

2025

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

ELEVENTH ASSEMBLY

LIQUOR AMENDMENT BILL 2025

**EXPLANATORY STATEMENT
and
HUMAN RIGHTS COMPATIBILITY STATEMENT
(*Human Rights Act 2004*, s 37)**

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LIQUOR AMENDMENT BILL 2025

The Bill **is** a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

OVERVIEW OF THE BILL

The ACT does not currently have a regulatory framework for the same-day delivery of alcohol (SDD). The convenience of SDD for consumers and businesses comes with the potential for increased risk of alcohol-related harm to the community, particularly to people who are vulnerable to alcohol-use disorders, minors and people who are already intoxicated.

The purpose of this Bill is to amend the *Liquor Act 2010* and *Liquor Regulation 2010* to establish the legislative framework with appropriate consumer protections for retailers to comply with when providing a SDD service.

Other amendments include:

- introducing requirements for a new type of Responsible Service of Alcohol (RSA) training for SDD of liquor;
- providing the Commissioner for Fair Trading with the power to cancel liquor licences (allowing the Commissioner to issue a cancellation notice if the licensee fails to pay the fee within 28 days after an immediate suspension notice was given); and
- other minor and technical amendments to enhance the administration and efficacy of liquor regulation.

The Bill seeks to balance the need to protect vulnerable members of the community, as well as same-day delivery drivers, from harms associated with easy and rapid access to alcohol in the ACT, while facilitating local industry and consumers to avail themselves of the convenience and other benefits from this emerging retail sector.

CONSULTATION ON THE PROPOSED APPROACH

On 28 June 2024, the Justice and Community Safety Directorate ('JACS') released the Listening Report following community and other stakeholder feedback on the *Regulation of Same Day Liquor Delivery Providers* discussion paper. The paper provided an overview of the ACT government's proposed legislative reforms on same-day delivery of alcohol in the ACT.

Consultation on the discussion paper ran from 2 August 2023 to 14 September 2023. Submissions were received from seven industry organisations and nine community organisations. Four submissions were received from individuals. There were 288

contributors who responded to the survey questions about the proposals on the YourSay website. The Bill seeks to respond to the consultation feedback by developing a specific legislative framework within the ACT to regulate same-day alcohol deliveries.

JACS consulted on a draft Bill with the Liquor Advisory Board and targeted stakeholders with a direct interest in the SDD proposal. This group of stakeholders included:

- Alcohol and Drug Foundation
- Alcohol, Tobacco, and Other Drugs Association ACT
- Australian Hotels Association
- ClubsACT
- Coles Group
- DoorDash
- Endeavour Group
- Foundation for Alcohol Research and Education
- Independent Liquor Retailers
- Menulog
- Retail Drinks Australia
- Uber Eats.

CLIMATE IMPACT

This Bill does not have a climate impact.

CONSISTENCY WITH HUMAN RIGHTS

Rights Engaged

The Bill engages the following sections of the *Human Rights Act 2004 (HRA)*:

- Section 11 – right to protection of the family and children (*promoted*)
- Section 18 – right to liberty and security of person (*promoted*)
- Section 27B – rights to work and work-related rights (*promoted and limited*)
- Section 12 – right to privacy and reputation (*limited*)
- Section 22 – rights in criminal proceedings (right to presumption of innocence) (*limited*)

The ways in which the Bill does this are set out below.

Rights Promoted

Under section 11 of the HRA, the right to protection of the family and children recognises the importance of the family unit in making up society and the benefits that come from preserving family relations. The right also protects the special human rights of children, taking into account their particular vulnerabilities.

Under section 18 of the HRA everyone has the right to liberty and security of person.

Under section 27B of the HRA, the right to work and other work-related rights recognises the importance of having just and favourable conditions of work. The right also protects a person to enjoy these rights without discrimination.

