

# **Liquor (Rural Hotels Concession) Amendment Bill 2018**

## **Explanatory Notes**

### **FOR**

## **Amendments To Be Moved During Consideration In Detail By The Honourable Yvette D'Ath, Attorney-General and Minister for Justice and Leader of the House**

### **Short title**

The short title of the Bill is the Liquor (Rural Hotels Concession) Amendment Bill 2018.

### **Policy objectives and the reasons for them**

The Explanatory Notes for the Liquor (Rural Hotels Concession) Amendment Bill 2018 (Bill) outline the policy objective of the Bill as being to introduce a concessional framework to assist commercial hotel licensees in very remote areas providing unique services and social support to their communities.

The policy objective of the amendments to the Bill are to ensure that the concessional fee scheme is effectively operated and integrated with the existing regulatory framework, while supporting the intent of the Bill.

Additional amendments provide for the concessional fee scheme to also apply to community clubs with 2,000 members or less in very remote Australia, as it is considered that these licence types also provide diverse services to small, remote communities. Extending the concessional fee scheme in this manner aligns with the policy objective of the Bill.

### **Achievement of policy objectives**

To ensure the legislation is able to be more effectively and broadly applied, the amendments:

- extend the concessional fee scheme to provide that small community clubs in very remote Australia pay the same amount as a commercial hotel (with no detached bottle shops) in the same area;

- clarify the concessional fee only applies to the base licence fee for a commercial hotel licence and does not apply to other fees such as for detached bottle shops or risk criterion fees;
- clarify eligibility for the concessional fee is based on the boundaries of ‘very remote Australia’ on the first day of the licence period (i.e. 1 July each year); and
- remove extraneous provisions that are not required for the implementation of the scheme.

These amendments are encompassed in the revised section 202A, and are inserted by clauses 2 to 4 of the amendments. To ensure the immediate operation of the legislation, a commencement date of 1 July 2019 is also inserted into the Bill.

## **Alternative ways of achieving policy objectives**

Legislative amendment is the only option available to ensure the effective operation of the legislation.

## **Estimated cost for government implementation**

As at 1 January 2019, 112 commercial hotels and 42 small community clubs would be included in the amended concessional scheme. Based on the licence fees for the 2018-19 licence period, it is estimated that the annual projected loss to Government is approximately \$392,100. It is noted the ongoing loss to Government will fluctuate depending on the number of eligible licences and licence type, and changes to base licence fees which generally increase each year in accordance with the indexation policy as advised by Queensland Treasury.

## **Consistency with fundamental legislative principles**

The amendments are consistent with fundamental legislative principles.

## **Consultation**

Consultation on the Bill was undertaken by the Legal Affairs and Community Safety Committee.

## **Consistency with legislation of other jurisdictions**

Not applicable.

## **Notes on provisions**

Clause 1 inserts a new clause 1A which provides a commencement date of 1 July 2019 (i.e. the commencement of the next licence period).

Clause 2 amends clause 3 of the Bill to omit the heading (Concessional fee for commercial hotel licence in very remote Australia) and subsections 202A(1) to (4). A revised section 202A

heading (Concessional base licence fee for particular licences in very remote Australia) and new subsections 202A(1) and (2) are also inserted by clause 2.

New subsection 202A(1) outlines the eligibility requirements for the amended concessional fee scheme in relation to the licence fee payable for a licence for a licence period. New subsection 202A(1)(a) provides that the concessional fee scheme only applies to: (i) a commercial hotel licence; or (ii) a community club licence with 2,000 members or less (small community club). New subsection 202A(1)(b) further limits the application of the amended concessional fee scheme to relevant licence types with main premises located in very remote Australia. The provisions state that the main commercial hotel or community club premises must be located in very remote Australia to receive the concession. Meaning if a detached bottle shop was located in very remote Australia but the main commercial hotel premises to which it was attached was situated outside the very remote Australia boundary, the concession would not apply.

New subsection 202A(2) stipulates how the concessional fee is to be calculated, and provided for under a regulation, for the relevant licence types. Under that new subsection, a regulation must provide that the base licence fee for both commercial hotels and small community clubs in very remote Australia is to be calculated at a rate of 10% of the base licence fee that applies to a commercial hotel licence located elsewhere in the State. This means that small community clubs pay the same concessional fee that a commercial hotel licensee pays. Based on 2018-19 licence fees, the base licence fee for a commercial hotel licence would be reduced from \$3,757 to \$375.70. For small community clubs, the base licence fee would be reduced from \$694.60 to \$375.70.

Clause 3 amends clause 3 of the Bill by replacing the now incorrect sectional reference to subsection 202A(5) with a reference to subsection 202A(3).

Clause 4 amends the renumbered subsection 202A(3) to insert new definitions for ‘base licence fee’, ‘fee regulation’ and ‘main premises’. This clause also slightly amends the existing definition of ‘very remote Australia’.

Subsection (a) of the definition of ‘base licence fee’ outlines which amounts are intended to be captured as a base licence fee, being the amount payable for the licence because of the licence type.

Subsection (b)(i) of the definition of ‘base licence fee’ provides that licence fees for any detached bottle shops approved for a licence are not included in the base licence fee. This subsection reflects that while commercial hotels in very remote communities provide economic and social support central to the community - detached bottle shops do not form part of the key services located at the hotel itself.

Subsection (b)(ii) of the base licence fee definition excludes all other licence fees in the regulation from being a base licence fee. This ensures the concession fee scheme does not apply to risk criterion fees as prescribed in sections 36B and 36CA of the Liquor Regulation (i.e. extended trading hours or instances where a licensee has breached the legislation). It is not considered appropriate to allow for the reduction of risk criterion fees based solely on the location of the premises, as these fees are intended to facilitate cost-recovery for the greater monitoring and compliance activities associated with these risk factors, and ensure that

licensees contribute proportionately to the cost of regulation, including where a licensee breaches the legislation repeatedly.

‘Fee regulation’ refers to a regulation made under the head of power in section 202(1) of the *Liquor Act 1992* (Liquor Act).

The definition of ‘main premises’ outlines which parts of a licensed premises, under a licence, are excluded from being considered main premises. For commercial hotel licences, main premises excludes detached bottle shops. For small community club licences, main premises excludes premises approved for occasional use such as a sporting field. This definition is consistent with that provided in section 103T of the Liquor Act.

The definition of ‘very remote Australia’ is amended to provide that the classification of the area comprising very remote Australia at the start of a licence period (i.e. 1 July), continues for the remainder of the licence period (being the financial year, 1 July to 30 June). This will avoid any anomalies, such as altering licence fees that have already been paid for that licence fee period, if changes to the boundary of very remote Australia were to occur during the course of the licence period.

Aligning the concessional boundary to the commencement of the licence period applies to existing licences, as well as new licences in the first licence period. For example, if a new commercial hotel licence was granted in December 2019, the licensee’s eligibility for the concessional fee would be based on the boundary of very remote Australia as at 1 July for that licence period. The existing provisions under the Liquor Regulation in relation to payment of fees, prescribed day of payment, consequences of failing to pay, and the reduction of particular fees on a pro-rata basis for a new licence for the first licence period etc. will also apply to relevant licences situated in very remote Australia receiving the concession.

Subsections (a) and (b) of the definition of very remote Australia remain unchanged.