

Licensed premises' compliance checks

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Policy statement and principles

Licensed premises compliance checks are an enforcement strategy to manage and regulate licensed premises. They can be carried out at any licensed premises (e.g. bars, restaurants, night clubs, bottle stores, sports clubs etc.). The objective of a licensed premises compliance check is to ensure the premises are complying with the provision of the [Sale and Supply of Alcohol Act 2012](#) and the conditions of their licence.

What

A licensed premises compliance check includes meeting with the respective bar manager, observing patrons for intoxication, ensuring food and free water is available and checking for underage patrons.

The critical points for staff to note are:

- Why do Police conduct licensed premises compliance checks?
- Licensed premises compliance checks require a multi-agency approach.
- What powers do Police have when inspecting licensed premises?
- How to secure exhibits from licensed premises compliance checks etc.

Why

The social harms associated with alcohol consumption and the role alcohol plays in associative criminal behaviours are well documented, the role of alcohol as a key 'driver of demand is recognised in its inclusion in the New Zealand Police (NZP) Prevention First Strategy and sits within "Our Business" under "Our Goals- safe homes, safe roads and safe communities.

The compliance checks by Police are not merely to visit licensed premises, but encourage compliance of [SASA](#), to gather intelligence for the Alcohol Harm Prevention Officers (AHPO) and to accurately record offences.

How

Police have a power of entry into licensed premises under section 267 of the Act. This is divided into two sub-sections - (1) *power of entry to inspect the licensed premises to ascertain compliance with the provisions of the Act*, and (2) *is a power to enter at any time when Police have reasonable grounds to believe an offence against the Act is being committed*.

Prior to entry a plan should be put together including a risk assessment of the premises using [TENR](#). Staff safety is paramount in high-risk premises and planning should reflect this.

The 3H on-line form acts as an "aide memoire" and guides the officer through steps required to complete a professional compliance check. All relevant information is recorded on this form and is sent to the [AHPO](#) for their information and entering into [NIA](#) if required.

Multi-agency approach for licensed premises compliance checks

Under section 295 of the Act, [AHPO](#)'s have a duty to collaborate with licensing Inspectors and the Medical Officers of Health and it is this with these partner that joint compliance checks may be conducted. The Medical Officer of Health will delegate their authority to staff working in a public health unit.

There are other agencies in the local community who either have responsibilities for monitoring and enforcing compliance with the [SASA](#) or have an interest with providing information and guidance to Police. These other agencies offer a wealth of knowledge, experience and resources to help Police with licensed premises compliance checks.

Those agencies having enforcement responsibilities include:

- Māori Wardens (they have powers under the [Māori Community Development Act 1962](#) for carrying out specific enforcement duties involving Māori patrons on licensed premises).
- Territorial Authority (Local Council), (e.g. noise control, building standards, public parking).
- NZ Fire Service, (e.g. fire safety standards, evacuation, occupancy limits).

Preparing to inspect licensed premises

Before the inspection

Before inspecting licensed premises conduct a risk assessment of the premises:

- familiarise yourself with the nature of the licensed premises and its clientele - is this known for gang members
- assess the number of staff and extent of resources you have available
- consider the reason for your inspection.

Consider	Explanation
The type of licensed premises to be inspected.	For instance, a hotel or tavern will require a different approach from a licensed cafe.
The history of the premises.	Information can be obtained from: <ul style="list-style-type: none"> - <u>AHPO</u>, intelligence staff and other Police employees - local knowledge and queries in <u>NIA</u> - collaborating with other enforcement agencies.
The attitude of the management and staff, specifically: <ul style="list-style-type: none"> - Do they run an efficient establishment? - Will they co-operate with Police? 	What has happened on previous compliance checks will provide a good indication of what is likely to happen again.
The usual clientele of the premises.	Different clientele affects both the number of Police Officers required for the compliance check, and how they approach the situation.
The number of patrons present.	Overcrowding contributes directly and indirectly to alcohol-related aggression and violence at licensed premises. This may dictate the number of enforcement staff needed.
Where are the boundaries for: <ul style="list-style-type: none"> - supervised areas - restricted areas - non-designated areas. 	Knowing the areas of the licensed areas for restricted, supervised and non-designated areas will assist you with detecting <u>SASA</u> offences. Note: Section 5 of the <u>SASA</u> (interpretation) defines restricted and supervised areas. Areas within licensed premises not being designated as restricted or supervised are 'non-designated').
The time of the day or week of the compliance check.	Best results achieved with targeting the checks to the times of greatest risk.
Logging activity with Comms Use the on-line 3H app	Prior to entering the Premises ensure you log your unit off 3H with the communication centre. This is for staff safety. Open the on-line 3H application, this time stamps your entry into the premises. Work your way through the form, which acts as an aide memoir for a thorough compliance check. <ul style="list-style-type: none"> - South Island: https://forms.police.govt.nz/3h-south - North Island: https://forms.police.govt.nz/3h-north

