



Department of Justice and Attorney-General  
Office of the Director-General

In reply please quote: 537265/4; 5449148; ORP-1963930

1 William Street Brisbane  
GPO Box 149 Brisbane  
Queensland 4000 Australia  
Telephone 13 74 68 (13 QGOV)  
[www.justice.qld.gov.au](http://www.justice.qld.gov.au)

ABN 13 846 673 994

10 DEC 2020

Mr Peter Russo MP  
Chair  
Legal Affairs and Safety Committee  
[lasc@parliament.qld.gov.au](mailto:lasc@parliament.qld.gov.au)

Dear Mr Russo

Thank you for your letter dated 30 November 2020 requesting the Department of Justice and Attorney-General (DJAG) assist the Legal Affairs and Safety Committee (the Committee) with its consideration of the Liquor (Artisan Liquor) Amendment Bill 2020 (the Bill).

In my previous letter, I confirmed that DJAG would provide the Committee with a written briefing by close of business on 10 December 2020. The briefing is now **enclosed**.

I also committed to provide the Committee, prior to 14 December 2020, with the names of officials who will attend the public briefing scheduled for 16 December 2020. I am pleased to advise that the following officers will verbally brief the Committee on the Bill:

- Ms Victoria Thomson, Deputy Director-General – Liquor, Gaming and Fair Trading, DJAG;
- Mr David McKarzel, Executive Director, Office of Regulatory Policy, DJAG;
- Mr Grant Stidiford, Director, Policy Setting, Strategic Policy, Department of Employment, Small Business and Training (DESBT);
- Ms Amanda Humphreys, Manager, Policy Setting, Strategic Policy, DESBT; and
- Mr Bill Walker, Director, Manufacturing Strategy, Manufacturing Development, Department of Regional Development and Manufacturing

It is intended these officers will be supported by staff from DJAG during the hearing. If the names of these supporting staff are required, can the Committee Secretariat please advise the department contact.

(2)

Should the Committee Secretariat require further information regarding this matter, please contact [REDACTED] Director, Office of Regulatory Policy, DJAG, on [REDACTED]

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Mackie', with a long horizontal flourish extending to the right.

David Mackie  
**Director-General**

Enc.

## **Legal Affairs and Safety Committee Briefing Note**

### **Liquor (Artisan Liquor) Amendment Bill 2020**

#### **Background and Policy Intent**

The purpose of the Bill is to strengthen the artisan liquor industry in Queensland by supporting the growth and sustainability of craft breweries and artisan distilleries, while still maintaining appropriate regulatory controls and oversight.

To achieve this purpose, the Bill will:

- create a new type of 'commercial other – artisan producer licence' (artisan producer licence) for craft brewers and artisan distillers;
- enhance the ability for craft brewers and artisan distillers to market their artisan liquor at promotional events (e.g. farmers markets, food festivals); and
- provide supporting mechanisms for regulating the sale of artisan liquor by licensees and permittees, consistent with the Liquor Act's objective to minimise the risk of alcohol-related harm.

The proposed legislative amendments to improve the regulatory environment for artisan liquor producers in Queensland will deliver on commitments made by the Government under the Queensland Craft Brewing Strategy (QCBS) and implement a recommendation of the Entrepreneurial Pipeline Report (EP Report). It will also assist artisan liquor producers to recover from the impacts of the COVID-19 emergency and associated public health restrictions.

Under the QCBS, the Government agreed on action to improve the regulatory environment for independent craft brewers by streamlining the liquor licensing application process and incorporating particular authorisations desired by craft brewers.

The EP Report made a number of recommendations aimed at enhancing the sustainability and growth of artisan producers, including artisan alcoholic beverage producers. This included a recommendation to enable the sale of alcoholic products at promotional events.

The current regulatory environment can be burdensome for artisan liquor producers. The majority of the state's craft breweries and artisan distilleries operate at least partially under a producer/wholesaler licence, which predominantly only authorises the sale of liquor to other liquor licensees. Producer/wholesaler licensees wishing to sell liquor to the public for takeaway or consumption on the premises generally have had to obtain a second licence to enable this to occur.