Section 11 – right to protection of the family and children

The amendments will promote the right to protection of the family and children by introducing restrictions on rapid deliveries of alcohol to places such as schools and designated alcohol-free places. The amendments to require verification of ID at point of sale also supports this right by mitigating the risks of alcohol being purchased by or delivered to minors, or of alcohol being accessible to children by being left unattended at a premises. It is the intention that the limitation of deliveries between 10am and 10pm will contribute to reducing the risk of alcohol-related family violence occurring in the home, further promoting the right to protection of the family and children. Feedback from public health stakeholders indicates that intoxication late at night (and particularly after midnight) has been identified as a significant contributor to family and other violence.

Section 18 – right to liberty and security of person

The provisions which restrict delivery of alcohol to certain places such as skate parks and bus stops, as well as the 2-hour pause are important community safety measures that will likely promote the right to security of person as they will help to reduce the incidence of alcohol related violence in the community, not just in the domestic sphere.

Section 27B – right to work and work-related rights

Protections against victimisation of a delivery person for refusing to deliver alcohol in certain circumstances will promote the right to work and the enjoyment of just and favourable conditions of work. This will ensure that where delivery people refuse to deliver goods, because they reasonably believe that doing so would constitute an offence against the Act, would not face adverse action. This will also incentivise delivery people to comply with the same-day delivery framework and carefully consider their obligations when making deliveries.

Rights Limited

The preamble to the HRA notes that few rights are absolute and that they may be subject to reasonable limits in law that can be demonstrably justified in a free and democratic society.

Section 28 (2) of the HRA contains the framework that is used to determine the acceptable limitations that may be placed on human rights.

Section 28 of the HRA requires that any limitation on a human right be authorised by a Territory law, be based on evidence, and be reasonable to achieve a legitimate aim. Whether a limitation is reasonable depends on whether it is proportionate.

Section 27B – right to work and work-related rights

1. Nature of the right and the limitation (s28(a) and (c))

Under section 27B of the HRA, everyone has the right to work and other work-related rights, including that everyone has the right to the enjoyment of just and favourable conditions of work.

This right is engaged and limited by the same-day delivery framework provisions that require a delivery person to verify the identity, age and whether the person receiving a rapid alcohol delivery is intoxicated. This requirement may expose the delivery person to violence or an unsafe work environment if it is determined that a delivery should be refused and the customer feels aggrieved.

2. Legitimate purpose (s28(b))

This limitation has a legitimate purpose as the amendment aims to promote community safety and reduce alcohol-related harms, by requiring a delivery person to refuse the supply of liquor to children and young people and individuals who are already intoxicated.

In NSW, media has reported that delivery providers have delivered alcohol to locations including schools and playgrounds, failed to ask for age verification, and continued to advertise to a person who self-excluded from their services.¹ In light of such incidents, the NSW Government introduced the *Liquor Amendment (Night-time Economy) Act 2020 (NSW)* to regulate same-day deliveries of alcohol.

Data collated by the ACT Health and Community Services Directorate demonstrates that alcohol intoxication is involved in over half of alcohol and drug-related ambulance attendance in the ACT (55.9% in 2021 and 56.9% in 2022). The harms associated with excess alcohol consumption extend to others in the community, with data showing persistent incidents in the ACT, with the National Drug Strategy Household Survey 2022–2023 showing nearly 1 in 6 Canberrans reported alcohol-related verbal abuse, 1 in 7 being put in fear, and 1 in 22 alcohol-related physical abuse.

3. Rational connection between the limitation and the purpose (s28(d))

Requiring a delivery person to refuse a delivery of liquor to a child or young person or an individual who is intoxicated will help ensure community safety by not supplying alcohol to vulnerable groups.

Same-day delivery of alcohol has meant users are able to have uninterrupted consumption of alcohol after their initial supply of alcohol has been exhausted.

