

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with the Thirteenth Assembly Sessional Orders (part 12.3) as adopted on 24 August 2017.

LIQUOR AMENDMENT BILL 2018

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).

OVERVIEW OF THE BILL

The Liquor Amendment Bill 2018 (the Bill) amends the *Liquor Act*.

HUMAN RIGHTS IMPLICATIONS

The Bill engages rights referred to in the International Convention on Civil and Political Rights (ICCPR).

Freedom of movement and choice of residence for lawful residents – Article 12 ICCPR

Article 12(1) of the ICCPR provides that ‘Everyone within the territory of the State shall, within that territory, have the right to liberty of movement...’.

Elements of the Bill may interfere with the free movement of persons, as police officers and inspectors are empowered to stop vehicles where a customer who appears to be purchasing, intending to purchase, or has purchased liquor for consumption away from the premises is driving in or is a passenger in the vehicle.

Notably, however, Article 12(3) of the ICCPR provides that freedom of movement may be curtailed where it is necessary for the purposes of maintaining ‘... public order [or] public health...and are consistent with...other rights...’.

The power to stop vehicles is specific to instances where a police officer or inspector observes that the customer is purchasing, is about to purchase, or has purchased liquor from a premises and is driving, or is a passenger in, a vehicle.

The purpose for stopping the vehicle is to enable the police officer or inspector to fulfil their functions under section 101ZK of the *Liquor Act* and establish that the customer is not prohibited from possessing liquor or is intending to supply the liquor to a person who is prohibited.

As such, the purpose is one necessary to maintain public order and public health by controlling the supply of liquor to persons and places that are prohibited.

Equality before the law – Article 14(1) and 26 ICCPR

Article 14(1) of the ICCPR provides that all persons shall be equal before courts and tribunals, and Article 26 provides that all persons shall be equal before the law.

The amendment will allow police officers to conduct controlled operations. This will allow a police officer to engage in certain limited, specified activities for the purpose of investigating offences being committed under the *Liquor Act*. It authorises police officers to acquire, supply or possess liquor for that purpose. It therefore raises questions about equality before the law.

While the subject of the amendment is an authorisation to conduct a controlled operation, this is done in accordance with laws that apply equally to all persons and only for a legitimate objective. An authorisation to conduct a controlled operation is issued by a Police Commander in accordance with law for the limited purpose of detecting the commission of offences against the *Liquor Act*.

The controlled operations powers given to police officers under this Bill are no greater than those already given to Northern Territory Police, and are similar to equivalent powers set out in the *Misuse of Drugs Act*. They are to be subject to annual reporting requirements to the Minister.

Freedom from arbitrary or unlawful interference – Article 17(1) ICCPR

Article 17(1) of the ICCPR provides that persons shall not ‘...be subjected to arbitrary or unlawful interference with ...privacy...’.

The information required by the police officer or licensing inspector is limited to information that is currently available to the Banned Drinkers Registry, or necessary for detecting potential secondary supply of alcohol into areas where it is restricted or limited or where laws currently restrict those people from consuming alcohol.

Examples of this include supply of alcohol: to persons on bail conditions; in restricted premises; to persons on sentences with alcohol restriction conditions; and to others who should not be consuming alcohol, such as children. This information is necessary to safeguard the integrity and effective operation and enforcement of other existing legislative frameworks to limit or prohibit alcohol supply and use, and to reduce alcohol related harm.

The provisions in this Bill have been drafted carefully to ensure that they are reasonable, proportionate and necessary to achieve the policy objective of the Bill.

CONCLUSION

This Bill is compatible with human rights as it as it promotes a reduction in alcohol related harm and, to the extent that it limits human rights, those limitations are reasonable, necessary and proportionate.