

Date: October 20, 2016

To: All LCLB Staff
All licensees
All industry associations
All local government, First Nations and police agencies

Re: **General policy changes for all licensees and additional policy changes for UBrews/UVins and Licensee Retail Stores**

Please note: These policy changes will come into effect on January 23, 2017

1. Licence transfers: The new owner of the business is now liable for the establishment

Current Policy

The former owner of the business is liable for any contraventions of the Act, Regulation or terms and conditions of the licence at the establishment until the Liquor Control and Licensing Branch (the branch) decides whether to approve or deny the licence transfer.

New Policy

The new owner of the business is legally considered to be the licensee when a complete transfer application is received and the branch sends a notification to confirm. The new owner is liable for any contraventions of the Act, Regulation or terms and conditions at the establishment until the branch decides whether to approve or deny the licence transfer.

Explanation

It is more fair to hold the person operating the establishment, rather than the former owner, accountable for contraventions that occur while the branch is assessing whether to approve or deny the transfer.

2. Removal of resident manager requirement and assigning a licensee representative

Current Policy

Licensees residing outside of B.C. or who are not on-site daily to manage the establishment are required to apply to the branch to assign a resident manager who is primarily responsible for the day-to-day operations. Agent licensees who reside outside of B.C. are exempt from the requirement to hire a resident manager.

New Policy

There is no longer a legislative requirement to assign a resident manager as the residency requirements of a licensee have been removed from the Act. Licensees may hire a manager to oversee the day-to-day operations of the establishment, but branch approval is not required.

Licensees may authorize a representative to take specified actions on the licensee's behalf and to legally bind the licensee in respect of those matters. Examples include communicating with the branch, signing a licence change application and acting as the contact for the application, and attending enforcement hearings. Licensees can submit a notification form at no cost to specify the responsibilities assigned to the licensee representative. The representative holds those responsibilities until the licensee advises the branch to remove them as the representative.

Explanation

Removing residency requirements and the need for a resident manager reduces red tape and aligns with international trade agreements. The option for licensees to designate an authorized representative provides increased flexibility and convenience for licensees when interacting with the branch.

3. Streamline a requirement that changes in corporate share ownership must be reported to the branch**Current Policy**

For private companies, all share transfers must be reported. The branch requires criminal record checks for anyone with 10% or more shares in a licensee corporation (directly or via subsidiaries). The branch also uses the list of shareholders to review tied house relationships.

New Policy

Licensees will be required to report all external transfer of shares respecting the licensee to the branch. A licensee must also report an internal transfer of shares respecting the licensee, except for:

- The removal of shareholders or
- The redemption or dissolution of shares

However, please note that licensees must still report an internal transfer of shares respecting the licensee, regardless of the above two exemptions, if:

- The licence has been identified as having an association with another licence (a tied house), OR
- The removal of the shareholder or redemption or dissolution of shares results in any of the remaining shareholders transitioning from owning less than 10% of voting shares to owning 10% or more of voting shares in the licensee corporation.

Explanation

This change reduces red tape while ensuring that the branch is able to ensure licensees are fit and proper and monitor tied house associations.

4. Serving it Right**Current Policy**

All licensees must obtain Serving it Right (SIR) certification in order for an establishment to become licensed.

New Policy

SIR certification is no longer an eligibility criteria for licensing, but it is an operating requirement. All licensees, managers and staff must obtain SIR certification prior to working in a licensed establishment.

5. Serving It Right – record-keeping requirements

Current policy

Licensees must ensure employees take Serving It Right and keep photocopies of their Serving It Right certificates ready for inspection by a liquor inspector or police officer at all times.

New policy

Licensees must ensure they and their employees take Serving It Right and keep records of the Serving It Right certificate number for each person, as well as the expiry date on the certificate, if applicable. This information must be ready for inspection by a liquor inspector or police officer at all times.

Explanation

Ensuring servers have valid SIR certification is an important way to prevent overservice and service to minors.

6. Permit local governments/First Nations to delegate licensing decisions to staff

Current Policy

Local government/First Nation comments and recommendations on licence applications must be submitted in the form of a formal council resolution.

