

The Three Year Review of the Liquor Act 2019

Discussion Paper

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| Acronyms | Full form |
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| ACPU | Alcohol Policy Coordination Unit |
| APA | Alcohol Protected Area |
| BDO | Banned Drinker Order |
| BDR | Banned Drinker Register |
| CM&C | Department of the Chief Minister and Cabinet |
| GRA | General Restricted Area |
| NT | Northern Territory |
| SRA | Special Restricted Area |

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Minister's Foreword



On 20 December 2022, I requested the Department of the Chief Minister and Cabinet (CM&C) undertake the three year review of the *Liquor Act 2019* (the Act) to determine whether the policy objectives remain valid and whether the Act is fit for purpose in securing those objectives.

Alcohol related harm continues to be one of the greatest social issues facing the Northern Territory today, and no Government has done more to stop it.

The Northern Territory Government's review of the Act will be one part in ensuring we continue to minimise harm associated with alcohol. It will also ensure that the Act is effective in recognising the public's interest in the sale, supply, service, promotion and consumption of liquor.

The Discussion Paper is seeking feedback from the broader community and interested stakeholders on the operation of the Act. We are keen to hear from businesses, individuals, associations and other organisations involved in activities related to the Act.

I have released this Discussion Paper to start the conversation and encourage you to have your say by using the online submission form. Your feedback may look at the achievements the Act has delivered or suggestions about how processes under the Act could be improved.

The Northern Territory Government recognises the importance of a strong regulatory framework for alcohol in the Northern Territory, to minimise the harm that alcohol causes in our community and to provide certainty for business, the public and industry.

I appreciate your interest in working with us to build a safer Territory and look forward to hearing your views.

A handwritten signature in blue ink that reads "Natasha". The signature is fluid and cursive.

Hon Natasha Fyles MLA
Chief Minister
Minister for Alcohol Policy

1. Introduction

The Act governs the sale, provision, service, promotion and consumption of liquor, with the purpose of minimising alcohol harm in the Northern Territory (NT). The Act is administered by the Minister for Alcohol Policy and is available on the [Northern Territory Legislation website](#).

Section 320 of the Act requires the Minister to undertake a review as soon as possible after three years from the day the Act received assent. The Act received assent on 3 September 2019.

The review will determine whether:

- the policy objectives of the Act remain valid
- the terms of the Act remain appropriate for securing those objectives.

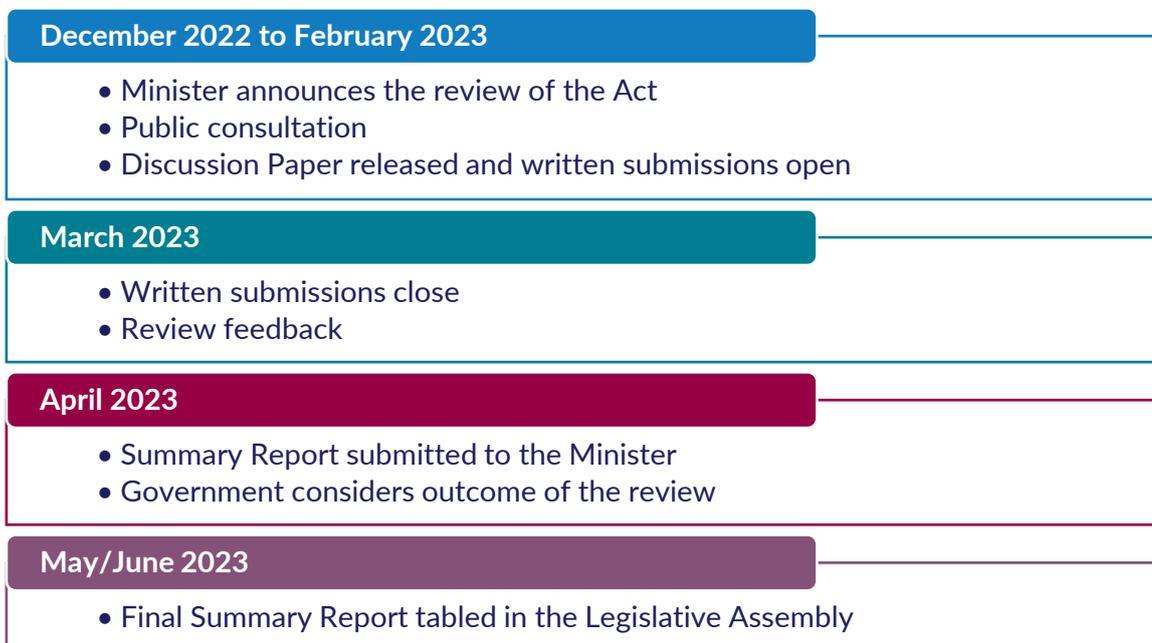
The review will examine a wide range of information and explore views through consultation with businesses, industry groups, government and non-government agencies and the public.

