

# SOUTH WAIRARAPA DISTRICT COUNCIL

23 APRIL 2014

## AGENDA ITEM C7

### SALE AND SUPPLY OF ALCOHOL ACT AND REGULATIONS – FEES AND DELEGATION OF POWERS

#### **Purpose of Report**

Council to delegate specific powers relating to fees to officers.

#### **Recommendations**

Officers recommend that the Council:

1. *Receive the information.*
2. *Delegates to the Group Manager Planning and Environment and the Team Leader Environmental Health the following powers pursuant to clause 32 of schedule 7 of the Local Government Act 2002:*
  - *the power under regulation 5(1) of the Sale and Supply of Alcohol (Fees) Regulations 2013 to assign a cost/risk rating to any premises for which an on-licence, off-licence, or club licence is held or sought*
  - *the power under regulation 5(6) of the Sale and Supply of Alcohol (Fees) Regulations 2013 to form an opinion whether or not a club operates any part of the premises in the nature of a tavern at any time, if a club operates a bar for no more than 40 hours each week, if a restaurant has a significant bar area and operates that bar area at least one night a week in the manner of a tavern or does not operate that bar area in the manner of a tavern at any time, or if a restaurant only serves alcohol to the table and does not have a separate bar area.*
  - *the power under regulation 6(1) of the Sale and Supply of Alcohol (Fees) Regulations 2013 to assign a fees category to any premises for which an on-licence, off-licence, or club licence is held or sought.*
  - *the power under regulation 6(4) of the Sale and Supply of Alcohol (Fees) Regulations 2013 to exercise discretion to assign a fees category to premises that is 1 level lower than the fees category determined under regulation 6(1) of those regulations.*
  - *the power under regulation 10(2) of the Sale and Supply of Alcohol (Fees) Regulations 2013 to exercise discretion to charge a fee for a special licence that is 1 class below the class of the licence that is issued.*

## **1. Executive Summary**

The Sale and Supply of Alcohol Act 2012 and regulations made under it specify the powers, functions and duties that Council, the Chief Executive and officers have been given. Due to the administrative nature of many of these, it may be appropriate for Council to delegate them.

New fees were set through the Sale and Supply of Alcohol (Fees) Regulations 2013. These regulations provide for Council to assign fee categories to licensed premises in accord with a defined fee framework and for Council to use its discretion to assign lower fee category levels (may reduce fee classification by 1 step) in response to individual circumstances. These functions are administrative in character.

This report seeks delegation to the Group Manager Planning and Environment and Team Leader, Environmental Health of the powers and discretions relating to assigning fees categories to premises and special licences.

## **2. Background**

The Sale and Supply of Alcohol Act 2012 was enacted on 18 December 2012 and provided for a staged 12 month transition period from the old Sale of Liquor Act 1989. Regulations were passed on 21 November 2013.

The new Act and Regulations come fully into force on 18 December 2013. The Act and regulations transfer a range of powers and discretions to a territorial authority, that are largely administrative in nature and designed to enable the smooth operation of the new regime. It is considered these may be appropriately delegated to officers.

## **3. Discussion**

### ***3.1.1. Setting Fees***

The Sale and Supply of Alcohol (Fees) Regulations 2013 introduce a fees regime based on full cost recovery of the licensing system across the liquor industry, allocation of costs more fairly across the sector so that those operations creating higher costs pay a greater share of the fees, and providing Councils with flexibility to respond to local conditions.

A default fee structure is set in the regulations providing for both an application fee for the grant or renewal of a licence and for an annual fee due on the anniversary of the licence. In most cases the fees will increase significantly from those currently paid. Under section 287 of the Act a licence is automatically suspended if the annual fee is not paid within 30 days of the due date.

The regulations set default fees based on a "cost/risk rating" of each premise and take into account the type of premises, hours of operation and any enforcement actions in the previous 18 months. A weighting for each

of these will produce the rating for the premises and determine a fee category that must be assigned to the premises. The application and annual fees payable for each fee category are prescribed in the regulations.

The regulations contain a number of powers and functions and discretions to assign lower fee categories to premises than the default under the framework.

It is considered that these powers and discretions are matters that do not require the consideration of the full Council and can be appropriately delegated to officers, because of their administrative nature.

The powers proposed to be delegated relate to identifying the type of premises, their hours of operation and whether or not they have been subject to any enforcement actions which will result in assigning a cost/risk rating and fee category in accordance with the methodology prescribed in the regulations. The fees payable for the premises are prescribed in the regulations for that fee category.

It is also proposed to delegate the discretion to assign a fee category that is one level lower than that determined under the system in response to particular circumstances where it is apparent that the default category assigned is inconsistent with the risk associated with the nature of the business.

#### **4. Conclusion**

In order to avoid delay and provide immediate and accurate information to persons on licencing costs, it is proposed that Council delegate to appropriate officers, the necessary powers to set fees and determine reductions (by 1 category type) of fees charged under the Sale and Supply of Alcohol Act regulations. The procedures required to be used to make these decisions are administrative in nature.

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