



Uniting Church in Australia
SYNOD OF VICTORIA AND TASMANIA

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Social Questions
Commission

10 October 2012

Con Sagonas
Legal Policy Specialist
Office of Liquor, Gaming and Racing
E-mail: con.sagonas@justice.vic.gov.au

Dear Mr Sagonas,

The Justice and International Mission Unit, Synod of Victoria and Tasmania, Catholic Social Services Victoria, the Victorian Council of Churches Social Questions Commission and UnitingCare ReGen welcomes this opportunity to make comment on the proposed reductions in criminal liability for directors of body corporates under the *Liquor Control Reform Act 1998*.

The submitting bodies note the review by The Allen Consulting Group "Alcohol-related harm and the operation of licensed premises" commissioned by the Department of Justice noted staff and management practices were one of five key factors in determining the risk of alcohol-related harm from a venue.¹ Licensees having received one or more infringements for patron intoxication was found to be correlated to assaults, robbery and property damage in or near licensed premises.² The report noted there was much evidence in the literature suggesting a causal link between alcohol-related harm and assault.³ These findings mean it is important the regulation of liquor outlets provides the right incentives to ensure compliance with legislation and regulation, including adequate disincentives to those who would otherwise recklessly or intentionally disregard their legal obligations.

While not opposing the general thrust of the proposed reductions in director liability the submitting bodies would make the following comments:

- The submitting bodies would not wish to see any of the offences on the list of offences to be subjected to Type 2 director's liability reduced to a lower level of liability given the serious nature of each of these offences and the need to ensure directors of body corporates holding a liquor licence make sure there is strict compliance with these requirements of the Act.
- The submitting bodies would not wish to see any of the offences listed under the proposed Type 1 directors' liability reduced to only accessorial liability. Director's should have to take reasonable steps to ensure staff working for their company are trained in responsible service of alcohol (RSA) when selling or serving alcohol.

¹ The Allen Consulting Group, "Alcohol-related harm and the operation of licensed premises", July 2009, p. vii.

² The Allen Consulting Group, "Alcohol-related harm and the operation of licensed premises", July 2009, p. viii.

³ The Allen Consulting Group, "Alcohol-related harm and the operation of licensed premises", July 2009, p. 17.

- We strongly urge that offences under Sections 105(1), 108(1)(a, b and d), 109(1), 115(1) and 148Q(1) are all serious enough offences over which directors should have taken reasonable steps to ensure compliance that Type 1 directors' liability should apply, rather than accessory directors' liability. It is very important that directors take all reasonable steps to ensure a licensed premise complies with its licence conditions in the service and consumption of alcohol. It is also a serious matter to knowingly permit a person to whom a banning notice or an exclusion order applies to enter or re-enter licensed premises.

The submitting bodies note that the compliance statistics show in the period 1 July 2010 to 31 May 2011 there were over 2,500 venues with compliance issues.⁴ In this period there were 15 criminal prosecutions, 28 charges were laid, 13 enforceable undertakings were issued and over 600 infringement notices issued. The statistics report 18% of the offences were for supplying liquor not in accordance with their licence or permit. This is suggestive of an industry where parts of the industry still need strong encouragement to comply with liquor licence regulations. The submitting bodies are concerned that the weakening of director liability may be mistakenly taken as a sign by less responsible liquor licensees that they do not have to be as diligent in their compliance with the law.

Thank you for consideration of these comments.

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⁴ Victorian Department of Justice, "Responsible Alcohol Victoria Compliance Directorate Statistics, 1 July 2010 to 31 May 2011".