¹ The Sydney Morning Herald, 'Alcohol delivery to playgrounds, schools prompts legal overhaul', 1 July 2021, Accessed 16 January 2024 <[Alcohol delivery to playgrounds, schools prompts legal overhaul \(smh.com.au\)](https://www.smh.com.au/news/national/alcohol-delivery-to-playgrounds-schools-prompts-legal-overhaul-20210701)> and The Daily Mail, 'Inside the sad final weeks of a lonely man, 49, who drank himself to death with \$24,000 worth of booze over 300 orders delivered to his Bondi flat by Jimmy Brings' 27 October 2021, accessed 16 January 2024 <[Inside the final weeks of a man who drank himself to death with daily deliveries from Jimmy Brings | Daily Mail Online](https://www.dailymail.co.uk/news/inside-the-sad-final-weeks-of-a-lonely-man-49-who-drank-himself-to-death-with-24000-worth-of-booze-over-300-orders-delivered-to-his-bondi-flat-by-jimmy-brings)>.

This is demonstrated by research conducted by the University of New South Wales in February 2023 which found that ‘one-in-five participants (20.1%) indicated they had used an alcohol delivery service to extend a home drinking session’.²

Prolonged alcohol consumption in environments without checks and balances to ensure alcohol is being consumed responsibly can exacerbate the risk of alcohol-related harm, not only in relation to the consumer’s own health but in relation to its impacts on safety of individuals living with the consumer. For example, the ABC reported that more than 70% of women who accessed the domestic violence victim support service, DV Connect, said that alcohol consumption had been involved in their case.³

4. Proportionality (s28(e))

The limitations on the right to work and other work-related rights are considered proportionate to the legitimate purpose.

The amendments may subject a delivery driver to conflict from the customer if they determine that a delivery should be refused. This limitation is proportionate to the significant benefits that the same-day delivery framework will provide to the ACT community in terms of health promotion and reducing alcohol-related violence.

The amendments are balanced with a safeguard that requires same-day delivery providers and delivery people to undertake mandatory RSA training specific to this scenario which is expected to mitigate some of these harms by providing tools such as de-escalation strategies.

The Bill includes offences related to conduct of customers that might otherwise give rise to risks to delivery people, such as that in section 143Y regarding abusive, threatening or intimidating behaviour towards a delivery person.

Additionally, the measure providing protections against victimisation of a delivery person for refusing to deliver will also promote the right to work.

These amendments represent a reasonable and justifiable limitation on the right to work and work-related rights, which is outweighed by the importance of improving community safety and reducing incidences of alcohol-related violence.

² Colbert S., Wilkinson C., Thornton L., Feng X., Campaign A. and Richmond R. (2023). Cross-sectional survey of a convenience sample of Australians who use alcohol home delivery services. *Drug and Alcohol Review* <https://onlinelibrary.wiley.com/doi/full/10.1111/dar.13627>.

³ ABC News, ‘In Queensland, alcohol delivery services don’t have to check for ID or have drivers with RSAs. That could soon change’ June 2023, <[In Queensland, alcohol delivery services don't have to check for ID or have drivers with RSAs. That could soon change - ABC News](#)>.

Section 12 – right to privacy and reputation

1. Nature of the right and the limitation (s28(a) and (c))

Under section 12 of the HRA, everyone has the right to not have their privacy, family, home or correspondence interfered with unlawfully or arbitrarily and not to have their reputation unlawfully attacked.

This right is engaged and limited by the same-day delivery framework amendments that involve collecting and storing customers' identification data.

The below amendments involve the collection and storage of personal information which may limit the right to privacy.

