

Alcohol Advisory Council Amendment Bill

Government Bill

As reported from the Health Committee

Commentary

Recommendation

The Health Committee has examined the Alcohol Advisory Council Amendment Bill and recommends that it be passed with the amendments shown.

Introduction

This bill seeks to update and simplify the current mechanisms for setting the Alcohol Advisory Council levy on alcoholic beverages by introducing a system of alcohol classification bands. This approach is intended to reflect that used by the New Zealand Customs Service to collect alcohol excise duty and excise-equivalent duty. Under this system a dollar amount per litre of beverage for the ALAC levy would be set for each alcoholic beverage according to its deemed alcohol content or average alcohol content. This means that alcoholic beverages with a higher volume of alcohol would contribute a higher proportion to the levy.

Proposed amendments

Since the bill was drafted the need for two technical amendments has emerged. The first is a definition of the word “rate”, to make it clear that it means the percentage figure given in the Schedule.

The second is the replacement of the table set out in the Schedule. The original table contained some inconsistency between the excise and the ALAC levy collection systems. For instance, using the original table, table wine with more than 14 percent alcohol would have incurred a higher ALAC levy than table wine with less than 14 percent alcohol, whereas under the excise system both would incur the same amount of excise. The new table ensures consistency between the two systems by listing the tariff items for each class of beverage.

Impact on the industry

Our advisers assured us that the changes proposed in the bill would have a minimal impact on system changes for those who pay excise and excise-equivalent duty and the ALAC levy. The new system will be easier to operate than the current system.

Appendix

Committee process

The Alcohol Advisory Council Amendment Bill was referred to the committee on 4 March 2008. The closing date for submissions was 26 March 2008. We received and considered six submissions from interested groups. We heard six submissions.

We received advice from the Ministry of Health, the New Zealand Customs Service, and Parliamentary Counsel.

Committee membership

Sue Kedgley (Chairperson)

Lesley Soper (Deputy Chairperson)

Dr Jackie Blue

Dr Jonathan Coleman

Jo Goodhew

Hon Luamanuvao Winnie Laban

Jill Pettis

Hon Tony Ryall

Barbara Stewart

Hon Tariana Turia

Louisa Wall

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Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Damien O'Connor

Alcohol Advisory Council Amendment Bill

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The Parliament of New Zealand enacts as follows:

1 Title
This Act is the Alcohol Advisory Council Amendment Act **2007**.

2 Commencement 5
This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act amended
This Act amends the Alcohol Advisory Council Act 1976.

Part 1

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Amendments to principal Act**4 Interpretation**

(1) Section 2(1) is amended by repealing the definitions of **basic unit of liquor, fortified wine, fruit wine, and grape wine**.

(2) Section 2(1) is amended by inserting the following ~~definition~~ 15
in its definitions in their appropriate alphabetical order:

“**class of liquor** means a class of liquor as identified in the table in the **Schedule**

“**rate**, when referring to a rate for a class of liquor, means the 20
percentage figure, set out in the fourth column of the table in the **Schedule**, that is used to calculate the levy for that class of liquor”.

(3) The definition of **preceding statistical year** in section 2(1) is amended by omitting “beer, sprits, and wine” and substituting “each class of liquor”. 25

(4) The definition of **wine** in section 2(1) is repealed and the following definition substituted:

“**wine** means the product of the complete or partial fermentation of any fruit (including grapes), vegetable, or honey, and—

“(a) includes— 30

“(i) cider, perry, and mead; and

“(ii) fortified wines such as sherry, port, and fruit or vegetable-based liquors; but

- “(b) does not include—
- “(i) beer or spirits; or
- “(ii) any liquor containing no more than 1.15% volume of alcohol”.
- (5) Section 2 is amended by repealing subsections (2) and (2C). 5
- (6) Section 2(2D) is amended by omitting “and of subsection (2) of this section,”.
- (7) Section 2(3) is amended by omitting “and of subsection (2) of this section,”.
- (8) Section 2 is amended by adding the following subsection: 10
- “(5) For the purposes of **section 26(2)** and the **Schedule**, liquor that is exported from New Zealand during the preceding statistical year is not to be treated as liquor that is imported into or manufactured in New Zealand.”
- 5 New sections 26 and 27 substituted** 15
- Sections 26 and 27 are repealed and the following sections substituted:
- “26 Minister to determine amounts of levy for each class of liquor**
- “(1) After assessing the aggregate levy figure in respect of any financial year, the Minister must determine, in accordance with **subsection (2)**, the amounts of the levies payable under section 28, in respect of each class of liquor, in order to yield an amount equivalent to the aggregate levy figure. 20
- “(2) The process for determining the amounts of levy is as follows: 25
- “(a) *Step 1*—for each class of liquor, determine the total number of litres of that class of liquor that was imported into or manufactured in New Zealand during the preceding statistical year:
- “(b) *Step 2*—for each class of liquor, multiply the result of step 1 by the appropriate rate, as set out in the table in the **Schedule**. This gives the (nominal) total number of litres of alcohol for each class of liquor: 30
- “(c) *Step 3*—for each class of liquor, divide the number of litres of alcohol for that class by the total number of litres of alcohol for all classes. This gives the proportion 35

