

Liquor, Gaming and Fair Trading

Security licence exemption for ID scanning

Guideline

The *Liquor Act 1992* (Liquor Act) requires licensees at certain licensed premises to commence the mandatory scanning of patron photo identification (ID) from 1 July 2017.

Section 173EH – Scanning obligations of licensees for regulated premises

- (1) The licensee for regulated premises must ensure that, during the regulated hours for the premises, no person is allowed to enter the premises as a patron unless—
- (a) the person produces a photo ID; and
 - (b) a staff member of the licensed premises scans the photo ID using an approved ID scanner linked to an approved ID scanning system; and
 - (c) the scan of the photo ID indicates the person is not subject to a banning order for the premises.

The Chief Executive of the Office of Fair Trading (OFT) considers that the process of ‘scanning’ the ID of a person seeking entry to a licensed premises is not restricted to the mere electronic recording of an ID by a scanning device. Rather, scanning IDs is part of a multi-faceted process of screening the entry of persons into the place. This process includes, but is not limited to:

- requesting the ID from the person
- visually and tactilely assessing the authenticity and currency of the ID
- ensuring the ID matches the person presenting the ID
- scanning the ID in an electronic device, to ensure the person is not banned
- subjectively determining a person is not unduly intoxicated, disruptive, inappropriately attired/ presented and conforms to any other admission criteria the licensee may stipulate
- refusing entry to a banned or otherwise unsuitable person in a firm, polite, non-confrontational and professional way
- managing any resultant direct physical interaction with unsuccessful entrants.



As scanning the ID of a person is part of screening the entry of persons into the place, generally the Chief Executive considers that persons who operate ID scanners are required to be licensed as a crowd controller. The *Security Providers Act 1993* (SPA) provides a definition of crowd controller.

Section 5 – Who is a crowd controller?

(1) A crowd controller is a person who, for reward, is at a public place principally for keeping order in or about the public place, including, for example, by doing any of the following—

- (a) screening the entry of persons into the place;
- (b) monitoring or controlling the behaviour of persons in the place;
- (c) removing persons from the place.

Example—

a bouncer at a hotel, nightclub or rock concert

There are a number of important legal, public policy and community safety reasons why as a general principle, persons involved in the scanning and control of patrons require a crowd controller licence. But, in brief, it is considered the entrance to a licensed premises is a critical interaction zone, where unknown persons are subject to an assessment as to whether they are suitable to enter the premises.

However, the Chief Executive also recognises that some liquor licensees will have persons principally tasked with scanning the ID and not directly interacting with the patron.

Section 26 of the Security Providers Regulation 2008 refers to section 54(2)(b) of the SPA and allows the Chief Executive to approve that a crowd controller or security officer need not hold the appropriate licence for a specified activity, event or place. In considering the intended policy outcomes of both the Liquor Act and SPA together with the operating environment when scanning for entry into licensed venues, the Chief Executive has determined to exercise his discretion under section 26 to exempt persons who operate scanning equipment from the requirement to be licensed as a crowd controller, subject to the following conditions:

- the person is scanning a patron's ID, as required by section 173EH of the *Liquor Act 1992*; and
- the person is accompanied and directly supervised by a licensed crowd controller for such duties at all times; and
- the crowd controller independently assesses both the ID and the patron and appropriately screens the entry of the patron; and
- if the ID scan identifies a banned patron, only a crowd controller may remove that person from on or around the premises; and
- in any physical interaction between a crowd controller and a patron, a person merely scanning a patron's ID must avoid all involvement.

The Chief Executive proposes to review this exemption within 12 months of the commencement of section 173EH of the Liquor Act i.e. from 1 July 2017.

If any clarification is required on the above, please call 13 QGOV (13 74 68).

(Last reviewed – 6 April 2017)