A report on the outcome of the review is required to be tabled to the Legislative Assembly within 12 months following the end of the three year period (October 2023).

2. The Review Process

This Discussion Paper marks the beginning of the review led by the Alcohol Policy Coordination Unit (ACPU), CM&C. Targeted stakeholder meetings and workshops will also be undertaken as required to help further determine key issues from different perspectives.

Feedback received in response to this Discussion Paper will be taken into account by the Government as it determines the next steps in the review. The review process is outlined below.



Additionally, this review will take place concurrently with the drafting of the NT Alcohol Action Plan (the Action Plan) and will form one of the key actions described within the Action Plan. While the scope of the review is limited to the legislative and regulatory framework for liquor in the NT, the Action Plan will provide an avenue to explore other policy tools that can be used in addition to regulatory reform.

3. History of the Liquor Act

Alcohol-related harm continues to be a core issue impacting the lives of Territorians. The NT has been the focus of a number of reviews and legislative actions in response to the NT's exceptionally high alcohol consumption rates and associated harm since 1978.

The Liquor Act was first introduced in 1978 following the granting of self-government to the Territory and came into effect on 12 February 1979. Its main area of alcohol policy was to restrict the physical availability of alcohol by granting communities the power to request the banning or restriction of alcohol in designated areas (now known as general restricted areas).

In 2007, the Australian Government enacted the *Northern Territory Emergency Response Act 2007 (Cth)* (the Intervention legislation) amending NT legislation including the *Liquor Act 1978*. The Intervention legislation was then later repealed in 2012 and replaced with the *Stronger Futures in the Northern Territory Act 2012 (Cth)* (the Stronger Futures Act) which continued the Australian Government's amendments to the NT's Liquor Act. In accordance with its legislative provisions the Stronger Futures Act ceased on 17 July 2022.

In March 2017, the NT Government commissioned the Alcohol Policies and Legislation Review (the Riley Review) to deliver a cohesive approach to alcohol harm reduction. The final report provided 220 recommendations on reforms in alcohol policy and legislation, with the Government taking a number of immediate actions following the release of the report.

In 2018, the NT Government released the Alcohol Harm Minimisation Action Plan 2018-19, as part of the Government's response to the Riley Review and committed to implementing the recommendations from the Riley Review, including a re-write of the *Liquor Act 1978* to incorporate harm minimisation principles.

The Act came into effect on 1 October 2019, representing one of the most significant efforts on alcohol legislative reform in the NT, and resulted in more than 70 recommendations of the Riley Review being implemented upon its commencement.

4. Objectives of the Liquor Act 2019

Section 3 provides that the primary purpose of the Act is to minimise the harm associated with the consumption of liquor in a way that recognises the public's interest in the sale, supply, service, promotion and consumption of liquor.

There are also a number of secondary purposes including:

- a. to protect and enhance community amenity, social harmony and community wellbeing through the responsible sale, supply, service, promotion and consumption of liquor
- b. to regulate the sale, supply, service, promotion and consumption of liquor in a way that contributes to the responsible development of the liquor industry and associated businesses in the Territory
- c. to facilitate the diversity of licensed premises and associated services for the benefit of communities in the Territory
- d. to regulate the sale, supply, service, promotion and consumption of liquor in a way that stimulates the tourism and hospitality industries.

5. Issues

The NT Government has already been given notice on a number of issues that stakeholders would like considered as part of this review. These issues are set out below, including where appropriate or known, the proposed amendments or positions on those issues.