Powers for inspecting licensed premises

Introduction

There is usually a high degree of co-operation on the part of management when Police constables and other regulators inspect licensed premises. If any resistance is encountered from management or patrons, then the [SASA](#) gives Police power to:

- enter and inspect (section [267](#))
- demand information or assistance from certain people
- temporarily close licensed premises for the sale of alcohol
- seize alcohol.

Power to enter and inspect

Police inspecting licensed premises do so using powers under the [SASA](#) to enter and inspect without search warrant.

Entry	<p>Police may enter and inspect at any reasonable time to ascertain if the licensee or manager is complying with the SASA or licence (section 267 refers).</p> <p>Note:</p> <ul style="list-style-type: none"> - 'At any reasonable time' is generally interpreted as during ordinary opening hours, though other times may also be regarded as reasonable, depending on the situation. - There is no requirement to have reasonable grounds to believe that any offence against the SASA is being committed on licensed premises under section 267(1). - Section 267(1) power to enter and inspect also applies to any permanent chartered club (section 414 refers).
Use of Force	<ul style="list-style-type: none"> - There is no power to use force under SASA. - Be prepared to state your power of entry and inspection (if asked) under section 267 to the licensee, manager or licensed premises' staff, and provide any information or assistance. - If there is continued resistance to enter premises, consider using "obstructing a constable" (section 23 Summary Offences Act 1981).
Refusal to comply with request of constable	<p>It is an offence under section 267(4) if any person, who without reasonable excuse,:</p> <ul style="list-style-type: none"> - refuses or fails to admit Police to any licensed premises, or - delays unreasonably Police entry. <p>It is an offence under section 267(5) if any licensee or manager of licensed premises, without reasonable excuse, refuses or fails to:</p> <ul style="list-style-type: none"> - produce the licence or any document, or - provide any assistance or information. <p>Police can require the licensee or manager to produce the licence for the licensed premises (section 267(3) refers) and, if required by Police, to produce any:</p> <ul style="list-style-type: none"> - book - notice - record - list - other document <p>that is required to be kept under SASA.</p>

Intoxication	<ul style="list-style-type: none"> - Ask the duty manager to remove the patron outside, to a quieter area. - Complete a Patron Report identifying the level of intoxication. - Have a second officer independently peer review the patron, and complete a separate patron report. - Intoxicated patrons should not be allowed back in licensed premises. - Ask the duty manager for their assessment of the patron, and record comments.
Minor	<ul style="list-style-type: none"> - If a minor is found on licensed premises complete a Patron Report and bring to the attention of the duty manager. - Issue an AION to minor (prec w602 restricted area, w603 supervised area). - The minor should be removed from the licensed premises. - The duty manager may issue the minor with a trespass notice. See the chapter on 'Minors'.
Doorman Security staff	<ul style="list-style-type: none"> - Check that security staff hold certificates of approval under the Private Security Personnel and Private Investigators Act 2010. - Security staff must wear their identification issued pursuant to the Private Security Personnel and Private Investigators Act 2010 whilst performing the duties of a crowd controller or crowd controller employee.
Food	<ul style="list-style-type: none"> - Three substantial food items are required to be promoted and available to patrons. - Water must also be freely available to patrons. - Inspect the kitchen and ensure: <ul style="list-style-type: none"> - food is readily available - cooking facilities operating. <p>Note:</p> <ul style="list-style-type: none"> - Food requirements are shown on the licence, therefore having no food available can be dealt with by way of an AION, but this should be issued by an AHPO as part of a GRM. - While ARLA has made comments on the type of food, it is important to remember that the food requirements on the licence together with statutory requirements remain the driver for enforcement purposes. - Previous ARLA decisions have indicated that at least 3 substantial types of food to be available and actively promoted (e.g. toasted sandwiches, potato wedges and pies would be acceptable).
Comms	<ul style="list-style-type: none"> - If a compliance issue is detected a licensed premises compliance check should be completed and submitted. The 3H is resulted K6. - If no issues are detected then result the 3H K1. - Any offence detected while completing the 3H, result code K6 to comms - Related correspondence to your file management centre (FMC) for entry into NIA, or AION to PIB

