



Sale and Supply of Alcohol (Community Participation) Amendment Act 2023

Public Act 2023 No 60
Date of assent 30 August 2023
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Sale and Supply of Alcohol (Community Participation) Amendment Act 2023.

2 Commencement

- (1) This Act comes into force on the day after Royal assent.
- (2) However, sections 15 to 18 come into force 9 months after Royal assent.

3 Principal Act

This Act amends the Sale and Supply of Alcohol Act 2012.

Part 1

Amendments to principal Act

4 Section 5 amended (Interpretation)

In section 5(1), insert in its appropriate alphabetical order:

trade competitor means a person who holds a licence of any type to sell alcohol regardless of—

- (a) whether the person actually sells alcohol; or
- (b) where the person sells alcohol

5 New section 6A inserted (Transitional, savings, and related provisions)

After section 6, insert:

6A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

6 Section 79 amended (Territorial authority must produce provisional policy by consulting on draft policy using special consultative procedure)

- (1) In the heading to section 79, replace “**produce provisional policy by consulting**” with “**consult**”.
- (2) In section 79(1), replace “produce a provisional policy by using” with “use”.
- (3) In section 79(2), replace “producing a provisional policy” with “amending a draft policy as a result of consultation”.

7 Sections 80 to 88 replaced

Replace sections 80 to 88 with:

80 Territorial authority must give public notice of finalised policy

- (1) If, after consulting under section 79 and finalising a local alcohol policy, a territorial authority wishes to adopt the policy, it must give public notice of the policy.
- (2) The public notice must be given in accordance with regulations made under this Act.
- (3) Regulations prescribing the manner in which the public notice must be given may require publication of the whole of the local alcohol policy.

81 When local alcohol policy adopted

A local alcohol policy—

- (a) is adopted 30 days after the date on which it is publicly notified; but
- (b) has no effect until it is brought into force.

82 Territorial authority may discontinue development of local alcohol policy

A territorial authority may discontinue the development of a local alcohol policy at any time before it is adopted.

83 Territorial authority may recommence development of local alcohol policy

- (1) A territorial authority may recommence the development of a local alcohol policy that it has discontinued developing.
- (2) If a territorial authority recommences the development of a local alcohol policy, the territorial authority must consult as required under this Act as if it were developing a new local alcohol policy unless the territorial authority—
 - (a) has completed consultation on the local alcohol policy before its development was discontinued; and
 - (b) has recommenced the development of the local alcohol policy within 6 years of the date on which its consultation was completed.

8 Section 89 amended (Disallowance of local alcohol policy)

In section 89(1), replace “Once a provisional local alcohol policy has been adopted and ceased to be provisional,” with “If a local alcohol policy has been adopted,”.

9 Section 90 amended (When local alcohol policy is in force)

- (1) Replace section 90(1) with:
 - (1) If a local alcohol policy has been adopted, the territorial authority concerned may bring it into force on a day stated by resolution.
 - (2) In section 90(2), in each place, replace “subsection (1)(b)” with “subsection (1)”.
 - (3) In section 90(2)(a), replace “public notice of its adoption was given” with “public notice of the policy is given (*see* section 80)”.
 - (4) Repeal section 90(4).

10 Section 102 amended (Objections to applications)

- (1) Replace section 102(1) with:
 - (1) Any person may object to an application for the grant of a licence, whether as an individual or as a representative of a group or an organisation.
 - (1A) However,—
 - (a) a trade competitor may object to an application only if the trade competitor is directly affected by the application in a way that does not relate to—
 - (i) trade competition; or
 - (ii) the effects of trade competition; and

- (b) a person may not object to an application if the person receives, or is likely to receive, direct or indirect help from a trade competitor to object to the application.

- (2) In section 102(2), replace “15” with “25”.

11 Section 120 amended (Variation of conditions)

Replace section 120(4) with:

- (4) Any person may object to the grant of the application, whether as an individual or as a representative of a group or an organisation.

- (4A) However,—

- (a) a trade competitor may object to the grant only if the trade competitor is directly affected by the grant in a way that does not relate to—
 - (i) trade competition; or
 - (ii) the effects of trade competition; and
- (b) a person may not object to the grant if the person receives, or is likely to receive, direct or indirect help from a trade competitor to object to the grant.

