

Departmental Disclosure Statement

Sale and Supply of Alcohol (Rugby World Cup 2023 Extended Trading Hours) Amendment Bill 2023

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material
- some of the key quality assurance products and processes used to develop and test the content of the Bill, and
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

The Ministry of Justice certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

22 May 2023.

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Part One: General Policy Statement

General Policy Statement

The Bill temporarily amends the Sale and Supply of Alcohol Act 2012 (the Act) to allow eligible licensees to extend trading hours for the purposes of televising games played as part of the men's Rugby World Cup 2023, without applying for a special licence.

Background to the Bill

The Act provides the regulatory framework for the sale and supply of alcohol in New Zealand. It helps ensure that the sale, supply, and consumption of alcohol is undertaken responsibly, and helps minimise the harm caused by excessive or inappropriate consumption.

The Act sets the default maximum trading hours of 8:00am – 4:00am for on-licensed and club-licensed premises. Trading hours can also be restricted by local alcohol policies or licensing conditions set by district licensing committees (DLCs).

Under the Act, licensees can apply for a special licence to allow them to trade at any time for specific events, or a series of events. The special licence application process can take at least 20 working days, and DLCs may impose conditions on a special licence to ensure that the application meets the criteria set out in the Act and is in line with the object of the Act.

The men's Rugby World Cup will take place from 9 September 2023 to 29 October 2023 (New Zealand time). As the games will be played in France, time zone differences mean many games will be broadcast outside the maximum licensed trading hours in New Zealand.

In the case of the men's Rugby World Cup 2023, uncertainty about the outcomes of the later stages of the tournament means that licensees may decide to host matches at short notice – when they have a better indication of public interest in a particular match. The 20-day special licence application process is not well suited to these circumstances, where licensees require quick decision-making.

Additionally, licensees can find the special licence criteria difficult to meet due to case law that holds there must be additional measures of control (e.g. pre-sale tickets) for a licensee to extend their trading hours for a televised event. In some cases, case law may be applied inconsistently, making it difficult to have certainty that a particular special licence application will be successful.

The Bill amends the Act so that eligible licensees will not have to apply for a special licence to televise the men's Rugby World Cup 2023 games that fall outside their licensed trading hours. The amendments will give businesses the flexibility they need to plan to host televised games from the men's Rugby World Cup 2023 and change those plans at shorter notice if needed. Similar amendments were made to the Act in preparation for the 2015 and 2019 men's Rugby World Cups.

The amendments in this Bill will be in force only until the end of the men's Rugby World Cup 2023.

Summary of key changes in the Bill

Eligible licensees will be able to extend their permitted trading hours to televise men's Rugby World Cup 2023 games

The key changes are as follows:

- eligible on-licence and club licence holders can extend their trading hours to televise games from the men's Rugby World Cup 2023 without applying for a special licence
- the primary or sole purpose of the premises being open during extended hours must be to allow customers to watch a live televised game of the men's Rugby World Cup 2023, and
- licensed premises that have had their licences cancelled or suspended in the previous 12 months under section 280 of the Act (for example for breaching conditions of their licence or being obnoxious to neighbouring residents) would be ineligible to extend their trading hours.

Provisions to enhance public safety and minimise disruptions apply

The key changes are as follows:

- licence holders must provide the Police and territorial authorities at least 7 days' written notice if they intend to extend their trading hours to televise a game
- licence holders need to include a noise management plan or have another arrangement in place for their premises to avoid additional noise disruption as part of their notification to the Police and territorial authorities
- licence holders must notify the Police and territorial authorities as soon as reasonably practicable if they change their plans and decide not to open after having notified otherwise, and
- the Police retain the power under section 266 of the Act to immediately shut down premises in the circumstances specified in that section. The general offence for breaching restrictions and requirements under section 259 of the Act applies to the extended trading hours in the Bill.

The extended trading hours are subject to certain conditions

The key changes are as follows:

- premises are permitted to open 1 hour before the start of each notified game
- if a licence holder notifies a game that starts within 2 hours after the end of the permitted trading hours for the premises, the premises can remain open until and during that game

- premises are required to close for the sale of alcohol 30 minutes after the end of the game, and
- one-way door policies do not apply within 1 hour before the extended trading hours starts, during the extended trading hours, or within 1 hour after the premises closes the sale of alcohol.¹

Police will keep a record of the scale and demand for extended trading hours for the Rugby World Cup 2023

The key change is that the Police are required to keep a record of notifications, including information on:

- the number of notifications, and
- the periods for which extended hours were notified, and
- the period of notice given, and
- the number of cancelled notifications.

