



## LIQUOR - RESPONSIBILITIES & LIQUOR LAWS - CHANGES TO THE LIQUOR CONTROL REFORM ACT 1998

The Liquor Control Reform Act 1998 ('Act') was changed on 2 June 2009. Parliament approved these changes in March this year. The changes to the Act enhance the way that government monitors and enforces licensees' obligations to ensure that alcohol is promoted and sold in a way that encourages responsible and appropriate drinking.

Key changes as a result of the amendments:

- A new civilian Compliance Directorate will be established with Compliance Inspectors, appointed by the Department of Justice, working to supplement police enforcement activity
- Stronger powers to suspend liquor licences for the Director of Liquor Licensing and police
- Stronger police powers to take action against licensees who allow drunk or disorderly people to be in licensed premises
- More power for the Director of Liquor Licensing to investigate any matter relevant to the Act, including licensees' conduct and practices, anywhere in Victoria
- Director of Liquor Licensing must be told if a licensee's associates change
- Details of associates of body corporate directors must be provided
- Licence lapses if a body corporate is wound up or deregistered
- Director of Liquor Licensing can instruct licensees to install security cameras both inside and outside premises and direct where they must be positioned

### **NEW COMPLIANCE DIRECTORATE WILL BE ESTABLISHED**

As a result of the changes to the Act that came in on 2 June, a new liquor compliance directorate has been established to supplement the work of Victoria Police. The Compliance Directorate will be staffed by Compliance Inspectors employed by the Department of Justice.

The Inspectors will have most – but not all – of the powers of Police under the liquor laws, which are similar powers to those that gaming inspectors have under the Gambling Regulation Act 2003.

They will be able to:

- enter and inspect licensed premises
- require licensees to produce documents, records, and equipment
- question people and obtain names and addresses
- require proof of age and seize liquor from a minor
- seize property as evidence
- issue infringement notices (NB they will not be able to issue notices for breaching a banning notice or exclusion order, or for failing to comply with police directions about a banning notice or exclusion order).

Unlike Police, Inspectors will not have the power to arrest anyone and will not be able to issue banning notices.

They will only be able to apply for a warrant to enter premises or initiate proceedings for breaches of the Act if they have the consent of the Director of Liquor Licensing.

All Compliance Inspectors will be subjected to extensive probity and criminal history checks and will be trained to ensure that they conduct themselves with the highest levels of integrity and professionalism. When they are working, inspectors will carry an identity card that licensees can request to see.

Victoria Police members will continue to have the same powers as they have had previously, as well as the new powers outlined here.

### **NEW POWER FOR DIRECTOR OF LIQUOR LICENSING TO SUSPEND A LICENCE FOR UP TO FIVE DAYS**

The Director of Liquor Licensing now has the power to suspend a liquor licence for up to five days if:

- licensees engage in conduct that would provide grounds for a VCAT inquiry under section 90 of the Act including contravening the Act, the Regulations or any conditions of their licence or permit; and
- there is a danger that someone could suffer substantial harm, loss or damage because of their conduct
- Before suspending a licence, the Director has to give licensees a minimum of 48 hours notice in writing including the details of why the licence is being suspended. Licensees can respond and the Director must consider their response
- Even if a licence is suspended in this way, the Director can still apply for a VCAT inquiry under section 90, or an order to suspend or cancel a licence under sections 94 or 97B of the Act



- There will be no compensation paid for loss or damage as a result of the Director suspending a licence. This is the same as when the Director suspends a licence for 7 days under section 97B of the Act
- This new power for the Director to suspend a licence is not reviewable by VCAT, although it is subject to Supreme Court judicial review

#### **POLICE POWER TO SUSPEND A LICENCE FOR 24 HOURS**

- The police can now suspend a licence for up to 24 hours regardless of whether or not they believe that the conduct that led to the suspension is likely to continue

#### **PERMITTING DRUNKEN OR DISORDERLY PERSONS TO BE ON LICENSED PREMISES**

Prior to 2 June it was an offence to allow drunken or disorderly persons to be on licensed premises but licensees could use as a defence proof that:

- they did not know that drunken or disorderly persons were on the premises or
- they had taken reasonable steps to ensure that drunken or disorderly persons were not on the premises.