However, your submission is not limited to the issues and questions set out in this Discussion Paper.

5.1. Undue and unreasonable noise

The issues raised relate to areas such as:

- defining the terms 'undue' or 'unreasonable' more clearly under section 93 of the Act as the definitions are viewed as too broad and lack any clear or defined noise measures, particularly if evidence must be provided in response to a noise complaint
- reducing the timeframes within which noise complaints can be made in order to reduce the administrative burden on licensees who must gather evidence six months after an incident or violation has occurred.

Proposed amendments may include:

- clearly defining the terms 'undue' and 'unreasonable' under section 4 of the Act
- amending section 93 of the Act to have clear and defined measurements of noise by which licensees can conduct their operations and monitor compliance, including the provision of guidelines to ensure licensees comply within reasonable volume
- establishing a mechanism by which the submission of a sound management plan forms part of a licensee's condition insofar as noise management is concerned.

Discussion Questions

- What would be considered within reasonable volume for live music, patron noise and noise deriving from a licensee's regular operations?
- What other measures could be implemented to support live music and entertainment venues while maintaining a neighbourhood's amenity?
- What should the timeframe be for submitting noise complaints?

5.2. Transfer of licences

The issues raised relates to areas such as:

- the impost placed on licensees when transferring licences. Under section 72(2) of the Act, a new application must be submitted as if the proposed transferee is applying for a new licence, within which sections 52 to 58 apply to the application
- industry raised concerns that the transfer of licence should not re-examine any aspect of the licence's operations, be required to have a public notice published or require the submission of a new licence application
- concerns raised by social services organisations state that when a licence is transferred, applications cannot be objected to on the grounds that the transferee is not a fit and proper person.

Discussion Questions

- Do you believe that amendments should be made with respect to the transfer of a licence under section 72 of the Act? If so, what do you suggest?

5.3. Liquor accords

The issues raised relates to areas such as:

- the requirement for licensees to comply with a local liquor accord to which the licensee is a party to under section 134 of the Act, and that failure to do so would constitute a breach of licence conditions and result in disciplinary action
- concerns raised by industry about the administrative burden of liquor accords and the lack of resources given to coordinate all liquor accords in the NT
- that the conditions set out in the accord merely reflect the requirements for a licensee to participate as required by their licence or the Act, and not as active participants.

Proposed amendments may include:

- the requirement for licensees to join liquor accords as active and participating members
- amending the Act to require that the accord be periodically reviewed and subject to a thorough assessment and evaluation process.

Discussion Questions

- Do you believe that the terms of an accord should be considered as conditions of a licence?
- Do you believe that NT liquor accords are operating in accordance with section 133 of the Act? If not, why not?
- Do you have any other comments or suggestions regarding liquor accords, including areas for improvement?

5.4. Secondary supply of alcohol

The issue relates to detecting secondary supply of alcohol in remote communities, particularly in general restricted areas (GRAs), special restricted areas (SRAs) and interim alcohol protected areas (APAs). Unless a permit is issued, it is an offence to bring, possess, consume, sell and supply prohibited alcohol to the mentioned areas in accordance with sections 170B, 173 and 183 of the Act.

However, due to the remoteness and the high costs associated with conducting remote operations, it is not operationally feasible for police to only detect the offence once an individual has physically entered the boundary of a GRA, SRA or interim APA.

It is recommended that the penalties for secondary supply offences be increased due to a substantial rise in secondary supply of alcohol in the NT.

Proposed amendments may include:

- amending the Act to include that it is an offence to “transport liquor intending to supply” and “possess liquor intending to supply” to mirror the provision in the former Stronger Futures Act
- increasing the potential maximum penalty (currently 200 penalty units).

Discussion Questions

- Do you believe that penalties for secondary supply offences should carry tougher penalties? If not, why not?
- Do you have any concerns regarding the secondary supply of alcohol in the NT? If so, what are they?

5.5. Expansion of search and seizure powers

The issues raised relates to areas such as:

- public drinking and associated anti-social behaviour, particularly the rise in the number of people drinking in public spaces
- slower response times for calls in relation to public drinking due to competing demands placed on frontline police officers (with search, seize and dispose power).