This arrangement creates additional regulatory and financial burden as it entails two licence application processes, paying two annual licence fees and in some cases, dividing the premises into two distinct non-overlapping areas, with separate liquor authorities applicable to each area.

In terms of the sale of artisan liquor at promotional events, there is currently inconsistency in the regulatory framework. Eligible producer/wholesaler licensees that are craft brewers can currently obtain a licence condition to allow them sell their craft beer for limited takeaway at these events, while producer/wholesaler licensees that are artisan distillers cannot.

Eligible producer/wholesaler licensees (both in Queensland and interstate) can also obtain a craft beer producer permit to allow the sale of craft beer at promotional events. However, there is no equivalent artisan spirits producer permit.



Further, producer/wholesaler licensees with a craft beer licence condition or producer permit are currently prohibited from charging for samples of their product offered at promotional events.

### *Consultation*

Extensive consultation has been undertaken in the lead up to and development of the Bill.

Following the release of the QCBS in November 2018, consultation was undertaken with the craft brewing industry on potential regulatory reform. Between December 2019 and January 2020, a survey of approximately 60% of independent Queensland craft brewers was conducted on a legislative proposal to introduce a new licence category specifically for craft beer. In January 2020, public submissions were also sought on the proposal. The craft brewing industry was generally supportive of this proposed new licence category.

Between November 2019 and March 2020, separate consultation processes were undertaken on the EP Report recommendations relating to support for artisan liquor producers. Consultation occurred with 13 distilleries, three wineries, 25 breweries, two meaderies and one cidery. Other stakeholders, included industry representatives and social health stakeholders, were also consulted.

On 2 March 2020, a roundtable meeting was held, involving representatives from the Australian Distillers Association, the Independent Brewers Association, the Queensland Hotels Association, Clubs Queensland, government agencies and other stakeholders. General agreement about the artisan producer licence authorisations was reached at this roundtable, including support for eligibility requirements to ensure the licence concessions will only be available to smaller independent craft brewers and artisan distillers.

### **Amendments in the Bill**

#### *New 'commercial other – artisan producer licence'*

To achieve its broad objective of strengthening the artisan liquor industry, the Bill proposes to amend the *Liquor Act 1992* (Liquor Act) to:

- create a new artisan producer licence category for legitimate craft brewers and artisan distillers;
- expand existing capabilities for selling artisan liquor products at promotional events; and
- encourage the transition of existing licensees to the new artisan producer licence category.

The new artisan producer licence will allow licensees to:

- sell craft beer or artisan spirits produced on the licensed premises to the public, for on-premises consumption or takeaway, in unlimited amounts;
- sell for on-premises consumption
  - craft beer and artisan spirits produced by another Queensland artisan producer licensee or a Queensland producer/wholesaler licensee, and
  - wine produced by a Queensland wine licensee under the *Wine Industry Act 1994* (provided these sales do not constitute more than 30% of the licensee's total liquor sales);
- apply for an enduring approval to sell samples and limited amounts of takeaways of their craft beer or artisan spirits at promotional events;
- apply for a commercial public event permit to sell their craft beer or artisan spirits at a public event;
- conduct online orders for the sale of their craft beer or artisan spirits; and

- apply for permanent extended liquor trading hours for on-premises consumption to 1am.

In order to be eligible for the new artisan producer licence, the licensee:

- must produce at least 2,500 litres of beer or 400 litres of spirits per year at the licensed premises;
- must not produce more than five million litres of beer or 450,000 litres of spirits per year (including liquor produced by relevant related companies);
- be no more than 20 per cent owned by a large brewer (producing more than 40 million litres of beer per year) or a large distiller (producing more than two million litres of spirits per year); and
- must hold an appropriate licence type (i.e. brewery licence or manufacturer's licence) under the *Excise Act 1901* (Cwlth).

To demonstrate continued eligibility for the new licence, artisan producer licensees will be required to lodge annual production and sales data returns, and to notify the Commissioner for Liquor and Gaming (Commissioner) if they cease to meet the eligibility requirements for the licence. Should an artisan producer licensee become ineligible for the licence, they will need to explore alternative licensing options, such as a commercial hotel licence.

