



## Sale and Supply of Alcohol (Fees) Regulations 2013

Jerry Mateparae, Governor-General

### Order in Council

At Wellington this 18th day of November 2013

Present:

His Excellency the Governor-General in Council

Pursuant to sections 397 and 402 of the Sale and Supply of Alcohol Act 2012, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and in accordance with a recommendation of the Minister of Justice, makes the following regulations.

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## Regulations

- 1 Title**  
 These regulations are the Sale and Supply of Alcohol (Fees) Regulations 2013.
- 2 Commencement**  
 These regulations come into force on 18 December 2013.
- 3 Interpretation**  
 In these regulations, unless the context otherwise requires,—  
**Act** means the Sale and Supply of Alcohol Act 2012  
**application fee** means the fee for any of the following:
  - (a) an application for an on-licence, off-licence, or club licence:
  - (b) an application to vary an on-licence, off-licence, or club licence:

- (c) an application to renew an on-licence, off-licence, or club licence

**ARLA** means the Alcohol Regulatory and Licensing Authority continued by section 169(1) of the Act.

## **Part 1**

### **Fees**

#### *On-licences, off-licences, and club licences*

#### **4 Fees framework for on-licences, off-licences, and club licences**

- (1) The fees payable by a licensee or an applicant in respect of premises for which an on-licence, off-licence, or club licence is held or sought comprise—
- (a) an application fee; and
  - (b) an annual fee.
- (2) Premises for which an on-licence, off-licence, or club licence is held or sought must be classified by the territorial authority on the basis of the premises' cost/risk rating, as determined under regulation 5, and the fees category for the premises, as determined under regulation 6.

#### **5 Cost/risk rating of premises**

- (1) A territorial authority must assign a cost/risk rating to any premises for which an on-licence, off-licence, or club licence is held or sought.
- (2) The cost/risk rating of premises is the sum of the highest applicable weighting in each of subclauses (3) to (5).
- (3) The weightings relating to the type of licensed premises are as follows:

<b>Licence held or sought</b>	<b>Type of premises</b>	<b>Weighting</b>
On-licence	Class 1 restaurant, night club, tavern, adult premises	15
On-licence	Class 2 restaurant, hotel, function centre	10
On-licence	Class 3 restaurant, other premises not otherwise specified	5
On-licence	BYO restaurants, theatres, cinemas, winery cellar doors	2

<b>Licence held or sought</b>	<b>Type of premises</b>	<b>Weighting</b>
Off-licence	Supermarket, grocery store, bottle store	15
Off-licence	Hotel, tavern	10
Off-licence	Class 1, 2, or 3 club, remote sale premises, premises not otherwise specified	5
Off-licence	Winery cellar doors	2
Club licence	Class 1 club	10
Club licence	Class 2 club	5
Club licence	Class 3 club	2

- (4) The weightings relating to the latest alcohol sales time allowed for premises are as follows:

<b>Type of premises</b>	<b>Latest trading time allowed by licence (during 24-hour period from 6 am to 6 am)</b>	<b>Weighting</b>
Premises for which an on-licence or club licence is held or sought	2 am or earlier	0
	Between 2.01 am and 3 am	3
	Any time after 3 am	5
Premises for which an off-licence is held or sought (other than remote sales premises)	10 pm or earlier	0
	Any time after 10 pm	3
Remote sales premises	Not applicable	0

- (5) The weightings relating to the number of enforcement holdings in respect of the premises in the last 18 months are as follows:

<b>Number of enforcement holdings in last 18 months (applies to all types of premises)</b>	<b>Weighting</b>
None	0
1	10
2 or more	20

- (6) In subclauses (3) to (5),—  
**BYO restaurant** means a restaurant for which an on-licence is or will be endorsed under section 37 of the Act

**class 1 club** means a club that has or applies for a club licence and—

- (a) has at least 1 000 members of purchase age; and
- (b) in the opinion of the territorial authority, operates any part of the premises in the nature of a tavern at any time

**class 2 club** means a club that has or applies for a club licence and is not a class 1 or class 3 club

**class 3 club** means a club that has or applies for a club licence and—

- (a) has fewer than 250 members of purchase age; and
- (b) in the opinion of the territorial authority, operates a bar for no more than 40 hours each week

**class 1 restaurant** means a restaurant that has or applies for an on-licence and—

- (a) has, in the opinion of the territorial authority, a significant separate bar area; and
- (b) in the opinion of the territorial authority, operates that bar area, at least 1 night a week, in the manner of a tavern

**class 2 restaurant** means a restaurant that has or applies for an on-licence and—

- (a) has, in the opinion of the territorial authority, a separate bar; and
- (b) in the opinion of the territorial authority, does not operate that bar area in the manner of a tavern at any time

**class 3 restaurant** means a restaurant that has or applies for an on-licence and that, in the opinion of the territorial authority, only serves alcohol to the table and does not have a separate bar area

