

Liquor (Undesirable Liquor Product— Powdered Alcohol) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 92

made under the

Liquor Act 1992

General Outline

Short title

Liquor (Undesirable Liquor Product—Powdered Alcohol) Amendment Regulation 2018

Authorising law

Sections 156B(1) and 235 of the *Liquor Act 1992* (Liquor Act).

Policy objectives and the reasons for them

The policy objective of the *Liquor (Undesirable Liquor Product—Powdered Alcohol) Amendment Regulation 2018* (Amendment Regulation) is to prevent powdered and crystalline alcohol products, such as Palcohol, from being sold or supplied in Queensland.

Section 4B of the Liquor Act defines liquor as “a spirituous or fermented fluid of an intoxicating nature intended for human consumption” and “any other substance intended for human consumption in which the level of ethyl alcohol (ethanol) is more than 5mL/L (0.5%) at 20°C.” Aerosol sprays, ice confections, jellies and powders are specifically cited in the section as examples of other substances.

Under section 156B(1) of the Liquor Act a regulation may prescribe a particular liquor product, or class of liquor products, to be an undesirable liquor product. Section 156B(3) of the Liquor Act requires that in order to recommend the making of the regulation, the Minister must form the opinion that:

- the name, design of packaging of the liquor product or class of liquor products is likely to be attractive to minors or young people; or
- the liquor product or class of liquor products is likely to be confused with soft drinks or confectionery; or
- the liquor product or class of liquor products, for any other reasons, is likely to have a special appeal to minors or young people; or

- it is otherwise in the public interest to declare the liquor product or class of liquor products to be an undesirable liquor product.

The Minister has made every reasonable effort to consult with the relevant liquor industry representatives, manufacturers and distributors of the liquor product to be declared, under section 156B(4) of the Liquor Act. However, it is noted, failure to comply with this consultation requirement does not affect the validity of the regulation.

Having undertaken the required consultation, the Minister is of the opinion powdered and crystalline alcohol products, such as Palcohol, are likely to be attractive to minors or young people due to the novelty of the product and its ability to be concealed (e.g. taken into events or areas where alcohol is prohibited). Further, in view of concerns raised about the potential for powdered alcohol to be misused or abused (e.g. drink spiking, mixed with energy drinks or other types of alcohol, used in excess of the recommended amount, and snorted or ingested in powder form), the Minister is of the opinion it is in the public interest to declare liquor in powdered or crystal form (e.g. Palcohol), and including, for example, powder contained in a capsule or in the form of a tablet, to be an undesirable liquor product.

Achievement of policy objectives

The Amendment Regulation achieves the policy objectives by declaring a product that is liquor in powdered or crystal form, to be an undesirable liquor product. To capture any ways in which powdered alcohol might be named or presented, the Amendment Regulation provides examples of liquor in powdered or crystal form, including Palcohol (a known powdered alcohol product) and powder contained in a capsule or in the form of a tablet. This declaration prevents powdered or crystalline alcohol products from being sold or supplied for human consumption in Queensland. However, powdered or crystalline alcohol products may still be used for manufacturing and industrial purposes where it is not intended for direct human consumption.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of minimising the harm and potential for harm from alcohol abuse and misuse, as provided in section 3 of the Liquor Act.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives.

Benefits and costs of implementation

There are no costs associated with implementing the Amendment Regulation. The Amendment Regulation is intended to minimise the potential risk of alcohol-related harm

to the community by preventing powdered and crystalline alcohol products, such as Palcohol, from being sold or supplied in Queensland.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

The manufacturer of Palcohol, Lipsmark LLC was consulted, but did not respond to correspondence on this matter.

The Queensland Hotels Association and Clubs Queensland were consulted and support the Amendment Regulation.

In accordance with *The Queensland Government Guide to Better Regulation*, the Office of Best Practice Regulation was not consulted in relation to the proposal. Departmental officers applied a self-assessable exclusion from undertaking further regulatory impact analysis (category (g) – Regulatory proposals of a machinery nature) as the proposed amendment is a declaratory process.