



Report of the
**LIQUOR LICENSING
AUTHORITY**

for the 12 months ended
30 June 2009

*Presented to the House of Representatives pursuant to
Section 98(2) of the Sale of Liquor Act 1989*

MEMBERS OF THE AUTHORITY

Chairman:	Judge E W Unwin	Appointed May 2001
Members:	Ms J D Moorhead	Appointed May 2007
	Dr J Horn	Appointed May 2007
	Mr P M McHaffie	Appointed May 2007

Sir,

In accordance with the provisions of Section 98(1) of the Sale of Liquor Act 1989, I have the honour to forward the report of the Liquor Licensing Authority for the 12 months ended 30 June 2009.

Yours faithfully

A handwritten signature in black ink, consisting of a large, stylized loop followed by a short horizontal stroke and a small mark below it.

E W Unwin, District Court Judge, Chairman

The Hon. The Minister of Justice

REPORT

1. INTRODUCTION

- 1.1 Pursuant to Section 98(1) of the Act, the Authority is required to report to you annually on its proceedings and operations during the year. The report must be sent within three months after the end of the financial year. In other words by the end of September 2009. Such report must also include any relevant comment on the working of the Act, and the desirability or otherwise of amending it.

2. THE AUTHORITY'S PROCEEDINGS AND OPERATIONS DURING THE YEAR

- 2.1 I report that the Authority has completed another very busy year. The tables in the Annexure show that the number of applications we ruled on (excluding managers' certificates), rose by 27% to 991. Once again the major contributor to the workload was an increase in the number of enforcement applications requiring our attention. For the fifth year in a row the number of applications for suspension and cancellation rose, this time by 20% to 790 applications. The office now receives an average of 15 enforcement applications a week.
- 2.2 With the increased flexibility associated with having three part-time members we were able to sit for five further days. Indeed on more than one occasion two of the members have formed a quorum under the Act and sat as the Authority without Judicial chairmanship.
- 2.3 There continues to be a significant number of cases awaiting resolution. As at 30 June last there were 436 applications yet to be determined, slightly down on the figure of 447 cases that were waiting to be heard at the same time last year. Of this figure, 202 (46%) related to managers' certificates. We are reasonably confident that a significant number of these applications will be resolved without the need to have them dealt with at a public hearing.
- 2.4 There is no doubt that the workload involving contested applications is increasing on a national basis. It is not easy to establish the cause for this expanded level of activity. One of the reasons could be that applicants are seeking licences in anticipation that these will be more difficult to obtain in the future. In addition I believe that the increased focus by Police on the link between liquor and disorder, the growing co-operation between reporting agencies, and the strengthened national network of Licensing Inspectors have resulted in a greater number of compliance checks and consequential action.
- 2.5 The level of public debate and general interest in the workings of the Act, have made the year very interesting. We issued a number of decisions in which we sought to clarify our view of the way that the Act should be interpreted and applied. For example the industry awaits with interest the Court of Appeal's ruling in the Queenstown case, as to the extent that Territorial Authorities may influence the trading hours for licensed premises. We have set out our expectations about convenience stores being ineligible to hold an off-licence. We have issued a number of decisions significantly reducing the trading hours for off-licences. The 'store within a store' concept, as well as the ability to obtain 'ancillary' off-licences, have effectively been marginalised since the decision of "The Warehouse" to withdraw from the off-licence market place and the two major supermarket chains have reacted to criticism by undertaking not to market liquor as a 'loss-leader'.
- 2.6 In summary I believe that the year in question has been successful in terms of efficiency and output. I would like to take the opportunity to thank the Authority's staff. Their combined productivity has already been the subject of favourable comment from

the Law Commission. The members of staff comprise a small unit who manage to process the increased workload, and plan for the increased sitting days, without compromising their ability to keep in regular contact with the various agencies and other industry representatives who are affected by our jurisdiction.

3. THE WORKING OF THE ACT

- 3.1 Given the Law Commission's report titled "Alcohol in our Lives", and the call for public input and consultation by 30 October next, there seems little point in addressing the working of the Act, or the desirability of amending it, at any length. We were given the opportunity to meet with the Commission and make submissions, and we are about to accept the second invitation to comment on the paper. Suffice to say that there are no urgent concerns about the way the Act is currently being applied and administered. Despite the level of apparent disquiet we believe that the current Act is working reasonably well. In our view it could not be said that the system of control over the sale and supply of liquor to the public in this country, is an unreasonable one.

