

Overview of Changes to the Exposure Draft Liquor Bill 2019 After Consultation



Introduction

In March 2019, the NT Government released the exposure draft Liquor Bill 2019 for public consultation. The formal consultation period concluded on 26 April 2019. Over 100 people attended the 12 public forums across the Territory. The Alcohol Review Implementation Team also received face-to-face feedback through briefings and received over 20 formal submissions from industry, health and relevant stakeholders.

This fact sheet is a quick guide to changes to the Bill as a result of consultation. All factsheets relating to the legislation are available at <https://alcoholreform.nt.gov.au/liquor-bill>.

It is important to note that the clause numbers in the Liquor Bill 2019 (introduced in the Legislative Assembly on 15 May 2019) and referred to in this factsheet are different from the clause numbers in the draft exposure Liquor Bill 2019. For a copy of the Liquor Bill 2019, please visit: <http://alcoholreform.nt.gov.au/liquor-bill> or the Legislative Assembly of the Northern Territory website: <https://legislation.nt.gov.au/>

What are the key changes in the Liquor Bill 2019 after the consultation period?

Definition of 'supply'

A definition of 'supply' has been inserted into clause 4 to coincide with the introduction of the BYO authority.

Exceptions from licence requirement

Consistent feedback about the exceptions from licence requirement clause was that it failed to capture such businesses as art galleries and boutiques, where the provision of liquor was provided ancillary to their primary business purpose (for example, gallery openings; VIP nights for loyal customers; supplying champagne at a hair salon; and special or charity events at high end boutiques).

Clause 39(2)(c) of the Bill provides that no licence is required for the sale, supply or service of not more than two standard drinks in a day to a customer by a business, other than a licensee.

Interstate retailer's licence

Provisions about the interstate retailer's licence have been amended to make it clear that if an interstate retailer licence holder has their liquor licence suspended or cancelled in their home jurisdiction, they cannot continue to trade in the Northern Territory.

An interstate retailer must also give the Director of Licensing written notice of any variation, expiry, suspension or cancellation of the licensee's home jurisdiction authorisation within 14 days of the change under clause 103.

Liquor licence authorities

Amendments to the 'Special Venture' authority were made in clause 43(1)(i) to make it clear that this authority is not exclusive to tourism ventures, but can be extended to a business that sells liquor to patrons as an additional service to their core business.

Public notice of applications

The Director of Licensing now has the ability under clause 53(2) to exempt the public notice requirements if the application is for a licence with a community event authority, or a special licence authority.

Public availability of the public interest and community impact statement

A new sub-clause has been drafted at 53(6) so that the Director of Licensing must provide a copy of the community impact and public interest statement to any person who requests a copy.



New timeframes for investigations: Liquor licence applications and complaints

New timeframes have been introduced for the Director of Licensing to finalise their investigations in 90 days from the day an application is accepted under clause 54(3), and 90 days from the day a complaint is accepted under clause 155(2).

Flowcharts explaining the application and complaints processes are available at <http://alcoholreform.nt.gov.au/liquor-bill>.

Limit on new grounds

Clause 55 has been amended so if new matters are raised by the applicant during the course of the determination, enquiry or review, there is an ability for an objector to respond to the new information.

Objecting to an application

A Member of the Legislative Assembly is now specifically listed as an objector under clause 57(4)(d) for applications within their electorate.

Transfer of a licence

A public interest and community impact statement is no longer required for an application to transfer a licence.

Material alterations

The limit on material alterations at clause 91 has been amended so that only alterations that are 'significant' will require an application. Under clause 91(1), applications for a material alteration will be required for:

- a significant increase in the area of the premise used for the sale, supply, service or consumption of liquor
- a structural alteration to any part of the premises where liquor is sold, supplied, served or consumed
- a change to an entrance or an exit from the premises
- significant change to the external appearance of the premises
- a significant change to the facilities related to the sale, supply, service or consumption of liquor.

Conditions of time of operation

The conditions on time of operation have been amended at clause 98(3) so that a licensee may allow patrons to enter and remain on or in the premises outside licensed hours if no person is being sold or supplied liquor or has access to gaming machines.

The inclusion of this exception provides flexibility for licensees to utilise their premises to hold commercial or community meetings or events where liquor is not supplied (for example, breakfasts or charity events).

