective of any liability that may attach to the licensee or any manager or other person in respect of the sale or supply of the alcohol.

(6) A person does not commit an offence against subsection (1) by supplying alcohol to a person who then supplies it to a third person who is a minor, unless it is proved that the person knew or had reasonable grounds to believe that the alcohol was intended for a minor.

(7) This subsection applies to the minor at any time if he or she is then no longer subject to guardianship by operation of [section 28](#) of the Care of Children Act 2004.

Compare: 1989 No 63 [s 160](#)

Risk-based fees

Content of fees regulations

(1) Regulations under [section 397\(1\)\(b\) or \(c\)](#)—

- (a) may do anything reasonably necessary to ensure that, so far as is practicable, the total costs of the licensing authority are recovered out of the fees paid to it under this Act;
- (b) may do anything reasonably necessary to ensure that, so far as is practicable, the following are recovered out of the fees paid to territorial authorities under this Act:
 - (i) the total costs to territorial authorities of the performance by their district licensing committees of their functions;
 - (ii) the total costs to territorial authorities of inspectors employed or contracted by them (or, where inspectors employed or contracted by them perform both the functions of an inspector and other functions, the appropriate proportion of the total costs of those inspectors);
 - (iii) the total costs to territorial authorities (in addition to those referred to in subparagraph (ii)) of their undertaking (directly or by agents or contractors) of enforcement activities under this Act;
- (c) may provide for different fees to be payable in respect of the performance of the same functions in relation to different premises, on the basis of factors such as—
 - (i) the kinds of premises involved (whether premises for which licences of different kinds are held, premises of different kinds or descriptions for which licences of the same kind are held, or both); and
 - (ii) the kinds of licence held for the premises involved; and
 - (iii) the capacity and likely patronage of the premises; and
 - (iv) the trading hours (or intended trading hours) of the premises; and
 - (v) any actual or proposed activities, arrangements, or systems that may reduce the risk of alcohol-related harm arising from the operation of the premises; and
 - (vi) the previous conduct or performance of the licensee or proposed licensee (or any person involved or likely to be involved in the operation of the premises with or on behalf of the licensee or proposed licensee), whether in relation to the premises concerned or in relation to other premises;
- (d) may prescribe maximum or minimum fees or both;
- (e) may provide for full or partial refunds of fees in the case of clerical error, or a change in the level of fees prescribed by regulation:
 - (f) may prescribe annual fees:

- (g) may prescribe a penalty fee (of not more than half the annual fee concerned) for the late payment of any annual fee:
- (h) may provide for the full or partial waiver of fees (or fees of particular kinds) in the case of particular financial hardship of the persons required to pay them:
- (i) may prescribe the manner in which fees are to be collected or paid (either generally, or in particular circumstances).

(2) Subparagraphs (i) to (vi) of paragraph (c) of subsection (1) do not limit or affect the generality of that paragraph.

(3) Subsection (1) does not limit or affect the generality of [section 397\(1\)\(b\) or \(c\)](#).