



Queensland

# Liquor Amendment Regulation (No. 4) 2008

## Explanatory Notes for SL 2008 No. 415

made under the

*Liquor Act 1992*

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### Short title

*Liquor Amendment Regulation (No. 4) 2008* (the Amendment Regulation)

### Authorising Law

Sections 173G and 173H of the *Liquor Act 1992* (the Liquor Act).

### Objectives of the legislation

The objective of Part 6A of the Liquor Act is to minimise harm caused by alcohol abuse and misuse, associated violence, and alcohol related disturbances or public disorder in Indigenous communities. Part 6A provides for the declaration of restricted areas and the establishment of liquor possession limits in restricted areas.

### Reasons for the subordinate legislation

In 2002, Government's Meeting Challenges Making Choices (MCMC) strategy, resulted in the introduction of alcohol management strategies in 19 Indigenous communities.

Between 2002 and 2006, 18 of the 19 communities were declared alcohol restricted areas under the Liquor Act 1992 (Liquor Act) with a prescribed

alcohol carriage limit. Alcohol restrictions are declared under Part 6A of the Liquor Act by way of regulation and prescribe the amount of alcohol that can be in a person's possession or in a vehicle (carriage limit).

The Cherbourg community was the only MCMC community that did not have an alcohol carriage limit declared. Specific public areas in the community were declared as "dry places" under the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters Act 1984)* (ATSI Act), which prohibited drinking in those areas, instead of declaring an alcohol carriage limit.

Due to the new Liquor Act laws which prohibit drinking in public in Indigenous communities, the dry place provisions of the ATSI Act, affecting Cherbourg became redundant and were removed on 1 July 2008. This means there are currently no legislated alcohol restrictions in effect in the Cherbourg community.

In February 2008, the Premier met with Indigenous community Mayors and announced a review of alcohol restrictions complemented by improved alcohol treatment and diversion services in the 19 discrete Indigenous communities.

The review was overseen by the Strong Indigenous Communities Chief Executive Officer's Committee (CEO Committee) and concluded there had been no real improvement in Cherbourg since dry place declarations were instituted and further action is required to address the high levels of harm apparent in the community.

In comparison to other discrete Indigenous communities, for 2007-2008, Cherbourg had the second highest rate of hospital admissions for assault at 31.4 times higher than expected for a community of comparable size. Reported offences against the person were 12.6 times higher than the expected rate. Cherbourg has the highest rate of children subject to a substantiated child safety notification and the second highest number and rate of children subject to finalised protection orders.

In light of the high levels of harm, a zero carriage limit was considered for Cherbourg, consistent with the alcohol restrictions in effect in Woorabinda, Aurukun, Mornington Island and Napranum. However, it is unlikely a zero carriage limit would be accepted by the Cherbourg community and widespread non compliance with the restrictions would likely result.

The effectiveness of alcohol restrictions is greatly affected by the proximity to an alcohol source. Cherbourg residents have extensive family and

kinship ties with nearby Murgon (6 km) and it is known that residents of Cherbourg regularly travel to Murgon to purchase groceries, use services and access alcohol. Combined with the multiple access points via road and bush track, sly grog represents a significant enforcement issue for Police.

By introducing a carriage limit that allows limited consumption of low and medium strength alcohol, Cherbourg has the potential over time to transition from a community with very high levels of harm with no alcohol restrictions, to a community with more responsible drinking levels and reduced levels of harm. The proposed carriage limit may assist in shifting problem drinkers from high alcohol content products to less risky, lower strength alcohol products. It may also garner support and compliance from responsible drinkers to build acceptance of restrictions within the community.

Information published by the National Drug Research Institute in 2007 and investigations conducted by the Office of Liquor Gaming and Racing (OLGR) in the communities of Doomadgee, Aurukun and Lockhart River support the reduction of high alcohol content products (wine, spirits and full strength beer) to reduce levels of harm in discrete Indigenous communities.

The Amendment Regulation declares the community of Cherbourg a restricted area and prescribes a carriage limit of 1 carton of light or mid strength beer, eliminating full strength beer, wine and spirits. The carriage limit restricts the amount of alcohol a person can possess in the declared area and also applies to vehicles regardless of the number of passengers. The alcohol restrictions are proposed to commence on 12 March 2009 to coincide with the implementation of support services.

### **Consistency with authorising law**

The Amendment Regulation is consistent with Part 6A of the Liquor Act which provides under Sections 173G and 173H of the *Liquor Act 1992* that a regulation may be made to declare a restricted area for any area in Queensland, including a community area or part thereof, and for the application of alcohol carriage limits within that restricted area.

### **Estimated cost of government implementation**

Any expenditure associated with implementation of the regulation will be met through existing budget allocations.

## **Fundamental legislative principles**

The proposed regulation is consistent with fundamental legislative principles.

### **Consultation**

#### **(a) *Community***

Senior government representatives undertook two rounds of community visits (April and August 2008) to discuss alcohol management strategies and service delivery. Councils and community justice groups were also asked to make written submissions in response to the reforms.

#### **(b) *Government***

All relevant Government agencies have been consulted through the CEO Committee. The Office of Parliamentary Counsel has drafted the Amendment Regulation.

### **Results of consultation**

#### **(a) *Community***

The Cherbourg Community Justice Group elected not to provide feedback in relation to the proposed restrictions. Cherbourg Aboriginal Shire Council proposed a number of measures to improve alcohol management but did not support alcohol supply restrictions. The council's view is alcohol restrictions will only create avenues for sly grogging, substance abuse and other illegal activities. The South Burnett Shire Council raised concerns over public safety in nearby communities in the South Burnett Region. The nearby communities of Murgon and Wondai should expect increased numbers of Cherbourg residents seeking to purchase and consume alcohol from any one of the numerous hotels, clubs and liquor outlets resulting in increased public drunkenness and disorderly conduct.

The high levels of harm and lack of community acceptance for alcohol management justifies the need for Government intervention until community leaders and residents are clear as to Government's harm reduction objectives and actively participate in management of alcohol misuse.

Many of the measures proposed by the Cherbourg Council are already enforced under the legislative changes that took effect 1 July 2008. The

commencement of restrictions on 12 March 2009 coincides with the expected timeframe for implementing enhanced alcohol and drug related services. Residents of Cherbourg are not anticipated to move long term to Murgon and Wondai due to the close proximity of their homes in Cherbourg. The Department of Communities will monitor and report on displacement and coordinate responses with other departments where required. There are 22 police stationed in Murgon and 7 in Cherbourg to respond to sly grog and public disorder issues.

**(b) Government**

The Queensland Police Service support the proposed carriage limit. However, police acknowledge there will be difficulties in enforcement given that alcohol is readily available from liquor outlets in the neighbouring town Murgon.

## **Notes on provisions**

Section 1 provides for the short title of the amendment regulation.

Section 2 provides for the amendment regulation to commence on 12 March 2009.

Section 3 names the *Liquor Regulation 2002* as the regulation to be amended.

Section 4 declares schedule 1S (Cherbourg) of the *Liquor Regulation 2002* which declares the Cherbourg Aboriginal Shire a restricted area. The amendment declares the prescribed quantity of alcohol able to be possessed in the restricted area of Cherbourg to 11.25 litres of beer with an alcohol content of less than four percent (light or mid strength) only.

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### ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Treasury Department.