Harm-minimisation measures will apply to artisan producer licensees and applicants commensurate with similar licence types. This includes the development of a community impact statement and a risk-assessed management plan for the premises. However, the Commissioner may waive these requirements if the applicant has previously completed them for the premises.

#### *Encourage transition of existing eligible licensees to the artisan producer licence*

To encourage existing eligible licensees to transition to the new artisan producer licence, the Bill proposes to waive the artisan producer licence application fee for producer/wholesaler licensees who make an application to transition to an artisan producer licence on or before 30 June 2021.

As at September 2020, there were approximately 101 craft brewers and artisan distillers with a producer/wholesaler licence. Waiving the application fee for all 101 licensees is anticipated to result in approximately \$146,046 of foregone revenue (providing all licensees apply on or before 30 June 2021).

Separate amendments to the *Liquor Regulation 2002* will waive the annual licence fees for the 2020-21 licence period for transitioning licensees whose fees have already been waived by the *Liquor (Fee Relief) and Other Legislation Amendment Regulation 2020*. It is noted artisan producer licensees will be required to pay annual licence fees for the 2021-22 licence period by the due date of 31 July 2021.

The Bill also provides that any conditions, extended trading hours approvals and permits relating to an existing licence may be carried over to the artisan producer licence to the extent allowed by the authority of an artisan producer licence. However, the Commissioner will retain the ability to vary existing conditions and/or apply new conditions to the artisan producer licence.

#### *Enhance the ability for craft brewers and artisan distillers to market their artisan liquor at promotional events*

The Bill enhances the authority of the producer/wholesaler licence by:



- enabling producer/wholesaler licensees that operate an artisan distillery to obtain a condition to allow them to sell limited takeaways of their artisan spirits at promotional events (mirroring existing provisions available to producer/wholesaler licensees which operate a craft brewery); and
- enabling producer/wholesaler licensees with the promotional event condition to sell samples of their liquor products (craft beer or artisan spirits) for consumption at promotional events.

Additionally, the scope of the existing promotional event permit framework will be expanded. The Bill will:

- introduce a new artisan spirits producer permit to enable holders to sell limited takeaways of their artisan spirits at promotional events (mirroring existing provisions available under the craft beer producer permit); and
- expand the authorisation of the craft beer producer permit and artisan spirits producer permit to enable holders to sell samples of their liquor products (craft beer or artisan spirits) for consumption at promotional events.

The artisan spirits producer permit and craft beer producer permit will be able to be granted to eligible licensees located both in Queensland and interstate.

The Bill also clarifies that the authority of the licence condition or permit to sell craft beer or artisan spirits at a promotional event applies for the duration of the event, unless otherwise conditioned.

*Regulate the sale of artisan liquor at promotional events by licensees and permittees consistent with the Liquor Act's objective to minimise the risk of alcohol-related harm*

To support the effective oversight of licensees and permittees who market their liquor at promotional events, and discourage pop up bars at these events, the Bill:

- provides a head of power for a regulation to limit the total volume of samples licensees and permittees may sell per person at promotional events, as well as individual samples sizes (proposed to be 150 millilitres of craft beer and 15 millilitres of artisan spirits);
- enables a condition to be imposed on a licence or permit to further limit, on an individual basis, the volume of a sample size, and total volume of samples provided per person, for consumption at the promotional event despite the sample size limits prescribed by regulation;
- limits the sale of takeaway liquor by eligible licensees and permittees at promotional events to 9 litres for craft beer and 1.5 litres for artisan spirits, unless a further condition is imposed on the licence or permit specifying a different amount; and
- imposes recordkeeping requirements on eligible licensees and permittees in relation to promotional events attended.

## **Fundamental Legislative Principles**

Potential breaches of Fundamental Legislative Principles (FLPs) raised by the amendments are considered justified. The FLP issues and justification are outlined in detail in pages 4 to 7 of the Explanatory Notes to the Bill.

## **Human Rights Impact**

The amendments are considered compatible with human rights. The human rights issues and justification are outlined in detail in the Statement of Compatibility for the Bill.