¹ A one-way door policy prevents customers from re-entering the premises after they have already exited

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	NO
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Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
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2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	NO
<p>The Regulatory Impact Statement did not meet the threshold for receiving an independent opinion on quality from the Regulatory Impact Team based in the Treasury.</p> <p>The Regulatory Impact Statement was assessed internally by the Ministry of Justice Regulatory Impact Assessment Quality Assurance Panel. It was determined to meet the quality assurance criteria.</p> <p>The Regulatory Impact Statement will be available at https://www.justice.govt.nz/justice-sector-policy/regulatory-stewardship/regulatory-impact-assessments/</p>	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO
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Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
<p>There is no data available from past Rugby World Cup amendments to accurately quantify the costs and benefits of this proposal. However, the Regulatory Impact Statement contains analysis of the potential costs and benefits based on stakeholder views related to the demand for extended trading hours, the impacts for regulators involved in licensing and enforcement activities, and the potential commercial benefits for the hospitality industry.</p>	
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	

(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
<p>The Bill requires licensees to notify the Police and territorial authorities of intention to extend trading hours, as well as to notify the Police and territorial authorities if they change their plans after having notified otherwise.</p> <p>The extended trading hours resulting from these amendments will be treated as the usual permitted trading hours under the Act, and licence holders will still be required to comply with existing controls in the regulatory regime.</p>	
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO
<p>The extended trading hours resulting from these amendments will be treated as the usual permitted trading hours, meaning that licence holders will still be required to comply with existing controls in the regulatory regime and the Police retains the enforcement powers under the Act.</p> <p>The Ministry of Justice will issue communications outlining responsibilities and requirements to territorial authorities and the regulatory agencies to ensure streamlined implementation, particularly on aspects of the amendments that differ from the Sale and Supply of Alcohol (Rugby World Cup 2015 Extended Trading Hours) Amendment Bill 2015 and the Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Bill 2019.</p>	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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The Ministry of Justice analysed the Bill and did not identify any international obligations that conflict with the policies contained in the Bill.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

The Ministry of Justice has analysed the Bill and has determined that it is consistent with the principles of the Treaty of Waitangi.

However, we know that hazardous drinking and alcohol-related harm disproportionately affects Māori. While there is no specific evidence attributing increased alcohol-related harm to the previous amendments in 2015 and 2019, the evidence-base clearly connects extended trading hours and sports events with hazardous drinking and alcohol-related harm. This, coupled with widespread public interest in the Rugby World Cup 2023, means it is reasonable to assume the impacts of any increased harm resulting from these amendments will continue to reflect typical patterns of alcohol-related harm across New Zealand.

The amendments therefore include several provisions to enhance public safety, ensure that licensees operate and supply alcohol responsibly, and support the Police to enforce the law where necessary.

We also note that the Amendment Bill will allow licence-holders to extend their trading hours without going through a licensing process, which removes the opportunity for local input. However, this is a time bound, temporary amendment. Any permanent legislative change would require careful consideration, including of how it would support the Crown's obligations under te Tiriti.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	
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The Crown Law Office has provided advice to the Attorney-General. This advice will be available on the Ministry's website at https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/bill-of-rights-compliance-reports/ .
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Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	NO
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
3.4.1. Was the Ministry of Justice consulted about these provisions?	YES

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	NO
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External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>The following departments were consulted on the policy to be given effect by this Bill: New Zealand Police, Ministry of Health, Te Whatu Ora – Health New Zealand, Ministry of Culture and Heritage, Sport New Zealand, Ministry of Business, Innovation and Employment, and Department of Internal Affairs.</p> <p>In addition to government departments, officials also consulted with local councils, district licensing committees, the Alcohol Regulatory and Licensing Authority, licensing inspectors, and Hospitality New Zealand.</p> <p>There will be the opportunity for stakeholders and the wider public to provide feedback and recommendations on the proposed changes through the Select Committee stage.</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
<p>The amendments in the Bill largely mirror the amendments that were enacted for the Rugby World Cups in 2015 and 2019. The regulatory agencies who operationalise the regime and the hospitality industry were consulted in the policy development phase. The Bill includes small adjustments to the amendments made in 2015 and 2019 to make the regime more workable, based on their feedback.</p>	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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