4. THE DESIRABILITY OR OTHERWISE OF AMENDING THE ACT

- 4.1 Given the above response, and in the light of the level of activity surrounding the sale and supply of liquor in this country (including the Sale and Supply of Liquor and Liquor Enforcement Bill), there is no advantage in repeating the suggestions that we have already made to the Law Commission. It seems sensible to allow the Commission to disseminate all the information that is received and then make its final report next year.

5. APPLICATIONS AND HEARINGS TO 30 JUNE 2009

- 5.1 The tables in the Annexure to this report record that during the year under review we determined 991 applications. As stated above, this was up 27% from the 780 applications we dealt with last year. We also determined 629 applications relating to managers' certificates. This was down 45% from the 1141 we dealt with last year. This is a direct result of the end of the frenetic period when managers were required to obtain the Licensing Controller Qualification before certificates could be granted or renewed. The national problem in dealing with the issue is now stable. We sat for 117 days at public hearings at 29 locations throughout New Zealand. A total of 88% (91% last year) of contested applications were disposed of within a six month timeframe.
- 5.2 There was a further increase in the number of enforcement proceedings determined over the reporting period. We disposed of 721 such applications as compared with 571 last year, an increase of 26%. This activity resulted in:

- 13 Licences being cancelled (13 last year)
- 257 Licences being suspended (194 last year)
- 2 Licence conditions being varied (2 last year)
- 25 Managers' certificates being cancelled (18 last year)
- 348 Managers' certificates being suspended (278 last year)
- 76 Applications being refused, adjourned or withdrawn (66 last year)

ANNEXURE

To the report of the Liquor Licensing Authority for the 12 months ended 30 June 2009.

NUMBER OF APPLICATIONS RECEIVED

		Last Year
On-licence	43	33
Off-licence	55	32
Club licence	3	7
Variation of conditions of a licence	4	2
Appeals against District Licensing Agency decisions	5	3
Enforcement applications	790	656
Section 132A Police Reports	1	Nil
Renewal applications (including variation of conditions on renewal)	130	110
Applications for authority to sell, supply or allow consumption of liquor in a greater area	2	1
	<u>1033</u>	<u>844</u>

NUMBER OF APPLICATIONS DETERMINED

		Last Year
On-licence	37	27
Off-licence	38	20
Club licence	2	3
Variation of conditions of licence	3	2
Appeals against District Licensing Agency decisions	3	1
Enforcement applications	721	571
Section 132A Police Reports	Nil	Nil
Renewal applications (including variation of conditions on renewal)	102	88
Applications withdrawn	84	68
Applications for authority to sell, supply or allow consumption of liquor in a greater area	1	Nil
	<u>991</u>	<u>780</u>

NUMBER OF WRITTEN DECISIONS ISSUED	<u>1566</u>	<u>1631</u>
---	--------------------	--------------------

NUMBER OF MANAGERS' CERTIFICATE APPLICATIONS RECEIVED

		Last Year
General Manager's Certificates	376	454
Club Manager's Certificates	7	14
Opposed applications for renewal of General or Club Manager's Certificates	203	714
	<u>586</u>	<u>1182</u>

NUMBER OF MANAGERS' CERTIFICATE APPLICATIONS DETERMINED

		Last Year
General Manager's Certificates issued	89	128
Club Manager's Certificates issued	2	5
Managers' certificates renewed	126	300
Applications adjourned	62	65
Applications refused	262	482
Applications that have been withdrawn	88	161
	<hr/>	<hr/>
	629	1141

PUBLIC HEARINGS

Area	Number of Days	Number of Applications
Ashburton	.5	8
Auckland	30	205
Blenheim	1	3
Christchurch	9.5	41
Dunedin	4	30
Gisborne	2	14
Hamilton	8	75
Hastings	1	10
Hokitika	2	12
Invercargill	2	20
Masterton	1	2
Napier	2	18
Nelson	1	1
New Plymouth	1	7
Palmerston North	6	18
Papakura	2.5	17
Paraparaumu	.5	2
Porirua	.5	1
Pukekohe	2.5	18
Queenstown	4	35
Rotorua	3	14
Taumarunui	1	10
Taupo	2	12
Tauranga	5	23
Thames	1	2
Timaru	3	26
Wanganui	2	15
Whangarei	4	33
Wellington	15	115
	<hr/>	<hr/>
	117	787
Last year	<u>112</u>	<u>1085</u>