

Departmental Disclosure Statement

Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Bill

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;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Justice.

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.

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Ministry of Justice
23 August 2019.

Contents

Contents.....	2
Part One: General Policy Statement.....	3
Part Two: Background Material and Policy Information	5
Part Three: Testing of Legislative Content.....	7
Part Four: Significant Legislative Features	9

Part One: General Policy Statement

General Policy Statement

This is a Bill to amend the Sale and Supply of Alcohol Act 2012 (the Act). The amendments in the Bill relate to licensees that hold an on-licence or club licence under the Act and that wish to trade outside of their licensed trading hours for the purpose of televising a game of the Rugby World Cup 2019.

The Bill amends the law to allow eligible licensees to extend trading hours for the purposes of televising games played as part of the Rugby World Cup 2019.

Background to the Bill

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

The Act includes several measures to restrict alcohol trading hours. Premises licensed under the Act are only permitted to operate within the trading hours on their licence. Special licences can be issued by District Licensing Committees (**DLCs**), which may impose licence conditions to ensure that alcohol is supplied safely and responsibly. Special licenses can also be issued to amend a licensee's trading hours.

The 2019 Rugby World Cup will take place from 20 September 2019 to 2 November 2019. As the games will be played in Japan, time zone differences will mean some games will be broadcast in New Zealand outside the permitted trading hours for some licensed premises. It is common for DLCs, when considering a special licence application, to require a special event to take place on the premises – for example, a guest speaker, a band, or a fundraising event. Televising the Rugby World Cup does not align well with these types of events, which is making it difficult for some licensees to extend their trading hours for the tournament.

The Bill amends the Act so that eligible licensees will not have to apply for a special licence to televise games that fall outside their usual trading hours. This will ease the administrative burden and cost to licensees and DLCs during this time. Similar amendments were made to the Act in preparation for the 2015 Rugby World Cup.

The amendments in this Bill will only be in force until the end of the Rugby World Cup 2019.

Summary of key changes in the Bill

Eligible licensees will be able to extend their permitted trading hours to televise Rugby World Cup 2019 games

The key changes are:

- the primary or sole purpose of the premises being open during extended hours must be to allow customers to watch a live televised game:
- the amendments apply to on-licence and club-licence holders:
- licensed premises that have had their licences varied or suspended in the previous 12 months under section 280 of the Act will be ineligible to extend their trading hours.

There are restrictions on the extended trading hours

The key changes are:

- premises will be able to open 1 hour before the start of each game to be televised:
- if a televised game is to start within 2 hours after the end of the permitted trading hours for the premises, they can remain open until the game starts and during the game:
- premises would be required to close for the sale of alcohol 30 minutes after the end of the game:
- one-way door policies would not apply within 1 hour before the extension starts, during the extension, or within 1 hour and 30 minutes after the premises closes for the sale of alcohol¹.

There are provisions to enhance public safety and minimise disruptions

The key changes are:

- premises need to notify Police and their territorial authority if they intend to extend their trading hours:
- premises need to have a noise management plan or other arrangement in place to avoid additional noise disruption:
- Police retain the power under section 266 of the Act to immediately shut down premises in the circumstances specified in that section.

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?	NO
There was insufficient time to prepare a regulatory impact statement for this Bill.	

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
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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?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
<p>Although there is no analysis available on the size of the potential costs and benefits of the policies in this Bill, we anticipate that the Bill will reduce the administrative burden, in terms of time and cost, on District Licensing Committees and on licensees during the 2019 Rugby World Cup. This is because the amendments in the Bill will extend the trading hours of licensed premises that wish to televise a Rugby World Cup game outside of their permitted trading hours, without requiring licensees to apply for a special licence.</p> <p>The amendments in the Bill are based on amendments that were made in preparation of the 2015 Rugby World Cup.</p>	
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
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

As the extended hours of a licensed premises would be treated as the usual permitted trading hours, the monitoring and enforcement powers under the Act would be retained.

The Bill requires licensees to notify regulators (licensing inspectors and Police) if they intend to open during extended hours.

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?

The Ministry of Justice has not identified any 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 analysed the Bill and did not identify any implications for the rights and interests of Māori protected by the Treaty of Waitangi.

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?

YES

Crown Law has provided Bill of Rights Act 1990 advice to the Attorney-General.

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

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

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?

NO

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?

NO

The amendments in the Bill largely mirror the amendments that were made prior to the 2015 Rugby World Cup. In 2015, the Rugby World Cup was played in the United Kingdom and the amendments made to the Act accommodated for an 11-hour time difference between New Zealand and the United Kingdom.

We anticipate that the impacts of the amendments in this Bill will be less significant than they were in 2015. This is because most licensed premises will be able to televise games during their permitted trading hours and will not need to rely on the provisions in the Bill.

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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