

Government of South Australia submission

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Submission to the Senate Select Committee's inquiry into:

The Effect of Red Tape on the Sale, Supply and Taxation of Alcohol

## Introduction

The Senate Select Committee on Red Tape ("the Committee") has invited the Government of South Australia (SA) to make a submission to its inquiry examining the sale, supply and taxation of alcohol ("the inquiry"). Noting the terms of reference to examine, amongst other things, "how different jurisdictions in Australia and internationally have attempted to reduce red tape" in this area, I, on behalf of the Government of SA welcome the opportunity to contribute to the Committee's inquiry.

Given that South Australia has recently undertaken a comprehensive review of its liquor laws, I am happy for the timely opportunity to report very recent developments relating to red tape reduction in the context of the sale and supply of alcohol in South Australia.

While the Government of SA is actively working to reduce unnecessary red tape for business, the economy and consumers, this must be achieved through a holistic approach. Harm minimisation (particularly for vulnerable people, such as minors) is a critical element underpinning SA's liquor licensing laws. The public value in having safer and healthier communities through the implementation of responsible drinking and service of alcohol policies significantly outweighs a reasonable level of regulatory burden. As such, the regulation of liquor cannot be viewed simply through a 'red tape' lens.

The Government of SA respectfully seeks that the Committee gives consideration to this submission in formulating its final report.

## Background

### The Review

In November 2015, the State Government appointed former Supreme Court Justice Tim Anderson to lead a comprehensive review of South Australia's liquor licensing laws, focusing on the primary instrument: the *Liquor Licensing Act 1997* ("the Act"). Delivered to the government in June of 2016, Mr Anderson considered 89 responses from industry bodies, organisations and individuals. He also met personally with approximately 60 representatives of organisations and individuals, as well as a number of interstate liquor regulators. Mr Anderson's report made 129 recommendations aimed at improving the regulatory system, cutting red tape, encouraging a competitive market and promoting vibrancy and a safe drinking culture. Around 20 of these recommendations related specifically to red-tape reduction. Please refer to **Attachment 1** for a copy of report, "Review of the South Australian *Liquor Licensing Act 1997*".

### The South Australian Government's Response and the Subsequent Draft Amendment Bill

In September 2016, the South Australian Government published its response to Mr Anderson's review ("the response") (see **Attachment 2**). The Government accepted the vast majority of Mr Anderson's recommendations in full, in part, or in principle. Accordingly, the Liquor Licensing (Liquor Review) Amendment Bill 2016 ("the Bill") was then drafted and released publicly in December 2016. The Bill incorporates those recommendations from the review that were wholly or partially accepted. Almost all recommendations relating to red tape reduction have been accepted and drafted into the Bill. Submissions for the draft Bill closed on 6 January 2017. The Bill is scheduled to be debated in Parliament as a priority in the first quarter of 2017. Please refer to **Attachment 3** for a copy of the draft Bill.

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### Red Tape Reduction in South Australia: the Proposed Reforms

Amendments contained within the Bill aimed at reducing red tape and reducing cost to businesses include:

- Streamlining licence categories, for example, abolishing the limited club licence and allowing all club licensees to have common trading conditions;
- Removing restrictions relating to the sale of liquor on Sundays, Christmas Day, Good Friday and New Year's Eve;
- Altering the existing objections process for new licence applications to only be allowed on restricted grounds;
- Allowing trading under all categories of licence to be authorised on any day of the week without differentiation;
- Abolishing the compulsory hours of trading for hotels and the obligation to provide meals during certain hours;
- Eliminating designated areas in licensed premises, including designated dining areas;
- Removing the imposition of capacities for individual areas in licensed premises, in favour of an overall capacity; and
- Allowing all general and club liquor licence holders to sell alcohol for consumption off the premises under similar limitations.

Noting changes in community attitudes towards alcohol related harm, and taking into consideration the abovementioned balance between unnecessary regulatory burden and harm minimisation principles, the review made a number of other recommendations aimed at placing greater emphasis on harm minimisation.

Most significantly, the review recommended that the objects of the Act be amended to place greater emphasis on harm minimisation. Other Recommendations aligned to this underlying principle include:

- Replacing the "needs test" with a public interest and community impact test;
- Allowing for the expiation of a first offence of supplying to a minor, with mandated disciplinary action for a second offence;
- Enacting legislation for the secondary supply of liquor to minors on residential premises and during functions such as school formal after parties;
- Prohibiting the sale of liquor to minors through direct sales transactions;
- Bolstering the offence for granting entry to, or supplying alcohol to intoxicated persons;
- Broadening the power of the Liquor and Gambling Commissioner to suspend a licence for repeat breaches of the Act for a serious first offence; and
- Increasing focus on responsible service of alcohol training through mechanisms such as refresher training and enforcement.

