

Liquor Amendment Regulation 2023 (No 1)

Subordinate law SL2023–38

made under the

Liquor Act 2010, section 229 (Regulation-making power)

EXPLANATORY STATEMENT

OVERVIEW

The object of the *Liquor Act 2010* is to regulate the sale, supply, promotion and consumption of liquor:

- a. to minimise the harm associated with the consumption of liquor; and
- b. to facilitate the responsible development of the liquor and hospitality industries in a way that takes into account community safety; and
- c. in a way that encourages and supports liquor consumers to take responsibility for:
 - i. their consumption of liquor; and
 - ii. their behaviour if it is affected by the consumption of liquor.

The *Liquor Regulation 2010* prescribes matters to support the *Liquor Act 2010*.

Schedule 1 of the *Liquor Regulation 2010* prescribes conditions provided under s31(2)(a) of the *Liquor Act 2010*. Schedule 2 of the *Liquor Regulation 2010* prescribes licensed times and permitted times, provided under s229(2)(a) of the *Liquor Act 2010* and defined under s32 of the *Liquor Regulation 2010*.

PURPOSE

This explanatory statement relates to amendments to Schedule 1 and Schedule 2 of the *Liquor Regulation 2010* via the *Liquor Amendment Regulation 2023 (No 1)*.

Schedule 1

Schedule 1 has been amended to remove the requirement for general licensed premises to have a separate on area for the sale of liquor in open containers for consumption at the premises, and a separate off area for the sale of liquor in sealed containers for consumption off the premises.

This reform will align regulation with real-world business practices and reduce costs for these businesses that sell liquor.

Schedule 2

Schedule 2 has been amended to introduce new standard licensed times for liquor on licences (restaurant and café) where occupancy loading is 80 persons or less, from the current 12 midnight to a new proposed 2am time, to take effect on 1 January 2024.

This reform is coupled with a reduction in the annual licence fees for the same licence subclass, that is on licences (restaurant and café) where occupancy loading is 80 persons or less.

Lower occupancy venues are generally considered low risk, especially those where liquor is ancillary to the primary purpose of the business, for example, serving food. It can be considered that the restaurant and café sector, in particular, can have a significant role in both promoting a safe and sustainable nightlife, while minimising the risk of alcohol-rated harms and diversifying the patronage of venues, improving safety and the vitality of the night-time economy.

The reforms are intended to help businesses establish and renew their licences with lower fees commensurate with their level of risk, which will incentivise the operation of such businesses, diversifying Canberra's night-time economy and achieving the aim of supporting smaller businesses to remain competitive with larger establishments.

CONSULTATION

The ACT Government has committed to undertake a review of the regulatory and non-regulatory settings for the night-time economy (NTE). Regulatory reform can be seen as a necessary condition for growth, lowering business costs and reducing barriers to entry. More flexible and responsive regulatory arrangements also enable businesses to experiment and innovate, which can lead to changed operating models and increase the resilience of small businesses in the NTE.

Public consultation was conducted between July and October 2023 via three business workshops and two community workshops.

In addition to the public consultation, extensive analysis has been undertaken by the Better Regulation Taskforce, the Justice and Community Safety Directorate and Access Canberra. Amendments to the *Liquor Regulation 2010* are intended to be the first in a tranche of reforms to better support businesses and help with the diversification of the night-time economy in Canberra, contributing to additional employment, and wellbeing benefits for consumers of night-time offerings.

CONSISTENCY WITH HUMAN RIGHTS

All legislative regulations must be compatible with the *Human Rights Act 2004* (HR Act). The compatibility of the *Liquor Amendment Regulation 2023 (No 1)* was considered during its development.

An assessment of the Amendment Regulation against the rights protected by the HR Act is provided below.

Rights engaged

Under the HR Act, human rights means:

- a. the civil and political rights in part 3 of the HR Act; and
- b. the economic, social and cultural rights in part 3A.

The *Liquor Amendment Regulation 2023 (No 1)* does not engage any of the rights provided for under the HR Act.

CLAUSE NOTES

Clause 1 – Name of regulation

This clause names the Regulation the *Liquor Amendment Regulation 2023 (No 1)*.

Clause 2 – Commencement

This clause specifies the commencement date of the Regulation which is 1 January 2024.

Clause 3 – Legislation amended

This clause specifies the Regulation amends the *Liquor Regulation 2010*.

Clause 4 – Schedule 1, section 1.7

This clause specifies that section 1.7 of Schedule 1 of the *Liquor Regulation 2010*, which provided for separate on areas and off areas for general licensed premises, is now omitted.

Clause 5 – Schedule 2, part 2.1, item 2

This clause amends item 2 of Schedule 2, part 2.1, to provide for standard licensed times for on licences other than those referred to in item 2A. Item 2A is a new item that provides for a change to standard licensed times for on licences, restaurant and café subclass only, where occupancy loading is 80 people or less. The new standard licensed times for this subclass of licence with a total occupancy loading of 80 people or less are 7am – 2am the following day.