

Changes to alcohol licensing hearings

Information for objectors about changes to the Sale and Supply of Alcohol Act 2012

5 June 2024

Changes to the Sale and Supply of Alcohol Act 2012

This document provides information about changes to alcohol licensing hearings for objectors to licensing applications.

Last year, Parliament made changes to the Sale and Supply of Alcohol Act 2012 (the Act). The changes aim to make it easier for you and your community to have a say in alcohol licensing decisions by making alcohol licensing hearings more accessible, and less formal and adversarial.

You can object to applications as normal

You can continue to object to licence applications in the same way as before. Your local council's website has more information about the objection process.

Changes in force from 30 May 2024

From 30 May 2024, there are changes to how alcohol licensing hearings are run by your local District Licensing Committee (DLC).

These changes mean that hearings will:

- avoid unnecessary formality
- not permit cross-examination, or parties to question other parties and their witnesses
- allow for tikanga Māori to be incorporated into proceedings, and
- allow evidence to be given in te reo Māori.¹

You can now ask to attend a hearing remotely. This change also applies to hearings run by the appeal and oversight body, the Alcohol Regulatory and Licensing Authority (ARLA).

¹ These changes *do not* apply to hearings conducted by Alcohol Regulatory and Licensing Authority.

DLCs must avoid unnecessary formality

From 30 May 2024, DLCs must ensure their hearing procedures avoid *unnecessary* formality.

Formal procedures can be intimidating for some participants and discourage people from engaging with the local licensing process, including objectors.

This change does not mean that DLC hearings will have no formality. DLC chairs and members will still run their hearings in a way that allows them to consider an application and any objections fully and carefully, including by allowing you and others the opportunity to give evidence.

DLCs cannot permit cross-examination, or parties to question other parties or their witnesses

Questioning is an important tool for DLCs to gather evidence and better consider licensing applications.

Chairs and members of DLCs will be able to ask you questions about your objection.

However, from 30 May 2024 DLC procedures must not allow cross-examination. Other parties will not be able to question you or your witnesses. This applies equally to all parties, meaning you, or your representative, will not be able question other parties or their witnesses.

Instead, it will be the job of DLCs to ask questions in an inquisitorial manner. There is nothing preventing you or your representative from questioning your own witnesses.

DLCs must allow for tikanga Māori to be incorporated into proceedings

DLCs will need to ensure tikanga Māori can be incorporated into the way hearings are run.

Appropriate tikanga is determined by mana whenua. This means what is 'tika', or correct, may differ depending on the tikanga recognised and practised by your local iwi or hapū.

There are many ways DLC might incorporate tikanga into proceedings. Some aspects of tikanga you could engage with and support include:

- ***incorporating pōwhiri or less formal whakatau and mihimihi processes to welcome, and close proceedings***, which might include the use of karakia (prayer or ritual chants), waiata (songs), or whakawhanaungatanga (process of establishing relationships, or getting to know one another) in proceedings, and
- ***ensuring that proceedings are mana-enhancing***, such as respecting and supporting everyone to take part.

DLCs must allow evidence to be given in te reo Māori

The Māori Language | te reo Māori (te reo) is an official language of New Zealand.

From 30 May 2024, DLCs must allow evidence to be given in te reo. This change reflects the status of te reo affirmed under the Māori Language Act 2016 | Te Ture mō Te Reo Māori 2016, particularly the right to speak te reo in legal proceedings.

If you wish to give evidence to a DLC in te reo, you can contact your DLC to make any necessary arrangements.

Anyone can request to take part in a licensing hearing remotely

Licensing hearings can already be held by telephone, audio-visual link or other form of remote access if it is appropriate and the necessary facilities are available.

Your local DLC and ARLA must now consider any reasonable request you make to take part remotely in a hearing, or any part of a hearing.

Attending hearings remotely might mean, for example, giving evidence by video link. This change aims to make hearings more accessible. Remote participation gives you and other parties more flexibility, so everyone can have a say more easily.

If you wish to attend a licensing hearing remotely, you can contact either your DLC or ARLA, and make any necessary arrangements.

You can go to your local council's website to contact your DLC, and you can find contact details for ARLA using the link below.

For ARLA's contact details, go to

<https://www.justice.govt.nz/tribunals/arla/contact-us/>

Objecting to alcohol licences

Information for objectors about changes to the Sale and Supply of Alcohol Act 2012

7 September 2023

Changes to the Sale and Supply of Alcohol Act 2012

Parliament has made changes to the Sale and Supply of Alcohol Act 2012 (the Act). The changes make it easier for communities to have a say in alcohol licensing decisions.

There are two main sets of changes: A first set that came into force on 31 August 2023, and a second set that will come into force on 30 May 2024. This document has information about the changes that are now in force.

Anyone can object to alcohol licences

You now no longer have to demonstrate to a district licensing committee (DLC) that you have “greater interest than the public generally” when objecting to a licence application.

Anyone can object to an application for a licence, licence renewal, variation of licence conditions, or special licence, with narrow exceptions for trade competitors and their surrogates. You can object as an individual or as the representative of a group or organisation.

You have 25 working days to object

The time to make your objection has been increased from 15 to 25 working days.¹ This gives you more time to become aware of current applications and make an objection if you wish to do so.

You can find out about licence applications on your local council’s website or in your local newspaper. Notice of an application will also be posted in an easy-to-see place, like the entrance of the premises that the application is for.

You can object on certain grounds

Your objection still needs to be based on the criteria in the Act. Look to the following parts of the Act to see which grounds apply:

- sections 102 and 105 for applications for new licences
- section 120 for applications for variation of conditions
- sections 128 and 131 for applications for renewal, and
- sections 140 and 142 for applications for special licences.

You can find out more by reading the Act here: <https://www.legislation.govt.nz/act/public/2012/0120/1/atest/DLM3339333.html>

¹ Working days are weekdays, excluding public holidays, and excluding 20 December – 15 January. Also excluded are Mondays where a public holiday falls on a weekend and is Monday-ised – e.g., Waitangi Day or ANZAC Day.

People can no longer appeal local alcohol policies to the Alcohol Regulatory and Licensing Authority

People can no longer appeal provisional local alcohol policies (LAPs) to the Alcohol Regulatory and Licensing Authority (ARLA). The process to develop a LAP is now much simpler.

The changes do not impact the ability to bring judicial review proceedings relating to LAPs or to appeal individual licensing decisions to ARLA.

LAPs are created by your local council and anybody can have their say when a LAP is being developed, through the council's special consultative procedure. Check your local council's website to see if a LAP is in place or being developed for your area.

DLCs and ARLA now also have discretion to decline renewal applications if the licence would be inconsistent with the relevant LAP. This gives LAPs greater effect in licensing decisions.

Other changes are coming in May 2024

From 30 May 2024, DLCs and ARLA will be required to consider reasonable requests from parties to attend hearings remotely.

There will also be changes to how DLC hearings are run. Those changes will require that hearings:

- avoid unnecessary formality
- do not permit cross-examination, or the ability for parties to question other parties or their witnesses – DLCs will test evidence instead
- allow for tikanga to be incorporated into proceedings, and
- allow evidence to be received in te reo Māori.

The time before the changes come into effect means people can prepare. The Ministry of Justice will provide more information about these changes next year.