



## AUSTRALIAN CAPITAL TERRITORY

### Role of Liquor Authorities

In the ACT, Access Canberra applies a risk-based compliance approach to ensure resources are targeted to where the risks of harm, unsafe practices or misconduct are the greatest, thereby strengthening its capacity to take action where the community, workers and the environment are most at risk.

The three strategic objectives central to the Act are:

- a) **Harm minimisation** – the liquor industry should operate and be regulated in a way that minimises harm caused by alcohol abuse.
- b) **Community safety** – community amenity, social harmony and wellbeing should be protected and enhanced through the responsible sale, supply, promotion and consumption of liquor.
- c) **Responsibility** – the Act encourages responsible attitudes and practices towards the sale, supply, promotion and consumption of liquor.

### The Commissioner for Fair Trading

The Commissioner for Fair Trading (the Commissioner) is responsible for issuing of licences and permits and for taking disciplinary action against licensees and must consider the Harm Minimisation and Community Safety Principles in all decisions.

The principles are outlined as follows:

- responsible attitudes and practices towards the sale, supply, promotion and consumption of liquor should be encouraged;
- community safety should not be jeopardised, particularly in relation to events involving large numbers of people;
- the liquor industry should be regulated in a way that minimises harm caused by alcohol abuse, including:
  - adverse effects on health;
  - personal injury;
  - property damage, and
  - violent or anti-social behavior
- the sale of liquor should be regulated in a way that contributes to the responsible development of the liquor, tourism and hospitality industries;
- community amenity, social harmony and wellbeing should be protected and enhanced through the responsible sale, supply, promotion and consumption of liquor;
- the safety, health and welfare of people using licensed premises and permitted premises should not be put at risk;
- noise from licensed premises and permitted premises should not be excessive;
- licensed premises and permitted premises should not be located where they would be likely to cause undue disturbance, inconvenience or offence to people:
  - lawfully at adjacent or nearby premises, and
  - because of the premises' proximity to a place of public worship, a hospital or a school
- licences and permits should only be issued to people who comply with ACT law, and are likely to continue to comply with ACT law, and
- licences and permits should only be issued for premises that comply with ACT law, and are likely to continue to comply with ACT law.

## About Access Canberra

Access Canberra provides a range of advice and education to individuals, licensees and liquor industry stakeholders through the course of its proactive and reactive compliance programs. The goal is to ensure that stakeholders understand their rights, obligations and responsibilities under the Act.

The Access Canberra online resources include numerous guides, brochures, fact sheets and links to assist industry to achieve compliance and provide compliant and safe services to the community. Including –

- newsletters,
- editorial/articles for industry publications including
  - factsheets,
  - social media such as Facebook and Twitter,
  - advertising campaigns,
  - web content at [www.accesscanberra.act.gov.au](http://www.accesscanberra.act.gov.au).

## Powers held by authorised persons

The Act refers to an “authorised person” which is defined as:

- an investigator
- a police officer

An investigator is a Fair Trading Investigator, appointed by the Commissioner for Fair Trading in accordance with Section 36 of the Fair Trading (Australian Consumer Law) Act 1992.

The Liquor Act 2010 is defined as ‘fair trading legislation’ in the dictionary of the Fair Trading (Australian Consumer Law) Act 1992.

## Investigators

These officers have powers under the Fair Trading (Consumer Affairs) Act 1973 to enter premises to ensure that the Act is being complied with.

## Police Officers

Police also have powers under the Act to enter premises to ensure that the Act is being complied with.

A person is guilty of an offence when they:

- Hinder or obstruct an authorised officer in the exercise of powers;
- Fail, without reasonable excuse, to comply with a requirement of an authorised officer;
- Fail, without reasonable excuse, to answer, to the best of the person’s knowledge, information and belief, a question put by an authorised officer; (NOTE: a person may decline to answer a question if the answer would tend to incriminate the person of an offence.)

Access Canberra and ACT Policing focus their proactive compliance activities based on risk. There a number of obligations imposed by the Act for which Access Canberra and ACT Policing will take immediate action to rectify the concern if non-compliance is identified.

- Exceeding a designated occupancy loading – maximum number of people allowed in each public place of the licensed premises (which has been determined based on a safety loading recommendation).

- Supplying liquor (by a licensee, permit-holder, their employees and/or members of the public) to an intoxicated person on licensed or permitted premises - the supply of liquor to intoxicated people contributes to anti-social behaviour, alcohol-related violence and can place young women and men at increased risk of assault, the costs of which are borne by the individuals and the whole of the community.
- A patron or anyone who is abusing, threatening, intimidating staff who are exercising the new RSA principles by refusing to sell an intoxicated patron liquor on licensed or permitted premises.
- The range of offences that relate to a child being in a licensed premise, being supplied liquor.
- Failure to ensure that designated emergency exits are unlocked and clear from obstacles when the premise is open to the public. This issue is likely to contravene an approved Risk- Assessment Management Plan (RAMP).
- Allowing the rapid or excessive consumption of alcohol.

Access Canberra will undertake an investigation in response to complaints received from industry, the general public, or referrals from external agencies.

### **ACT Civil and Administrative Tribunal (ACAT)**

The ACT Civil and Administrative Tribunal (ACAT) is able to review licensing decisions made by the Commissioner (or the Commissioner's delegate) and can make decisions in regard to what disciplinary action is taken against a licensee following an application for disciplinary action made by the Commissioner.

The ACAT can make a variety of decisions, including to suspend or cancel a licence, issue a direction or impose a monetary penalty. These actions usually happen following an inquiry by the ACAT where the applicant has the opportunity to be heard on the matter and can be represented by a legal practitioner.

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