Minimum sale price – complimentary drinks

The provision for the ability for a licensee to provide complimentary drinks to patrons has changed. The requirement for the complimentary drink to be supplied 'on arrival' as per the draft exposure Bill has been removed and has been amended to 'per patron' under clause 119. Feedback received was that discretion for a licensee to provide complimentary drinks to patrons is used in such circumstances as rectifying an inconvenience (such as delay in service of food) and not necessarily upon entry.

The inclusion of up to two standard drinks per patron captures the ability for licensees to provide such servings as 150ml of champagne (approximately 1.4 standard drinks); 150ml glass of wine (1.5 standard drinks) or a 285ml glass of full strength beer (approximately 1.1 standard drinks) to a patron without breaching the minimum sale price provisions.

Liquor accords

Provisions regarding liquor accords have been amended to provide further clarification on the responsibilities of the Director of Licensing and the parties to the accord. The Director of Licensing must provide written notice to require a licensee to be a party to a liquor accord, and the licensee is taken to be a party within 14 days after being given notice in clause 129(1).

The Bill now makes it clear that a party may leave the liquor accord at any time if that party entered into the liquor accord voluntarily under clause 129(5).

A licensee must comply with any liquor accord to which the licensee is a part of under clause 131(1) and failure to do so will constitute a breach under clause 78 (Implied conditions).

Duty to refuse service

The duty to refuse service at clause 135(1) prescribes that a licensee must (rather than 'may' as per the exposure draft Bill) refuse service if the licensee has a reasonable belief that the patron is registered on the Banned Drinker Register.

Duty and power to exclude and remove persons

The duty and power to exclude and remove persons has been amended so that someone who is 'intoxicated' as defined in the Bill may (rather than 'must' as per the exposure draft Bill) be excluded and removed from the premises at clause 138(2). This amendment is in line with harm minimisation principles and current practice in ensuring patron care and safety.

Those who are violent, quarrelsome or disorderly must be excluded and removed under clause 138(1).

Commission's power to take disciplinary action

Clause 163(4) provides an ability for the Liquor Commission to hear a matter not referred to it by the Director. This is to ensure that matters that may come out in evidence during hearings that were not included in the referral can be dealt with in the hearing without having to file a new complaint.

Prohibited public places

The Bill has a new sub-clause at 168(1)(h) to capture any public place not within a location specified (Alice Springs; Darwin; Katherine; Palmerston; Tennant Creek; the Darwin Waterfront Precinct; or any local government area declared by *Gazette* notice) but within 2km of a licensed premise.

Declared organisations

The clause in the draft exposure Bill in relation to 'declared organisations' has been removed from the Bill and will be addressed in the Liquor Regulations.

Same gender searches

Same gender searches is covered in clause 239 and has been amended so that a personal search of a person under the Act may be conducted by someone who is of the same or similar gender as the person being searched and in a manner that respects privacy and dignity.

Point of sale interventions powers

The definition of 'liquor-related offence' in clause 246 has been expanded to include a breach of a bail condition relating to liquor imposed under the *Bail Act 1992* and a breach of a court order relating to liquor made under the *Domestic and Family Violence Act 2007*.

Child employees

The Bill has been clarified so if the Director of Licensing permits a licensee to employ a child under clause 294(2), the licensee does not commit an offence under clause 296 (to permit a child to enter or remain in a prohibited area).

Review of the Act

Clause 317 of the Bill is a new clause that requires the Minister to review the Act after three years.

Transitional matters

Clause 321 and 322 provides that applications made under the *Liquor Act 1978* (i.e. currently on foot) for a transfer or substitution of licence are to proceed and be determined under the *Liquor Act 1978*, unless the applicant gives the Director of Licensing written notice that they wish to proceed and have the application determined under the new Act.

Transitional matters are now set out in the Bill for Regulated Areas (clause 325), Permits (clause 326), Officers (clause 327), Patron identification systems (clause 328) and Seized things (clause 329).

Note: As part of parliamentary process, the Liquor Bill 2019 has been submitted to the Economic Policy Scrutiny Committee for review. For further information about the Economic Policy Scrutiny Committee, please visit: <https://parliament.nt.gov.au/committees/EPSC>.

