

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012 Act

AND

IN THE MATTER

of an application by **ROY JOHN
KEWISH**, pursuant to s.224 of the
Act for the renewal of a Manager's
Certificate.

BEFORE THE QUEENSTOWN LAKES DISTRICT LICENSING COMMITTEE

Chairman: Mr L A Cocks
Members: Mr J M Mann
Mr B Pay

HEARING at QUEENSTOWN on 6th July 2022.

APPEARANCES

Mr Roy Kewish - Applicant
Ms Sharon Dinneen – Licensing Inspector – to assist

RESERVED DECISION OF THE COMMITTEE

Introduction

1. Before the Committee is an application by Mr Roy John Kewish for the renewal of a Manager's Certificate. The application was received by the Agency on 29th July 2021 which was lodged in accordance with s.224(2)(a)(ii).

The Applicant

2. Mr Kewish has held a manager's certificate since 31st July 2020 and was employed at the Hawea Hotel on a casual basis. At the time he lodged this renewal application, Mr Kewish was not employed at a licensed premises but works at an activity business called 'Crossfire' which offers a range of recreational activities such as archery, mini golf and clay bird shooting.
3. Mr Kewish stated he has been heavily involved in hospitality for many years and although not currently using his manager's certificate, he would like to future proof his opportunities. Mr Kewish provided a letter of support from Mr Tony Johnston, President of the Wanaka Squash Club, who indicated Mr Kewish is a valuable member of the Club and holds the position of 'Club Captain'. Mr Johnston also advised the Club is developing a plan to double the size of the complex and will be applying for a liquor licence, and integral to this was having Mr Kewish as a duty manager. No time frame was provided for this development.
4. Mr Kewish did not report any criminal convictions and the Police did not oppose the application.
5. Mr Kewish obtained the Licence Controller Qualification (LCQ) on 10th February 2020.

The Licensing Inspector

6. The Inspector provided a report on the application and reminded us that s.224(2)(a)(ii) of the Act makes it clear that being employed as the manager of a licensed premises at the time of lodging an application is not a requirement for the renewal of a manager's certificate:

224 Application for renewal of manager's certificates

- (1) The holder of a manager's certificate may apply in accordance with this section for the renewal of the certificate.
- (2) Every application for the renewal of a manager's certificate must—
- (a) be filed with—
 - (i) the licensing committee for the district in which the applicant is presently employed as a manager; or
 - (ii) if the applicant is no longer employed as a manager, the licensing committee for the district in which the applicant is residing; and
 - (b) be made before the date of the expiry of the certificate; and
 - (c) be made in the prescribed form and manner; and
 - (d) contain the prescribed particulars; and
 - (e) be accompanied by the prescribed fee.

7. The Inspector did however, acknowledge that previous decisions of both the Authority and the Committee demonstrate that applicants for manager's certificates are typically expected to be employed in the industry. In **2006 LLA decision Jeong Su Cho PH 447/2006**, the former authority held:

'We have stated in earlier decisions that we are not prepared to grant any application for a manager's certificate unless the candidate is committed to using it for the purpose for which it is intended. We are of the view that a manager's certificate should be a working document, not simply a bankable resource or an enhancement to the holder's curriculum vitae.'

And in **QLDLC 0029/16**, the Committee stated the following:

'[10] ...We do not issue certificates which may be placed on a wall and admired from time to time. They must be working documents and will seldom be issued unless the applicant is employed in the industry.'

'[11] The reason for such a guideline is that current employment keeps one up to date with trends and current laws. It is not only important for managers to keep being upskilled but also to have the support of the licensee or the employer. In other words Certificates are not issued in a vacuum. They have to be earned, and they have to be earned by people who are committed to working in the industry.'

The Committee's Decision and Reasons

8. S.227 of the Act provides the matters that must be considered for the renewal of a Managers Certificate. Mr Kewish achieves the criteria at s.227 (a) (b) and (d), but not being employed as a duty manager in a licensed premises may not satisfy s.227 (c). Being employed as a duty manager is not explicit in the criteria at s.227, and as highlighted by the Inspector, s.224(2)(a)(ii) suggests that manager certificates can be renewed if the applicant is no longer employed as a manager. However, case law provided by the Inspector shows that the Authority has refused to approve certificates unless they are *'a working document, not simply a bankable resource or an enhancement to the holder's curriculum vitae'*, as stated above in the 2006 LLA decision **Jeong Su Cho PH 447/2006**.

9. We also are aware of the decision **Kerslake (2015) NZARLA 317** where the Authority held at [11]:

'It is clear from this decision that the Authority expects that applicants for a manager's certificate will be, at the very least, currently employed in the industry and generally be able to indicate the position which they will take up if the certificate is granted.'

10. Considering the reports provided, the submissions made, and the relevant case law, we are not satisfied that Mr Kewish's manager's certificate should be renewed, and therefore the application is declined.
11. Should Mr Kewish wish to return the hospitality industry, based on his experience and qualifications, we would look favourably on an application for a new manager's certificate.
12. As per s.228 (3), the certificate expiry date is 30th September 2022, which gives Mr Kewish a further period of opportunity to use his manager's certificate.

DATED at Queenstown this 11th day of July 2022



LA Cocks
Chairman