The changes to the Act replaced the word 'or with the word 'and'.

This means that now, licensees will have to prove not only that they did not know that drunken or disorderly persons were on the premises but that they have also taken reasonable steps to ensure that drunk and disorderly persons were not on the premises.

#### **DIRECTOR'S BROAD-BASED POWER OF INQUIRY**

- The Director of Liquor Licensing can investigate any matter relevant to the Act including licensees' conduct and practices anywhere in Victoria

- As part of the inquiry, the Director must call for public submissions by publishing a notice in the Government Gazette and in a local newspaper in the relevant area and consider all the submissions that are received. The Director can also consult with, or invite submissions from, anyone he or she sees fit

#### **CHANGES TO ASSOCIATES OF ALL LICENSEES MUST BE PROVIDED**

- It is now necessary for all licensees to notify the Director of Liquor Licensing in writing of any new associates, or if any existing associates stop their association with the licensee

#### **BODY CORPORATE APPLICANTS MUST PROVIDE DETAILS OF DIRECTORS' ASSOCIATES**

- The Director now has increased ability to check on the background of a body corporate that applies for a liquor licence or BYO permit. It is now necessary for the body corporate to provide the names, addresses and dates of birth of any associates of its directors
- NB: This does not apply to councils, universities or TAFE institutes

#### **IF A BODY CORPORATE IS WOUND UP OR DEREGISTERED ITS LICENCE OR PERMIT LAPSES**

- If a body corporate is wound up or deregistered under the Corporations Act, its licence or BYO permit will lapse unless the Director of Liquor Licensing endorses it

#### **INSTALLATION OF SECURITY CAMERAS**

- The Director of Liquor Licensing will soon be able make it a condition of a licence that the licensee install security cameras positioned both inside or outside the premises. This may be anywhere that is under the licensees control in addition to

the actual licensed premises itself.

NB. This change has been made to the Act but has not yet come into effect. It is expected to do so in the near future.

#### **BY-LAWS PASSED BY LOCAL COUNCILS**

Local councils may still introduce local laws limiting the places or times at which opened containers of liquor may be carried or consumed in public places other than those licensed under the Liquor Control Reform Act 1998.

#### **BEING PREPARED FOR THE NEW CIVILIAN LIQUOR LICENSING INSPECTION DIRECTORATE 'COMPLIANCE INSPECTORS'**

The new **civilian 'Compliance Inspectors'** will have authority to enter licensed premises, conduct compliance audits and issue infringement notices for non-compliance.

**To ensure you have all of the relevant details at hand and are prepared for an inspection please note the following:**

- Always have a copy of your liquor licence conspicuously displayed
- All other compulsory signage as per your licence requirements must also be conspicuously displayed (eg No Proof No Purchase)
- Ensure all staff are adequately trained in responsible service of alcohol (RSA)
- In a separate but accessible folder also have available:**
  - All RSA certificates for staff
  - A copy of your 'red line' plan of your licensed area
  - Receipt for renewal of Liquor Licence
  - Local Liquor Licensing Accord
  - Intoxication guidelines
  - Any relevant council/shire planning permits



- Licensees first step certificate (if applicable)
- Crowd controllers documentation (if applicable)
- All relevant contact numbers, including police, council and management
- Patron code of conduct (if applicable)

**FURTHER INFORMATION CAN BE FOUND AT:**

[www.consumer.vic.gov.au](http://www.consumer.vic.gov.au)

[www.championshipmoves.com.au/home.php](http://www.championshipmoves.com.au/home.php)

[www.justice.vic.gov.au/yourmove](http://www.justice.vic.gov.au/yourmove)