New Policy

Local governments/First Nations can create a bylaw that gives staff the authority to provide comment and make recommendations on licence applications.

Explanation

This provides flexibility for local governments to streamline their process for providing comments on applications.

7. Age of a shareholder will only be considered if they own more than 10% shares

Current Policy

A minor (anyone under 19) cannot be a shareholder in a licence. Shares for minors must be held by a trustee.

New Policy

A minor (anyone under 19) can now be a shareholder in a licence, as long as they own less than 10% of shares in a licensee corporation.

Explanation

Reduces red tape. Minors with less than 10% of shares do not have sufficient control over the operation of the establishment to require that a trust be established.

8. Broaden who can advertise liquor

Current Policy

Only government and private liquor stores regulated by the Liquor Distribution Branch, licensed manufacturers and licensed establishments can promote liquor under restricted advertising terms.

New Policy

Government and private liquor stores regulated by the Liquor Distribution Branch, licensed manufacturers, licensed establishments and public special events can promote liquor under restricted advertising terms. In addition, you don't need to be a licensee to advertise where liquor is sold and the type of liquor available, however the advertisement can't mention liquor manufacturers, brands or prices. Private special events continue to be prohibited from advertising liquor or its availability.

9. Update conditions for dormant licences

Current Policy

There is no restriction on how long a licence can be dormant (licensed but not operational). Liquor primaries coming out of dormancy are not required to fulfill additional community impact consultation.

New Policy

Licences will be cancelled after two years of inactivity unless there has been a fire or other catastrophe beyond the licensee's control and the required renovations take longer than two years. In the case of extensive renovations that take longer than two years, the branch requires evidence that renovation work is progressing before approving an extension to dormancy. Licensees are required to notify the branch when they transition in and out of dormancy. If an establishment has multiple service areas, the licence is only considered dormant if all areas are not operating. All licences that are currently dormant have until January 22, 2019 to restart operations, unless they qualify for an extension to dormancy status.

Explanation

Dormant licences can adversely affect communities and other licensees. For example, a Licensee Retail Store (LRS) licence that is inactive for many years can maintain its location, which prevents another LRS from locating within 1 km. Also, dormant liquor primary licences may start operating again after many years of inactivity and adversely affect the community, which may have changed significantly over time.

10. Sponsorship

Current Policy

Manufacturers must notify the branch if they are sponsoring an event at a licensed establishment, and must specifically post social responsibility materials at sponsored events.

New Policy

Manufacturers no longer have to notify the branch if they are sponsoring an event at a licensed establishment. There is no longer a requirement to post social responsibility material specifically for sponsored events. (Manufacturers, like all licensees, must post social responsibility material in their establishments.)

11. Right to refuse certain reapplications

Current Policy

The branch may refuse to accept a reapplication for liquor primary establishments if it had previously been denied in the past two years.

New Policy

The branch may refuse to accept a reapplication from the same establishment for a licence, an endorsement or an amendment previously denied unless:

- it has been more than two years since the previous application was denied based on a recommendation from a local government/First Nation, or
- there have been changes to the Act, the Regulation or in the new application that warrant a reapplication

Explanation

This provides consistency for all applications, and allows the branch to focus on processing applications that are likely to be successful.

12. New and updated definitions for service area, establishment, event site

New definition in the Act:

- The definition of “**service area**” is an establishment or event site or that part of an establishment or event site where a licence, permit or authorization allows liquor to be sold, served or consumed

Updated definitions in the Act:

- The definition of “**establishment**” has been updated to mean a place, premises or vehicle (not including a motor vehicle) that is the subject of a licence
- The definition of “**event site**” has been updated to mean the place, premises or vehicle referred to in an authorization or permit

13. Provide flexibility to extend the hours of liquor service in exceptional circumstances

Current Policy

Licensed establishments are permitted to serve liquor between 9 a.m. and 4 a.m. Liquor stores are permitted to operate between 9 a.m. and 11 p.m. Extended liquor hours are not permitted. For example, a licensed establishment can open outside the permitted liquor hours to host a special event, such as a Olympic hockey game starting at 7 a.m., but liquor must not be served until 9 a.m.