12 Section 128 amended (Objections to renewal)

- (1) Replace section 128(1) with:

- (1) Any person may object to an application for the renewal of a licence, whether as an individual or as a representative of a group or an organisation.

- (1A) However,—

- (a) a trade competitor may object to an application only if the trade competitor is directly affected by the application in a way that does not relate to—
 - (i) trade competition; or
 - (ii) the effects of trade competition; and
- (b) a person may not object to an application if the person receives, or is likely to receive, direct or indirect help from a trade competitor to object to the application.

- (2) In section 128(2), replace “15” with “25”.

13 Section 133 replaced (Renewal of licences where relevant local alcohol policy exists)

Replace section 133 with:

133 Renewal of licences where relevant local alcohol policy exists

A licensing committee or the licensing authority may—

- (a) decline to renew a licence if it considers that renewing the licence would be inconsistent with any policy set out in the relevant local alcohol policy relating to a matter specified in section 77(1)(a) to (d):
- (b) impose conditions on any licence it renews if it considers that the renewal of the licence, or the consequences of the renewal of the licence, without those conditions would be inconsistent with the relevant local alcohol policy.

14 Section 140 amended (Objections to applications)

Replace section 140(1) with:

- (1) Any person may object to the grant of a special licence, whether as an individual or as a representative of a group or an organisation, but only if the secretary of the licensing committee concerned has under section 139(b) required the applicant to give notice of the application for the grant.
- (1A) However,—
 - (a) a trade competitor may object to the grant under subsection (1) only if the trade competitor is directly affected by the grant in a way that does not relate to—
 - (i) trade competition; or
 - (ii) the effects of trade competition; and
 - (b) a person may not object to the grant under subsection (1) if the person receives, or is likely to receive, direct or indirect help from a trade competitor to object to the grant.

15 Section 202 amended (Procedure)

Replace section 202(5) with:

- (5) The hearing of a matter or any part of it by the licensing authority or licensing committee concerned may be conducted by telephone, audiovisual link, or other remote access facility if the licensing authority or licensing committee considers it appropriate and the necessary facilities are available.
- (6) The licensing authority or licensing committee concerned must consider any reasonable request made by a person to participate in the hearing of a matter or any part of it by telephone, audiovisual link, or other remote access facility.

16 New section 203A inserted (Licensing committees must establish appropriate procedures)

After section 203, insert:

203A Licensing committees must establish appropriate procedures

- (1) A licensing committee must establish appropriate procedures to consider applications.
- (2) When doing so, a licensing committee must ensure that those procedures—

- (a) avoid unnecessary formality, including, for example (without limitation), by making appropriate provision about—
 - (i) the location and timing of the hearing;
 - (ii) the layout of the venue of the hearing;
 - (iii) the timetable for the hearing;
 - (iv) the language and terminology to be used at the hearing; and
 - (b) do not permit parties or their representatives to question other parties or witnesses of other parties; and
 - (c) do not permit cross-examination; and
 - (d) allow for tikanga Māori to be incorporated into proceedings; and
 - (e) allow for persons to be heard, and to make submissions, in te reo Māori.
- (3) To avoid doubt, nothing in subsection (1) applies to the licensing authority.
- Compare: 1991 No 69 s 39

17 Section 204 amended (Right of certain persons to appear in proceedings)

Replace section 204(3) with:

- (3) In the case of proceedings specified in subsection (1) that are before a licensing committee, any of the following persons may appear and be heard (whether personally or by counsel) and call and examine their own witnesses:
 - (a) the applicant;
 - (b) an objector;
 - (c) an inspector;
 - (d) a constable;
 - (e) a Medical Officer of Health.
- (4) In the case of proceedings specified in subsection (1) that are before the licensing authority, any of the following persons may appear and be heard (whether personally or by counsel), and call, examine, and cross-examine any witnesses:
 - (a) the applicant;
 - (b) an objector;
 - (c) an inspector;
 - (d) a constable;
 - (e) a Medical Officer of Health.

18 Section 207 amended (Evidence in proceedings before licensing authority or licensing committee)

In section 207(2), replace “Subject to the foregoing provisions of this section” with “Subject to subsection (1) and to section 203A(2)(b) and (c)”.

19 New Schedule 1AA inserted

Insert the Schedule 1AA set out in the Schedule of this Act as the first schedule to appear after the last section of the principal Act.