- of the aggregate levy figure that is to be borne by that class of liquor in the next financial year:
- “(d) *Step 4*—for each class of liquor, multiply the result of step 3 by the aggregate levy figure. This gives the amount of levy to be borne by each class of liquor in the next financial year: 5
- “(e) *Step 5*—for each class of liquor, divide the result of step 4 by the result of step 1. This gives the amount of levy payable on each litre of liquor of that class in the next financial year. 10
- “(3) If a rate for a class of liquor is described in the table in the **Schedule** as ~~being variable~~ a variable rate, the Minister must—
- “(a) determine the rate to be applied to that class of liquor; and 15
- “(b) in making that determination, use the method for determining variable rates that is described in the **Schedule**.
- “**27 Rate of levy fixed by Order in Council**
- “(1) The Governor-General may, by Order in Council, fix for the next financial year, by reference to each class of liquor, the amount of levy payable under **section 28**. 20
- “(2) The amount of levy for each class of liquor must be as determined by the Minister in accordance with **section 26(2)**.
- “(3) If a rate for a class of liquor is described in the table in the **Schedule** as a variable rate, the Order in Council must identify the rate determined by the Minister under **section 26(3)** and used for the purpose of **section 26(2)**.” 25
- 6 Levies payable by importers and manufacturers of liquor**
- Section 28 is amended by repealing subsection (1) and substituting the following subsection: 30
- “(1) In every financial year a levy of the amount set by Order in Council made under **section 27** is payable by every person who—
- “(a) enters for home consumption (as that expression is used in the Customs and Excise Act 1996) any imported liquor that contains more than 1.15% volume of alcohol; or 35

- “(b) manufactures in New Zealand any beer or spirits; or
 “(c) sells any wine manufactured by that person in New Zealand.”

7 Regulations

- (1) Section 39 is amended by inserting the following paragraph after paragraph (b):

“(ba) ~~amending or replacing the table in the **Schedule**, and any amending, omitting, or reinserting the description of the method for determining variable rates; with a new table (and description of method for determining variable rates, if necessary) setting out the classes of liquor and their applicable rates:~~”

- (2) Section 39 is amended by adding the following subsection as subsection (2):

- “(2) Regulations under **subsection (1)(ba)** may be made only—

“(a) for the purpose of aligning the rates for classes of liquor under this Act with the system for classifying classification system applied to alcoholic beverages that is used in under Part B of Schedule 3 of the Customs and Excise Act 1996 (which sets out excise and excise-equivalent duties); and

“(b) after consultation with the Minister of Customs.”

8 Schedule added

The Schedule set out in the Schedule of this Act is added.

Part 2

25

Transitional provision

9 Transitional provision

Section 28(1) of the principal Act, as in force immediately before the commencement of this Act, continues to apply with respect to the whole of the financial year to which the last *Gazette* notice given under section 27(1) of the principal Act (as in force immediately before the commencement of this Act) applies.

Schedule **s 8**
New Schedule added to principal Act
Schedule **s 2(4) 5**
Classes of liquor, and rates

Class	Description (alcohol content by volume)	Rate
A	1.15% or less	0
B	more than 1.15% but not more than 2.5%	1.5
C	more than 2.5% but not more than 6%	variable
D	more than 6% but not more than 9%	8
E	more than 9 % but not more than 14%	10
F	more than 14% but not more than 23%	variable
G	more than 23%	variable

Method of calculating variable rates

For a given financial year, the variable rate for a class is the average alcohol content of all the liquor of that class that was imported into or manufactured in New Zealand in the preceding statistical year.

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Schedule
New Schedule added to principal Act
Schedule
Classes of liquor and rates for each class

s 8

s 2(1)

<u>Class</u>	<u>Legal definition of class</u>	<u>Indicative description</u>	<u>Rate</u>
	<i><u>Liquor which, if imported, would be classified within the following tariff items</u></i>	<i><u>Percentage of alcohol by volume in most items in class</u></i>	
<u>A</u>	<u>2203.00.12, 2206.00.37, 2208.70.30, 2208.90.56</u>	<u>More than 1.15% but not more than 2.5%</u>	<u>1.5%</u>
<u>B</u>	<u>2203.00.22, 2203.00.31, 2203.00.39, 2206.00.47, 2208.70.40, 2208.90.60</u>	<u>More than 2.5% but not more than 6%</u>	<u>Variable</u>
<u>C</u>	<u>2206.00.57, 2208.70.50, 2208.90.67</u>	<u>More than 6% but not more than 9%</u>	<u>8%</u>
<u>D</u>	<u>2204.10.01, 2204.10.18, 2204.21.18, 2204.29.18, 2205.10.19, 2205.10.38, 2205.90.19, 2205.90.38, 2206.00.08, 2206.00.68, 2208.70.60, 2208.90.79</u>	<u>More than 9% but not more than 14%</u>	<u>10%</u>
<u>E</u>	<u>2204.21.13, 2204.29.13, 2205.10.12, 2205.10.33, 2205.90.12, 2205.90.33, 2206.00.17, 2206.00.78, 2208.70.71, 2208.90.06, 2208.90.88</u>	<u>More than 14% but not more than 23%</u>	<u>Variable</u>
<u>F</u>	<u>2206.00.28, 2206.00.89, 2208.20.04, 2208.20.08, 2208.20.19, 2208.20.29, 2208.30.04, 2208.30.08, 2208.30.19, 2208.40.04, 2208.40.08, 2208.40.19, 2208.50.04, 2208.50.08, 2208.50.19, 2208.60.19, 2208.60.29, 2208.60.99, 2208.70.80, 22.90.08, 2208.90.48, 2208.90.99</u>	<u>More than 23%</u>	<u>Variable</u>

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Schedule

Schedule —*continued*

Method for determining variable rates

For a given financial year, the variable rate for a class is the average alcohol content by volume of all the liquor of that class that was imported into or manufactured in New Zealand in the preceding statistical year.

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Legislative history

11 December 2007
4 March 2008

Introduction (Bill 194-1)
First reading and referral to Health Committee
