

Liquor (Prescribed Quantity for Palm Island) Amendment Regulation 2019

Explanatory notes for SL 2019 No. 200

made under the

Liquor Act 1992

General Outline

Short title

Liquor (Prescribed Quantity for Palm Island) Amendment Regulation 2019

Authorising law

Section 173H of the *Liquor Act 1992* (Liquor Act).

Policy objectives and the reasons for them

The objective of this Amendment Regulation is to make a minor modification to the alcohol carriage limit for Palm Island, which is detailed in schedule 1R of the *Liquor Regulation 2002* (Liquor Regulation).

Following the finalisation of the Alcohol Management Plan (AMP) review in mid-July 2019, Government endorsed an amendment to the type of liquor permitted within the alcohol carriage limit for Palm Island. Under the current carriage limit, beer is the only liquor permitted to be in a person's possession, other than at licensed premises.

The Amendment Regulation allows for any type of liquor to be in a person's possession while maintaining the current alcohol quantity and concentration restrictions of 11.25 litres (i.e. 1 carton of 30 cans) and less than four per cent respectively.

The Palm Island community, including the Palm Island Community Justice Group and the Palm Island Aboriginal Shire Council, sought the amendment to the carriage limit as part of its response to the AMP review. The amendment will form part of the staged and managed approach to progressing alcohol management on Palm Island.

Achievement of policy objectives

The policy objective of the Amendment Regulation is achieved by amending schedule 1R of the Liquor Regulation to remove the beer only limitation and allow for any type of liquor to be in a person's possession on Palm Island. The existing alcohol quantity and alcohol concentration restrictions will be retained.

The amendment to the Palm Island alcohol carriage limit was developed and sought by the Palm Island community to allow for a variety of liquor within the existing restrictions of the carriage limit, as part of a staged and managed approach to progressing alcohol management on Palm Island.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the Liquor Act, which include the regulation of the sale and supply of liquor in particular areas to minimise harm caused by alcohol abuse and misuse and associated violence.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is largely consistent with the harm minimisation policy objectives of liquor legislation in other Australian states and territories. Similar legislation relating to restricted areas (also known as dry areas) exists in the Northern Territory and Western Australia under the *Liquor Act 1978* (NT) and the *Liquor Control Act 1988* (WA).

In 2013 the High Court of Australia determined that alcohol restrictions were a ‘special measure’ under the *Racial Discrimination Act 1975* (Cth) as they impose constraints on individual liberties in favour of promoting safety for the broader community (*Maloney v the Queen* [2013] HCA 28).

Alternative ways of achieving policy objectives

An alternative way of allowing any liquor to be in a person’s possession on Palm Island would be to repeal the regulated restricted area. This is not appropriate as the Palm Island community indicated in its response to the AMP review that it wishes to retain the alcohol carriage limit, with only minor adjustments to allow for a variety of liquor within the existing restrictions.

Accordingly, there is no alternative way to amend the alcohol carriage limit for Palm Island while maintaining the harm minimisation objectives of the Act.

Benefits and costs of implementation

The Amendment Regulation recognises the Palm Island community’s progress in regards to alcohol management. It allows Palm Island residents and visitors to be in possession of a wider range of alcoholic beverages within the existing quantity and concentration restrictions.

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

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

The Palm Island AMP, which encompasses the alcohol carriage limit, was recently subject to an extensive review which included detailed analysis and consultation with the Palm Island community. The endorsed amendment was developed and sought by the Palm Island community to allow for a variety of liquor within the existing restrictions of the carriage limit, as part of a staged and managed approach to progressing alcohol management on Palm Island.

In line with the *Queensland Government Guide to Better Regulation*, the department has assessed the regulatory proposal as exempt from further regulatory impact analysis under exclusion category (g), as the amendment is minor and of a machinery nature. Accordingly, the Office of Best Practice Regulation has not been consulted.