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### **Additional recent reforms – Entertainment Consent**

#### *Entertainment Consent*

Recent changes to entertainment consent rules provide a simpler process and aim to cut red tape, reduce cost to businesses and encourage the live music industry.

Prior to December 2015, liquor licensees were required to apply to the licensing authority for consent whenever they wanted to provide entertainment on licensed premises. Consent was granted subject to conditions. The consent requirement has been partially removed such that live entertainment can now occur on licensed premises between 11am and midnight without the need for consent. This encourages a greater variety of live music in Adelaide and wider South Australia; and gives licensees greater choice over the entertainment they will provide in competing for business.

### **Mutual Recognition of Responsible Service of Alcohol Training**

As part of the independent review of the *Liquor Licensing Act 1997*, conducted by the Honourable Timothy Anderson QC, it was submitted that while SA liquor businesses that conduct tastings, promotional events and sales events interstate are cognisant of the RSA requirements, beyond the basic requirements of the nationally accredited RSA qualification, there is a lack of consistency between certification requirements and no mutual recognition of qualifications between jurisdictions.

It was also submitted that the mutual recognition of SA training qualifications is a matter that can only be successfully dealt with at a national level with full co-operation between the Federal, State and Territory governments.

As part of the final report provided to the Government in June 2016, Mr Anderson recommended:

*Mutual recognition of responsible service of alcohol training qualifications should be discussed at the appropriate inter-governmental meeting.*

The SA Government accepted this recommendation.

In March 2014, the then SA Liquor and Gambling Commissioner achieved some concessions through negotiation for short term one off events, but challenges continue in some other jurisdictions.

For example, proof of identity photos (photo ID is required for South Australian operators when operating in New South Wales) now require a person to physically attend an interstate location to have the photo verified.

The South Australian Wine Industry Association (SAWIA) has provided an example where compliance would involve a 600km return journey to comply. No alternative solution was offered by the jurisdiction.

Previously, on-line training options were removed requiring interstate persons to travel a day earlier than the event (requiring a night's accommodation cost) to undertake the training and deal with photo requirements. While the on-line training has now been restored, the photo requirements are a new development following Australia Post no longer being an accepted service provider.

There are enormous challenges for industry to comply with RSA obligations interstate including process challenges, costs and effort required to comply. There are significant variations relating to RSA compliance between States and this adds to the regulatory burden and costs for each business before any wine is poured interstate.

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This has a direct impact on the delivery of the SA Government's strategic policy of premium food and wine from our clean environment as the domestic market provides opportunity for sales of South Australian wine but at a significant additional cost in order to be compliant.

While there are similarities between the States, the means necessary to achieve compliance are not easy to navigate. There is no one stop shop to find out a licensee's RSA obligations for all States or in each State and this requires significant time and effort to research to identify the necessary training, approved providers, cost variations and documentation. Government liquor agency websites do not set out what is required for interstate parties.

Overall, the SA Government submits that the RSA requirements should be made easier to allow cross-border serving and supply of alcohol without huge costs arising through additional training or requirements such as photo ID.

It is important to note that:

- The application of the *Mutual Recognition Act 1992 (Cth)* would not apply in this context as a person is not *registered* in South Australia to sell or supply liquor.
- The issue of Mutual Recognition of Responsible Service of Alcohol Training was an agenda item at the last Australasian Liquor Licensing Authorities Conference hosted by South Australia in November last year. While it appears that the majority of regulators support the concept, further work is still required to determine the best strategy to progress.
- On 12 February 2016, the Senate Standing Committees on Rural and Regional Affairs and Transport released its' report into the Australian grape and wine industry which included the following recommendation:
  - *The committee recommends that the Commonwealth Government, through the Council of Australian Governments (COAG), work with states and territories to establish mutual recognition arrangements for responsible service of alcohol qualifications.*

### Conclusion

The South Australian Government is pleased to provide a written submission to the Senate Select Committee on Red Tape's inquiry into the sale, supply and taxation of alcohol. As demonstrated by the recent reform work in South Australia, the SA Government is committed to reducing unnecessary red tape for business, the economy and consumers in the context of the sale and supply of alcohol. In doing so, however, the SA Government takes a holistic approach, always balancing the removal of any regulatory burden with well established harm minimisation principles, to ensure that the South Australian community is sold and supplied alcohol in a responsible and safe manner.

The South Australian Government would be glad to be of any further assistance at your request, particularly in relation to progressing the mutual recognition of Responsible Service of Alcohol Training.