Alcohol infringement offence notice (AION)

An alcohol infringement offence notice (AION) can be issued to persons under the purchase age (under 18 years) for these offences in a licensed premises.

AIONs are found in OnDuty under infringement notices, Alcohol section

SASA prec offence code	Description	Section
W601	Purchases alcohol on or from licensed premises.	243
W602	Being found in a restricted area on licensed premises.	244
W603	Being found in a supervised area on licensed premises and not accompanied by your parent or guardian.	244

See the Police Manual chapter '[Minors](#)' for good practice guidance on completing an AION for minors.

Dealing with intoxicated persons on licensed premises

Go to the Police Manual chapter '[Host responsibility and dealing with intoxicated persons](#)' for good practice guidance on handling intoxicated persons on licensed premises.

Power to demand information

When you inspect licensed premises you may need to obtain the identity or proof of age of employees or patrons. Section [269\(1\)](#) provides you with the power to demand certain information as outlined in this table.

If...	then...
you have a reasonable cause to suspect that any person has committed, is committing or is attempting to commit any offence against the SASA (e.g. minor in a bar),	you may demand: <ul style="list-style-type: none"> - the name and address of that person - date of birth.
you have reasonable ground to suspect the particulars supplied verbally are false	you may require the person to supply satisfactory evidence of those particulars (s269(2) refers).
any person, without reasonable excuse, refuses or fails to supply any particulars or evidence when required to do so and after being cautioned persists in that refusal or failure	you may arrest that person without warrant (s269(3) refers). Note: If you arrest that person then caution them according to the PN13, Practice Note on Police Questioning (section 30(6) Evidence Act 2006) - the caution encompasses their rights under the NZ Bill of Rights Act 1990 .
that person having been required by you to supply any particulars or evidence, without reasonable excuse: <ul style="list-style-type: none"> - refuses or fails to supply the particulars or evidence; or - supplies any particulars or evidence knowing that the particulars or evidence are false 	that person commits an offence (s269(4) refers) and the power to arrest exists.

Power to temporarily close premises

Under section 266 there is a power to close licensed premises in the case of serious disorder, rioting or significant threat to public health safety. This power should only be considered after consultation with the District Command Centre.

Securing exhibits from licensed premises

Follow these steps to secure exhibits from licensed premises.

Step	Action
1	<p>If an offence has been committed that has 'alcohol' as an ingredient, then consider these presumptive factors before seizing alcohol as an exhibit:</p> <ul style="list-style-type: none"> - Does it smell like alcohol? - Is it in a trade-marked container, that states the alcohol percentage? - Does the offender admit that it is alcohol? - Obtain in your notebook or on the alcohol infringement offence notice (AION) a sentence acknowledging alcohol consumed and signature from the person (e.g. "I John Smith, born 30 June 1983, acknowledge selling a 330ml bottle of Tui beer containing 4% alcohol to the minor identified as Joe Brown"). Note: An acknowledgement and signature from the suspect avoids a laboratory analysis to satisfy the alcohol contained 1.15 % or more alcohol by volume.
2	<p>The power to seize alcohol samples without warrant from licensed premises during an inspection for the purposes of analysis is contained in section 268 of the SASA.</p>
3	<p>Treat suspected fake or fraudulently presented evidence of age documents as exhibits. For good practice see 'Fake or fraudulently presented evidence of age documents'.</p>

Video resources

On-Licence: A Closer Look

3H - Dry Run

3H Compliance Check - Real World Example