Section	Nature of the limitation
Section 143Q Self-exclusion from same-day delivery of liquor	<p>This section requires same-day delivery providers to put in place measures to ensure customers can self-exclude from liquor delivery services and direct marketing and advertising about the supply of liquor by same-day delivery.</p> <p>The right to privacy may be limited by this section because it requires collection of personal information and there is a possibility that personal information may be shared. While section 143Q has been drafted broadly to enable same-day delivery providers to establish their own systems to comply with the requirements of this section, it is anticipated that at the very minimum, the information necessary to be collected may include the person's name, email address, and mobile number. Depending on the self-exclusion system that each same-day delivery provider will develop, other personal information that may be collected could include an identification document for identity verification.</p>
Section 143Z Same-day delivery provider must report incidents	<p>This section requires a same-day delivery provider to give the commissioner a written report about an incident that occurs involving a delivery person at the place of delivery under a delivery order.</p> <p>This limits the right to privacy as the report must include the name, address and contact details of each person involved in the incident including the same-day delivery provider and the delivery person.</p>
Section 143ZB Same-day delivery provider must keep records of supply and refusal to supply	<p>This section requires that a same-day delivery provider must make a record of the supply or refusal to supply liquor in the way that is prescribed by regulation.</p> <p>This limits the right to privacy. As currently prescribed by regulation, the record must include the name of the customer of the delivery order, any other person specified in the delivery order as the person to whom the liquor will be delivered and the delivery address under the delivery order.</p>

2. *Legitimate purpose (s28(b))*

These measures support the legitimate purpose of the scheme to promote community safety and reduce alcohol-related harms.

Section	Legitimate purpose
Section 143Q Self-exclusion from same-day delivery of liquor	To provide an opt-in safety mechanism for people who may be aware that they are at risk of excessive alcohol consumption.
Section 143Z Same-day delivery provider must report incidents	An incident report must be provided to the Commissioner for Fair Trading to ensure that any adverse incident that occurs is brought to the attention of the regulator. Incident reporting has many purposes, including to inform the regulator or police of an incident that has occurred in order to allow them to investigate the incident, and to use the information to further protect the community and delivery people from alcohol-related harm.
Section 143ZB Same-day delivery provider must keep records of supply and refusal to supply	To enable compliance monitoring of same-day delivery providers and the regulatory goal of reducing the harms from alcohol and in particular youth exposure.

3. *Rational connection between the limitation and the purpose (s28(d))*

Section	Rational connection
Section 143Q Self-exclusion from same-day delivery of liquor	The collection of the specific information is required to ensure that a sales order cannot be placed or received by a person who has self-excluded from a SDD platform.
Section 143Z Same-day delivery provider must report incidents	The collection of the specific information prescribed in section 143Z(3) is required to ensure that the regulator or police are equipped to investigate incidents contemporaneously.
Section 143ZB Same-day delivery provider must keep	The collection of the specific information prescribed in section 30D in the regulation is required to provide both proof of delivery and compliance with RSA obligations, namely refusal

records of supply and refusal to supply	to supply because the recipient was deemed to be a minor or intoxicated. Refusal can also be recorded on the basis that no one attended to collect the delivery.
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4. *Proportionality (s28(e))*

The limitations on the right to privacy and reputation are considered proportionate to the legitimate purposes. The amendments may subject a customer to having some personal data collected and stored by a same-day delivery provider. The amount and type of personal information required has been limited only to data that is for compliance and incident reporting purposes. The recording of information has been drafted to maintain consistency with information already required under the *Liquor Act 2010*. This is relevant for easier compliance with and enforcement of the scheme. It is also to ensure that recording requirements are not more burdensome for same-day delivery providers when compared to other classes of liquor licences.

The amendments are balanced with various safeguards that already exist, including the following that exist in privacy laws. Entities with an annual turnover more than \$3 million (subject to some exceptions) that handle this data have responsibilities under the *Privacy Act 1988* (Cth) (Privacy Act) which imposes requirements on the collection, use, disclosure and storage of personal information, and gives individuals a complaints mechanism pathway for mishandling of their personal information as well as a private action in tort if an entity commits a serious invasion of their privacy involving their private information.

These entities, as well as smaller businesses which are related to a larger bodies corporate that are subject to the Privacy Act or have voluntarily opted into the Privacy Act, must comply with the Australian Privacy Principles set out in Schedule 1 of the Privacy Act, which include limitations on the use and disclosure of personal information and regulation of the use of personal information for direct marketing purposes. Reasonable steps must be taken to protect personal information from misuse, interference, loss, and unauthorised access.

The Office of the Australian Information Commissioner (OAIC) provides detailed information on how the principles should be interpreted and implemented.