Potential amendments may include:

- amending Part 10 of the Act to allow other appointed officers such as transit officers, public housing safety officers, park rangers, council rangers and contracted licenced security officers as ex-officio inspectors with the authority to search individuals and seize any opened or unopened container that is believed to contain liquor
(It should be noted that some appointed officers including public housing safety officers and Alice Springs council rangers already have search and seizure powers under their respective acts and by-laws)
- amending section 25 of the Act 'protection from liability' to include the appointed officers and security officers as outlined above.

Discussion Questions

- Do you believe that special seizure powers should be extended to other suitably qualified officers? If not, why not?

5.6. Extension of moratorium of takeaway licences

In October 2017, the NT Government imposed a five-year moratorium on issuing new takeaway licenses, preventing new liquor licences from being granted until after 31 August 2023 or any later date if extended via regulation.

A review of the moratorium is to be undertaken after the first five years of operation. The issue relates to whether an extension of moratorium of takeaway licenses should be extended after 31 August 2023.

Discussion Questions

- Should the moratorium of takeaway licences be extended post 31 August 2023?

5.7. Risk Based Licensing model

The issue relates to the current Risk Based Licensing model which aims to rewards licensees who supply alcohol responsibly and financially penalises those who break the rules. However, the current Risk Based Licensing formula does not have a strong effect, when taken with the discount multiplier, to deter or penalise behaviours that lead to alcohol-related harm.

A comparison of fees for 2021 shows that all licensees that had been subject to breaches indicate that the breach multiplier may not have resulted in a significant financial detriment to the licensee. In particular, for licences with one or two breaches.

Proposed amendments may include:

- establishing a new formula that simplifies the annual licence fee calculation and creating a relationship between the discount and breach multiplier: $BF \times V \times H \times (Br - D)$
- increasing the penalties for breaches, which provides a stronger financial disincentive to comply with the Act.

Discussion Questions

- Do you believe that penalties for breaches should carry tougher penalties? If not, why not?
- Do you have any other comments or suggestions regarding the Risk Based Licensing model, including areas for improvement?

5.8. Banned Drinker Register

The Banned Drinker Register (BDR) identifies people who are banned from buying, possessing or consuming alcohol and prevents them from purchasing at a takeaway outlet. The length of time a person is on the BDR may vary from three, six or 12 months.

The BDR is a policy initiative that aims to improve community health and safety by reducing alcohol-related harms. The provisions relating to the BDR are contained in the *Alcohol Harm Reduction Act 2017* (Alcohol Harm Reduction Act).

There is potential to strengthen the BDR through the Act and the Alcohol Harm Reduction Act, including:

- amending the Act so that when a person receives an alcohol banning notice in a high risk area, it immediately triggers a Banned Drinker Order (BDO) for a person to be placed on the BDR
- increasing the number of authorised persons who may apply to the BDR Registrar for the making of a BDO such as Transit Safety Officers and Council Rangers
- increasing the period in which police BDOs will be in force (currently a ban under a BDO made by police is only in force for a period of three months, with a breach of the ban leading to a six month ban, and further breaches resulting in a 12 month ban)
- reviewing the existing offences which trigger a BDO.

Discussion Questions

- Do you believe that amendments should be made with respect to the BDR? If so, what do you suggest?
- Do you have any other comments or suggestions regarding the BDR, including areas for improvement?

5.9. Other issues

Lastly, what other policy initiatives should the Government implement to reduce-alcohol related harm?

6. Make a Submission

You are invited to provide a written submission to the review. However, your submission is not limited to the issues and questions set out in this Discussion Paper.

Public comment on this Discussion Paper will be open until 28 February 2023 and you are encouraged to provide your submission as early as possible.

Feedback can be provided by email at AlcoholPolicy@nt.gov.au or by post to:

Alcohol Policy Coordination Unit
Department of the Chief Minister and Cabinet
GPO Box 4396
Darwin NT 0801

For questions about this Discussion Paper, please contact the Alcohol Policy Coordination Unit at AlcoholPolicy@nt.gov.au.

For more information, please visit the [Alcohol Policy website](#). To read the current *Liquor Act 2019*, please visit the [Northern Territory Legislation website](#).

Note: Submissions or comments are generally subject to freedom of information processes. Your personal details will not be included or published in any report.