**enforcement holding** means a holding as defined in section 288 of the Act, or an offence under the Sale of Liquor Act 1989 for which a holding could have been made if the conduct had occurred after 18 December 2013

**remote sales premises** means premises for which an off-licence is or will be endorsed under section 40 of the Act.

**6 Fees categories for premises**

- (1) A territorial authority must assign a fees category to any premises for which an on-licence, off-licence, or club licence is held or sought.
- (2) The fees category must be assigned in accordance with the following table, except as provided in subclause (4):

<b>Cost/risk rating of premises</b>	<b>Fees category</b>
0–2	Very low
3–5	Low
6–15	Medium
16–25	High
26 plus	Very high

- (3) The date on which the fees category for premises must be determined is—
- (a) for the purpose of an application fee, the day on which the application is made; and
- (b) for the purpose of the annual fee, the day on which the annual fee is payable.
- (4) A territorial authority may, in its discretion and in response to particular circumstances, assign a fees category to premises that is 1 level lower than the fees category determined under subclause (1); but no premises may be assigned a category lower than very low.

**7 Fees payable for premises in each fees category**

- (1) The application fees and annual fees are (except as described in subclause (2)) as follows:

<b>Fees category for premises</b>	<b>Application fee (\$)</b>	<b>Annual fee (\$)</b>
Very low	320	140
Low	530	340
Medium	710	550
High	890	900
Very high	1,050	1,250

- (2) If a territorial authority makes bylaws in relation to the fees payable to it (as authorised by the Sale and Supply of Alcohol (Fee-setting Bylaws) Order 2013) in respect of on-licences, off-licences, and club licences,—

- (a) the fees must be set in the context of the fees framework described in regulations 4, 5, and 6; and
  - (b) by virtue of section 405(2)(a)(i) of the Act, those fees then apply in place of the fees set out in subclause (1).
- (3) The annual fee for a licence is payable to the licensing committee to which, under the Act, any application fee for the licence is paid.

## 8 Fees payable by territorial authorities to ARLA

The following amounts, taken from each application fee and each annual fee payable to a territorial authority, must be paid by the territorial authority to ARLA:

Fee category for premises	Application fee (\$)	Annual fee (\$)
Very low	15	15
Low	30	30
Medium	45	45
High	75	75
Very high	150	150

### *Special licences*

## 9 Special licence classes

- (1) Every special licence issued by a territorial authority must be of one of the following classes:

Special licence class	Issued in respect of
Class 1	1 large event: more than 3 medium events: more than 12 small events
Class 2	3 to 12 small events: 1 to 3 medium events
Class 3	1 or 2 small events

- (2) In subclause (1),—

**large event** means an event that the territorial authority believes on reasonable grounds will have patronage of more than 400 people

**medium event** means an event that the territorial authority believes on reasonable grounds will have patronage of between 100 and 400 people

**small event** means an event that the territorial authority believes on reasonable grounds will have patronage of fewer than 100 people.

## **10 Fees payable for special licences**

- (1) The fee payable to a territorial authority for a special licence is as follows:

<b>Special licence class</b>	<b>Fee (\$)</b>
Class 1	500
Class 2	180
Class 3	55

- (2) A territorial authority may, in its discretion and in response to particular circumstances, charge a fee for a special licence that is 1 class below the class of the licence that is issued; but no fee may be less than the fee payable for a class 3 special licence.

### *Manager's certificates*

## **11 Manager's certificates**

- (1) The fee payable under section 219(1)(d) of the Act to accompany an application for a new manager's certificate, or for a renewal of a manager's certificate, is \$275.
- (2) If a territorial authority makes bylaws in relation to the fees payable to it (as authorised by the Sale and Supply of Alcohol (Fee-setting Bylaws) Order 2013) in respect of a manager's certificate,—
- the fees must be the same as the fee charged by every other territorial authority; and
  - by virtue of section 405(2)(a)(i) of the Act, those fees then apply in place of the fee set out in subclause (1).
- (3) The territorial authority must pay \$25 to ARLA out of each fee for a new manager's certificate, and for each renewal of a manager's certificate, that is paid to the territorial authority.



*Other fees***12 Other fees payable to territorial authorities***Temporary authority*

- (1) The fee payable under section 136(2) of the Act for a temporary authority to carry on the sale and supply of alcohol is \$258.

*Temporary licence*

- (2) A person applying under section 74 of the Act to sell alcohol pursuant to a licence from premises other than the premises to which the licence relates must pay an application fee to the territorial authority of \$258.

*Permanent club charters*

- (3) The holder of a permanent club charter (as described in section 414 of the Act) must pay an annual fee of \$550 to the territorial authority in which the club's premises are located.

*Extract from register*

- (4) The fee payable to a licensing committee under section 66(2) of the Act for an extract from a register is \$50.