It should also be noted that in 2023 following a review of the Privacy Act, the Australian Government has indicated in principle that the general exemption for small businesses from requirements to protect data will likely be removed.⁴

⁴Government Response – Privacy Act Review Report (2023): <https://www.ag.gov.au/sites/default/files/2023->

These amendments represent a reasonable and justifiable limitation on the right to privacy and reputation, which is balanced with the importance of improving community safety and reducing harms from alcohol.

Section 22 – Rights in criminal proceedings

1. Nature of the right and the limitation (s28(a) and (c))

Under section 22(1) of the HRA, everyone charged with a criminal offence has the right to be presumed innocent until proved guilty according to law.

The Bill includes provisions which limit the right to be presumed innocent. Several offences in the Bill provide for strict liability offences. While some offences provide exemptions that allow a defence to prosecution, in these circumstances the evidential burden falls on the accused albeit to a lower standard of proof (see *Criminal Code 2002*, section 58).

Section	Nature of the limitation
Section 143K Same-day delivery provider must give notice of who sells liquor supplied by same-day delivery	Provides for an offence for failing to give the Commissioner written notice of the seller of the liquor by same-day delivery. This offence is a strict liability offence.
Section 143M Daily liquor limit for same-day delivery	Provides an offence for supplying an amount of liquor that exceeds the prescribed daily amount, to the same customer by same-day delivery. This offence is a strict liability offence.
Section 143N Same-day delivery of liquor must be delayed	Provides an offence for delivering liquor by same-day delivery before the delayed delivery period. This offence is a strict liability offence. Section 30E of the <i>Liquor Regulation 2010</i> provides an exemption from delayed delivery for liquor sold with a meal. In effect this provides a defence to the offence in section 143N relating to the time delay for deliveries, regarding which an accused has the evidential burden of proof.
Section 143O Permitted times for same-day delivery of liquor	Provides for an offence for the delivery of liquor outside the times prescribed by regulation. An offence under sub-section (2) is a strict liability offence.

<p>Section 143P</p> <p>Same-day delivery of liquor not permitted to certain public places</p>	<p>Provides for an offence of the delivery of liquor to certain public places.</p> <p>This offence is a strict liability offence.</p>
<p>Section 143Q</p> <p>Self-exclusion from same-day delivery of liquor</p>	<p>Sub-section (3)</p> <p>Provides for an offence for failing to provide an option for the customer to self-exclude from the supply and direct marketing of same-day delivery of liquor.</p> <p>This offence is a strict liability offence.</p>
	<p>Sub-section (4)</p> <p>Provides for an offence for taking an order of liquor from a self-excluded person.</p> <p>This offence is a strict liability offence.</p>
	<p>Sub-section (5)</p> <p>Provides for an offence for marketing to a self-excluded person about same-day delivery of liquor.</p> <p>This offence is a strict liability offence.</p>
	<p>Sub-section (6)</p> <p>Provides for an offence for marketing to a self-excluded person about same-day delivery of liquor.</p> <p>This offence is a strict liability offence.</p>
<p>Section 143R</p> <p>Same-day delivery provider and delivery person must have same-day delivery RSA certificate</p>	<p>Sub-section (1)</p> <p>Provides for an offence if a same-day delivery provider takes a delivery order and does not hold a current same-day delivery RSA certificate.</p> <p>This offence is a strict liability offence.</p>
	<p>Sub-section (2)</p> <p>Provides for an offence for supplying liquor by same-day delivery using a delivery person who does not hold a current same-day delivery RSA certificate.</p> <p>This offence is a strict liability offence.</p>
	<p>Sub-section (3)</p> <p>Provides for an offence for supplying liquor by same-day delivery without a current same-day delivery RSA certificate.</p> <p>This offence is a strict liability offence.</p>