Part 2**Amendments to Sale and Supply of Alcohol Regulations 2013****20 Principal regulations**

This Part amends the Sale and Supply of Alcohol Regulations 2013.

21 Regulation 16 amended (Territorial authorities adopting joint LAP)

In regulation 16, replace “a provisional LAP” with “an LAP”.

22 Regulation 17 amended (Public notice of provisional LAP)

- (1) In the heading to regulation 17, replace “provisional” with “finalised”.
- (2) Revoke regulation 17(1).
- (3) In regulation 17(2),—
 - (a) replace “provisional” with “finalised”; and
 - (b) replace “notice” with “public notice given by a territorial authority under section 80(1) of the Act”.
- (4) In regulation 17(2)(b), delete “provisional”.
- (5) In regulation 17(3),—
 - (a) replace “provisional” with “finalised”; and
 - (b) replace “notice” with “public notice given by a territorial authority under section 80(1) of the Act”.
- (6) In regulation 17(3)(b), delete “provisional”.

23 Regulation 18 revoked (Appeal against element of provisional LAP)

Revoke regulation 18.

24 Regulation 19 revoked (Public notice of adoption of LAP)

Revoke regulation 19.

Schedule
New Schedule 1AA inserted

s 19

Schedule 1AA
Transitional, savings, and related provisions

s 6A

Part 1
Provisions relating to this Act

There are no transitional, savings, or related provisions in this Act as enacted, apart from those set out in sections 406 to 415 (as they read on 18 December 2012).

Part 2
Provisions relating to Sale and Supply of Alcohol (Community Participation) Amendment Act 2023

1 Transitional provisions in respect of certain local alcohol policies

Interpretation

- (1) In this clause,—

new rules means this Act and the Sale and Supply of Alcohol Regulations 2013, as in force on the commencement of this clause

old rules means this Act and the Sale and Supply of Alcohol Regulations 2013, as in force immediately before the commencement of this clause.

Draft local alcohol policies

- (2) The new rules apply to a draft local alcohol policy in existence immediately before the commencement of this clause as if it were produced under section 78 (as in force on the commencement of this clause).

Provisional local alcohol policies

- (3) The old rules continue to apply to a provisional local alcohol policy in existence immediately before the commencement of this clause if an appeal has been made against any element of the policy under section 81 (as in force immediately before the commencement of this clause).
- (4) The new rules apply to a provisional local alcohol policy in existence immediately before the commencement of this clause as if it were a draft local alcohol policy that has been consulted on under section 79 (as in force on the commencement of this clause) and finalised, if no public notice of the policy has been given under section 80(1) (as in force immediately before the commencement of this clause).

- (5) The new rules apply to a provisional local alcohol policy in existence immediately before the commencement of this clause as if it were a finalised local alcohol policy in respect of which public notice has been given under section 80 (as in force on the commencement of this clause), if the following conditions are met:
- (a) public notice of the policy has been given under section 80(1) (as in force immediately before the commencement of this clause); and
 - (b) no appeal has been made against any element of the policy under section 81 (as in force immediately before the commencement of this clause).

Adopted local alcohol policies

- (6) The new rules apply to an adopted local alcohol policy in existence immediately before the commencement of this clause as if it were a local alcohol policy adopted under section 81 (as in force on the commencement of this clause).

2 Transitional provisions in respect of applications for licences

- (1) This clause applies to an application for a licence that is lodged before the commencement of this clause but not determined before that commencement.
- (2) If this clause applies,—
 - (a) in the case of proceedings begun before the commencement of this clause, the procedures specified in this Act immediately before the commencement of this clause continue to apply as if the Sale and Supply of Alcohol (Community Participation) Amendment Act 2023 had not been enacted;
 - (b) in the case of proceedings not begun before the commencement of this clause, the procedures specified in this Act immediately after the commencement of this clause (as amended by the Sale and Supply of Alcohol (Community Participation) Amendment Act 2023) apply.

Legislative history

7 December 2022	Introduction (Bill 205–1)
13 December 2022	First reading and referral to Justice Committee
8 June 2023	Reported from Justice Committee (Bill 205–2)
22 August 2023	Second reading, committee of the whole House, third reading
30 August 2023	Royal assent

This Act is administered by the Ministry of Justice.