New Policy

In exceptional circumstances, licensees can apply in writing to request branch approval to serve liquor at their establishment outside the permitted hours. The licensee should submit a detailed rationale for the exceptional circumstance. The branch has the authority to temporarily or permanently extend liquor hours in exceptional circumstances, as long as it is not contrary to the public interest or safety.

14. Dispensing Liquor and Liquor Infusions

Current Policy

Licensees must pour and mix drinks in full view of patrons. Licensees may not infuse liquor or age cocktails at their establishment.

New Policy

Licensees are no longer required to pour and mix drinks in full view of patrons. Licensees can now infuse liquor and age cocktails at the establishment, provided it is done in a container other than the original container the liquor was in when legally purchased. All conditions outlined in the terms and conditions of a licence must be met when infusing liquor or ageing cocktails.

15. Reporting Requirements

Current Policy

Licensees are required to report specified changes to the licence and/or licensee to the branch before the change is made or after the change is made, as part of the terms and conditions of their licence.

New Policy

Licensees are now required to report specified changes to the licence and/or changes to the licensee to the branch - in some cases before the change happens – and in other cases, within 10 days of the change. A table of the changes that must be reported to the branch, and the reporting requirements, is contained in the new terms and conditions of your licence. Please see the terms and conditions for more details.

Explanation

Providing a timeframe to report changes provides clarity for licensees about their obligations, and ensures that the branch has timely access to the information it needs to effectively supervise licensees.

16. Change to process for applications requiring a criminal record check

Current Policy

For applications requiring a criminal record check, applicants must complete Consent for Disclosure of Criminal Record Information and Personal History Summary and Consent to Criminal Record Search forms. These forms give the branch the authority to work with the Ministry of Justice to complete criminal record checks on behalf of applicants.

New Policy

For applications requiring a criminal record check, applicants must now first apply for their criminal record check at their local police or RCMP detachment and then provide the completed criminal record check to the branch, along with their application. In addition, all applicants must complete a streamlined Personal History Summary form. For applicants residing outside of Canada, the Personal History Summary form contains instructions about how to obtain a declaration signed by a lawyer, Notary Public or Commissioner for Taking Affidavits in lieu of a criminal record check.

Explanation

This policy change will speed up the application process for many applicants. The current process results in delays because a large number of application forms are not correctly completed by applicants, and must be returned by the branch. In addition, applicants with past charges or convictions will now be able to provide details immediately upon application, which will eliminate the need for branch staff to follow up.

Additional policy changes for UBrews/UVins and Licensee Retail Stores:**1. UBrew and UVin record-keeping and reporting requirements****Current Policy**

UBrews and UVins must keep all records for three years. UBrews and UVins must report the volume of liquor produced at their facility semi-annually.

New Policy

UBrews must keep all records for six years. UBrews must report the volume of liquor produced at their facility annually.

Explanation

This policy aligns with the recording-keeping requirements of the Canada Revenue Agency and other licence types.

2. Hours for UBrews/UVins**Current Policy**

UBrews and UVins may only operate between 9 a.m. and 11 p.m.

New Policy

The regulations no longer restrict hours of operation for UBrews and UVins.

Explanation

These businesses do not sell liquor. Hours of operation are typically set by local business licensing bylaws.

3. Remove restrictions on keg sizes for Licensee Retail Stores**Current Policy**

Licensee Retail Stores may only sell kegs of beer or cider that are less than 30 litres.

New Policy

There is no longer a restriction on the size of kegs of beer or cider that can be sold by Licensee Retail Stores.

4. Home-brewed beer and wine**Current Policy**

Home-brewed beer and wine must be manufactured at a private residence.

New Policy

Home-brewed beer and wine can be manufactured at a location other than a private residence, as long as it is not manufactured in a public place. For example, manufacturing may take place at a private business, a private warehouse etc.

Further Information

Further information regarding liquor control and licensing in British Columbia is available on the Liquor Control and Licensing Branch website at <http://www.gov.bc.ca/liquorregulationandlicensing>. If you have any questions regarding these changes, please contact the Liquor Control and Licensing Branch toll free in Canada at 1-866-209-2111 or 250 952-5787 if calling from the Victoria area.

Original signed by

Douglas Scott
Assistant Deputy Minister and General Manager