Liquor Licensing Act 1997

Late Night Trading Code of Practice

Part 1 - Preliminary

1. Citation

This code of practice may be cited as the *Late Night Trading Code of Practice* under the *Liquor Licensing Act 1997*.

2. Commencement

This code of practice came into operation on 1 October 2013 and was amended on 1 February 2016 and was amended on 18 November 2019.

3. Purpose of the code

(1) The purpose of this code of practice is to promote the objects of the *Liquor Licensing Act 1997* and, in particular -

(a) to ensure that the sale and supply of liquor occurs in a manner that minimises the harm and potential for harm caused by the excessive or inappropriate consumption of liquor; and

(b) to ensure that the sale, supply and consumption of liquor is undertaken safely and responsibly, consistent with the principle of responsible service and consumption of liquor; and

(c) to ensure as far as practicable that the sale and supply of liquor is consistent with the expectations and aspirations of the public; and

(d) to impose additional requirements for licensed premises that are authorised to trade after 2 am for the purpose of reducing alcohol-related violence and antisocial behaviour in and around licensed premises.

(1a) For the purposes of clause 3(1)(a) harm caused by the excessive or inappropriate consumption of liquor includes—

(a) the risk of harm to children, vulnerable people and communities (whether to a community as a whole or a group within a community); and

(b) the adverse economic, social and cultural effects on communities (whether on a community as a whole or a group within a community); and

(c) the adverse effects on a person's health; and

(d) alcohol abuse or misuse; and

(e) domestic violence or anti social behaviour, including causing personal injury and property damage.

(2) The intention of this code of practice is to commit licensees to:

(a) make an assessment of the risk of their operational practices;

(b) not undertake operational practices involving unacceptable risk;

(c) consider and implement measures to manage high risk operational practices; and

(d) maintain standards of operational practice that, as a matter of course, address medium and low risk operations.

4. Interpretation

Unless the contrary intention appears, expressions defined in the *Liquor Licensing Act 1997* have the same meanings in this code of practice.

metal detector means a system or device that gives a signal when it comes into close proximity with metal.

polycarbonate glassware means thermoplastic glassware that is characterised by high-impact strength, flexibility and shatter resistance.

tempered glassware means safety glassware that has been processed to increase its strength compared with normal glass which when broken, crumbles into small granular chunks instead of splintering.

5. Mandatory nature of the code

(1) Under section 42 of the *Liquor Licensing Act 1997*, it is a condition of every licence that the licensee must comply with the Commissioner's codes of practice.

(2) This code of practice is in addition to, and does not derogate from, licence conditions imposed by the licensing authority.

(3) For the purposes of section 45 of the *Liquor Licensing Act 1997*-

(a) If the letter "A", "B", "C" or "D" appears in column B of the table in Schedule 1 next to the listing of a provision, contravention or failure to comply with the provision is declared to be an offence in the category corresponding to that letter;

(b) If the letter "A", "B", "C" or "D" appears in column C of the table in Schedule 1 next to the listing of a provision, the offence of contravention or failure to comply with the provision is declared to be an expiable offence in the category corresponding to that letter.

6. Application of this code of practice under section 11A(3) of the *Liquor Licensing Act 1997*

(1) This code of practice does not apply to a holder of the following (in respect of that licence):

(a) a liquor production and sales licence that does not authorise the sale or supply of liquor for consumption on licensed premises;

(b) a residential licence;

(c) a packaged liquor sales licence that only authorises the licensee to sell liquor through direct sales transactions;

(d) a short term licence unless this clause is applied in relation to a licence by a licence condition imposed by the licensing authority, taking into account the nature and extent of the operations conducted under the licence;

(e) an interstate direct sales licence.

(2) In addition to clause 6(1), the Commissioner may exempt the licensee from a specified provision of this code of practice.

(3) The Commissioner may vary or revoke an exemption from a specified provision of the code on the Commissioner's own initiative or on application of the licensee.

(4) In addition to clause 6(1), this code of practice does not apply in relation to the sale or supply of liquor to a resident for consumption on licensed premises.

Part 2 - Required training and practices

7. Drink marshal

(1) **Between 2.01 am and 7.00 am at all times while open for trade**, the licensee must ensure that at any given time, at least one person who is approved as a Responsible Person under the *Liquor Licensing Act 1997* is performing the duties of a drink marshal.

(2) The duties of a drink marshal are to monitor compliance with section 108 of the *Liquor Licensing Act 1997* and the Liquor Licensing General Code of Practice and, in particular, to monitor the behaviour and alcohol consumption of patrons to reduce the likelihood of incidents of intoxication and/or disorderly, offensive, abusive or violent behaviour on licensed premises.

(3) The drink marshal must patrol the whole of the licensed premises accessible to and occupied by patrons, and must alert bar and serving staff to any concerning behaviour that is taking place by patrons on the licensed premises.

(4) If the drink marshal suspects that a person is intoxicated or observes someone behaving in a disorderly, offensive, abusive or violent manner, the drink marshal may exercise the powers that they have under the *Liquor Licensing Act 1997* as a Responsible Person or they must immediately report this to the licensee or manager/supervisor on duty for appropriate action to be taken.

