

# Liquor (Permit Fee Refund) Determination 2021 (No 1)

## Disallowable Instrument DI2021-295

made under the

**Liquor Act 2010, section 227 (Determination of fees)**

## EXPLANATORY STATEMENT

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This instrument is the *Liquor (Permit Fee Refund) Determination 2021 (No 1)*.

The *Liquor Act 2010* (the Act) regulates the supply of liquor in the ACT. Fees for liquor licences and permits are determined by the Minister under section 227 of the Act. Fees determined by the Minister for each licence or permit category are listed in the *Liquor (Fees) Determination 2021* [DI2021 144].

This instrument should be read with section 56 of the *Legislation Act 2001*. Section 56 (5)(g) allows the Attorney-General to make a disallowable instrument that conditionally or unconditionally entitles a class or classes of persons to a refund of an application fee paid for a liquor permit.

In response to the closure of non-essential business and undertakings to limit the spread of Novel Coronavirus 2019, the Commissioner for Fair Trading (the Commissioner), through the *Liquor (Public Health Emergency – Permit Fee Waiver) Declaration 2020* [DI2020 44] (fee waiver), waived application fees payable for commercial liquor permits listed at item 507 (1) (c) in the *Liquor (Fees) Determination 2019*.

The fee waiver was made under section 35 of the *Liquor Regulation 2010* and applied to events held between 25 March 2020 and 24 March 2021. In good faith, the Commissioner refunded payments that were made for events that were scheduled to be held between 25 March 2020 and 24 March 2021 but were cancelled due to lockdown restrictions in the Territory or due to the uncertainties of the COVID-19 public health emergency.

Section 35 of the *Liquor Regulation* does not authorise the Commissioner to make a declaration in respect of fees that have already been paid. Under the *Legislation Act*, the Minister has responsibility for issuing a determination enabling the refund of fees.

This instrument has a retrospective application to authorise the payments and to rectify the administrative error made in issuing payments when not provided for under section 35 of the Liquor Regulation. The retrospective commencement is non-prejudicial and is necessary to mitigate the adverse financial impact of the closure declaration on businesses carried on under the permit.

As this instrument has a retrospective application, it will expire the day after it is notified.