**13 Other fees payable to ARLA***Appeals*

- (1) The fee for an appeal to ARLA under section 154 of the Act (against a decision of a licensing committee) is \$450.
- (2) The fee for an appeal to ARLA under section 81 of the Act (against a local alcohol policy) is \$450.

*Extract from register*

- (3) The fee payable under section 65(2) of the Act for an extract from a register is \$50.

**Part 2****Administration****14 Time when application fees are payable**

- (1) Every application fee must be paid when the application to which it relates is made.
- (2) If, when an application is determined, it is found that a higher application fee should have been paid, the licence must not be issued or renewed, or the variation must not be granted (as the

case may be), until the applicant pays the difference between the amount paid and the amount that should have been paid.

- (3) Subclause (2) does not apply if the application was made under the Sale of Liquor Act 1989 before 18 December 2013.

#### **15 Time when annual fees are payable for new licences**

If a new on-licence, off-licence, or club licence is applied for and issued after the commencement of these regulations,—

- (a) the annual fee for the licence must be paid before the licence is issued; and
- (b) subsequently, the annual fee for the licence must be paid on the anniversary of the date on which the licence was issued.

#### **16 Time when annual fees payable in relation to existing licences**

- (1) This regulation applies to on-licences, off-licences, and club licences issued under the Sale of Liquor Act 1989 (an **existing licence**).
- (2) The date on which an annual fee for an existing licence is payable is the anniversary of the most recent of the following:
- (a) the date on which the licence was issued;
- (b) the date on which the licence was renewed;
- (c) the date on which a variation of the licence was granted.
- (3) The first annual fee for an existing licence is waived if, between 18 December 2012 and 17 December 2013, the licensee applied and paid the relevant fee for a new licence, a licence renewal, or a licence variation.
- (4) A licensee is not obliged to pay the annual fee payable for an existing licence if—
- (a) the territorial authority to which it is payable has resolved that it will not collect the annual fees payable between 18 December 2013 and a date specified by the territorial authority (which must be on or before 1 July 2014); and
- (b) the annual fee is payable before that date.

- 17 Time for paying annual fee for permanent club charters**  
The annual fee for a permanent club charter is payable on 1 July in each year.
- 18 Fees are exclusive of GST**  
The fees prescribed in these regulations are exclusive of goods and services tax.
- 19 Reporting by territorial authorities**
- (1) Every territorial authority must, each year, prepare and make publicly available a report showing its income from fees payable in relation to, and its costs incurred in,—
    - (a) the performance of the functions of its licensing committee under the Act; and
    - (b) the performance of the functions of its inspectors under the Act; and
    - (c) undertaking enforcement activities under the Act.
  - (2) The first report required by this regulation must relate to the year commencing 1 July 2014.

Rebecca Kitteridge,  
Clerk of the Executive Council.

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### **Explanatory note**

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 18 December 2013, set out fees payable to territorial authorities and the Alcohol Regulatory and Licensing Authority (**ARLA**) to ensure that, so far as is practicable, their costs relating to licensing and other matters under the Sale and Supply of Alcohol Act 2012 (the **Act**) are recovered.

Application fees and annual fees are payable to territorial authorities for on-licences, off-licences, and club licences. The amount of each fee depends on the fees category of the relevant premises. The fees category for any premises is determined by reference to its cost/risk

rating, which is arrived at on the basis of 3 factors: type of premises (eg, class of restaurant, class of club, hotel, or grocery store), latest alcohol sales time, and number of recent enforcement actions. There are 5 fees categories for premises: very low, low, medium, high, and very high.

Application fees range from \$320 to \$1,050. Annual fees range from \$140 to \$1,250. Under the authority of the Sale and Supply of Alcohol (Fee-setting Bylaws) Order 2013, territorial authorities may, by bylaw, set different annual and application fees than those prescribed by these regulations for licences for premises in the various fees categories.

For special licences, the regulations prescribe a range of licence fees that reflect the number and size of the event(s) to be held at the relevant premises.

The regulations prescribe a fee of \$275 for manager's certificates. If territorial authorities make bylaws setting the fee for a manager's certificate, these regulations require that the fee must be the same across all territorial authorities. This is because a manager's certificate is valid in all territorial authorities and so the cost must be the same wherever the manager's certificate is issued.

The regulations also prescribe a range of other miscellaneous fees payable. They include the annual fee payable for permanent club charters and the fees for lodging appeals with ARLA.

Territorial authorities must pay to ARLA a specified portion of each application and annual fee paid to it for an on-licence, off-licence, or club licence, and a specified portion of each manager's certificate fee paid to it.

Territorial authorities are required to report annually on their income from fees, and expenditure, relating to their functions under the Act.

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Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 21 November 2013.

These regulations are administered by the Ministry of Justice.

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