8. First aid

Between 2.01 am and 7.00 am at all times while open for trade, the licensee must ensure that at least one staff member is on duty who has been approved as a Responsible Person under the *Liquor Licensing Act 1997* and successfully completed nationally accredited first aid training.

9. Restrictions on the sale and supply of beverages promoting rapid or excessive consumption

Between 2.01 am and 7.00 am at all times while open for trade, the licensee must not advertise the sale, offer for sale, or permit the sale or supply of any alcoholic beverage that may encourage the rapid or excessive consumption of liquor including:

(a) beverages commonly known as ‘shooters’, ‘doubles’, ‘laybacks’, ‘test tubes’, ‘blasters’, ‘stingers’ ‘jelly shots’ or similar; or

(b) any other beverage that contains more than 45ml of spirits.

10. Footpaths and other outdoor areas

Between 2.01 am and 7.00 am at all times while open for trade, the licensee must not permit the service or supply of liquor for consumption on any part of the licensed premises comprised of a footpath or other outdoor area to which the general public has access (not including beer gardens, balconies, enclosed courtyards or similar that are only accessible from within the licensed premises).

Part 3

The following mandatory requirements 11-12 apply to licensees who are authorised to sell or supply liquor for consumption on licensed premises between the hours of 3.01 am and 7.00 am on any day (whether or not the licensees, in fact, trade after 3.01 am on that day).

11. Entry onto licensed premises and use of metal detectors

(1) **Between 12.01 am and 3.00 am at all times while open for trade** the licensee must ensure that suitably trained employees are operating a metal detector to screen all patrons upon entry onto the licensed premises, to detect persons who may be carrying weapons or other potentially dangerous objects.

(2) The metal detector must comply with the standard technical specification approved by the Liquor and Gambling Commissioner and must be kept in good working order at all times.

12. Restriction on the use of Glassware

Between 3.01 am and 7.00 am at all times while open for trade the licensee must:

(a) not allow any drink (whether it contains liquor or not) to be sold or supplied for consumption on the licensed premises in glassware unless it is tempered or polycarbonate glassware; and

(b) ensure that all empty non-tempered and/or non-polycarbonate glassware receptacles are removed from all areas of the licensed premises to which patrons have access.

Part 4

The following mandatory requirement 13 applies to licensees (other than the Skycity Adelaide Casino or the holder of a restaurant and catering licence in respect of that licence) who are authorised to sell or supply liquor for consumption on licensed premises at any time between the hours of 3.01 am and 7.00 am on any day.

13. Late night restricted entry

Between 3.01 am and 7.00 am at all times while open for trade the licensee must not permit a patron (other than a resident) to enter or re-enter the licensed premises.

Part 5

The following mandatory requirement 14 applies to licensees who are authorised to sell or supply liquor for consumption on licensed premises between the hours of 3.01 am and 7.00 am on any day (whether or not the licensees, in fact trade after 3.01 am on that day) and who trade from within the area of the City of Adelaide bounded on the north by the northern bank of the River Torrens, on the south by the northern alignment of South Terrace, on the east by the western alignment of East Terrace and its prolongation north to the northern bank of the River Torrens and on the west by the eastern alignment of West Terrace and its prolongation north to the northern bank of the River Torrens.

14. Digital closed circuit television (CCTV)

(1) **At all times while open for trade**, the licensee must have a digital CCTV system in place to take visual recordings at all entry and exit points, the footpath immediately adjacent to the premises and all other internal and external licensed areas of the premises (excluding toilets) to which patrons have access.

(2) The digital CCTV system must operate continuously while the premises is trading and must continue to operate for at least one hour after the premises ceases to trade.

(3) The digital CCTV system must record the correct date and time.

(4) The digital CCTV system must comply with the standard technical specifications approved by the Liquor and Gambling Commissioner.

(5) The licensee must ensure that while the digital CCTV system is in use, the level of lighting at all entry and exit points is adequate so as to allow clear visual recordings to be taken.

(6) The licensee must ensure that the visual recordings are securely stored so as to prevent unauthorised access, for a period of time not less than 28 days.

(7) The licensee must ensure that the visual recordings can be easily downloaded via disk and USB and must be compatible with contemporary operating systems.

(8) The licensee must ensure that the visual recordings and any information relating to the visual recordings is made available as soon as practicable upon the request of an authorised officer acting in the course of his or her official duties (noting that the authorised officer must identify the date, time and location of the premises to which the request relates as well as the reason for the request).

(9) The licensee must take all practicable steps to ensure that the CCTV system is in good working order at all times and, in the event of any cessation in the operation of the CCTV system, the licensee bears the onus of proving that such steps have been taken.

Schedule 1

Liquor Licensing Act 1997

Categories of Offences and Expiations

Column A Clause No.	Column B Offence category	Column C Expiation category
7(1)	A	A
7(2)	A	A
7(3)	A	A
8	B	B
9	A	A
10	A	A
11(1)	A	A
11(2)	B	B
12(a)	A	A
12(b)	A	A
13	A	A
14(1)	A	A
14(2)	A	A
14(3)	A	A
14(4)	A	A
14(5)	A	A
14(6)	A	A
14(7)	A	A
14(8)	A	A
14(9)	A	A