<p>Section 143S</p> <p>Same-day delivery provider must keep same-day delivery RSA certificates</p>	<p>Provides for an offence for failing to keep a copy of current same-day delivery RSA certificates for the provider, individuals who have day-to-day control of same-day delivery operations, and delivery people who make same-day deliveries.</p> <p>This offence is a strict liability offence.</p>
<p>Section 143T</p> <p>Same-day delivery provider must verify customer age</p>	<p>Provides an offence for failing to verify the customer's age when the order is made.</p> <p>This offence is a strict liability offence.</p>
<p>Section 143U</p> <p>Same-day delivery of liquor not permitted to child or young person</p>	<p>Provides an offence for supplying liquor by same-day delivery to a person who is a child or young person.</p> <p>An offence under sub-section (2) is a strict liability offence. The offence does not apply under sub-section (4) where the young person was at least 16 years old and had shown a delivery person an identification document identifying the young person as an adult. The accused has the evidential burden of proof in these circumstances.</p>
<p>Section 143W</p> <p>Same-day delivery of liquor not permitted to intoxicated person</p>	<p>Provides an offence for supplying liquor by same-day delivery to a person who is intoxicated.</p> <p>An offence under sub-section (2) is a strict liability offence.</p>
<p>Section 143X</p> <p>Same-day delivery of liquor must not be left unattended</p>	<p>Provides for an offence for leaving delivery of liquor unattended at the place of delivery.</p> <p>An offence under sub-section (2) is a strict liability offence.</p>
<p>Section 143Y</p> <p>Abusive, threatening or intimidating behaviour toward delivery person</p>	<p>Provides for an offence for abusing, threatening or intimidating a delivery person because they refused to supply the liquor as required under the Liquor Act.</p> <p>This offence is a strict liability offence.</p>

Section 143ZA Victimisation of delivery person for refusing to supply liquor by same-day delivery	Provides for an offence for taking, or threatening to take, detrimental action against the delivery person for refusing or proposing to refuse, to supply liquor by same-day delivery to a customer, on the basis that doing so would be an offence against the Liquor Act. This offence is a strict liability offence.
Section 143ZB Same-day delivery provider must keep records of supply and refusal to supply	Sub-section (4) Provides for an offence for failing to make a record of the supply or refusal of same-day deliveries. This offence is a strict liability offence.
	Sub-section (5) Provides for an offence for failing to keep a record of the supply or refusal of same-day deliveries for at least 6 years. This offence is a strict liability offence.
Section 203A Offences—child or young person makes or receives order for same-day delivery etc	Sub-section (2) Provides for an offence for using a false identification document to order or receive an order of liquor by same-day delivery. This offence is a strict liability offence.

2. *Legitimate purpose (s28(b))*

Section	Legitimate purpose
Section 143K Same-day delivery provider must give notice of who sells liquor supplied by same-day delivery	To ensure that the regulatory authority is aware of who is selling liquor by same-day delivery.
Section 143L Unauthorised sale of liquor supplied by same-day delivery	To ensure that the liquor being supplied and delivered is sold under the licence of the appropriate jurisdiction.
Section 143M Daily liquor limit for same-day delivery	To reduce the risk of harm arising from excessive alcohol consumption within a 24-hour period.

Section 143N Same-day delivery of liquor must be delayed	To mitigate alcohol-related harm resulting from prolonged and excess alcohol consumption by preventing rapid access to alcohol.
Section 143O Permitted times for same-day delivery of liquor	To address the higher risk of alcohol harm that occurs later at night by reducing these risks through limiting the easy availability of alcohol.
Section 143P Same-day delivery of liquor not permitted to certain public places	To expand on the current safeguards in the <i>Liquor Act 2010</i> at section 199 which makes it an offence to consume liquor at certain public places. The purpose is to ensure consistency with the supply of liquor by same-day delivery and to further protect the community from alcohol-related harms.
Section 143Q Self-exclusion from same-day delivery of liquor	To reduce harm from liquor for those recovering from or at risk of alcohol use disorder.
Section 143R Same-day delivery provider and delivery person must have same-day delivery RSA certificate	To expand existing RSA requirements to apply to same-day delivery providers and employees. It is intended as a measure to educate, support and protect the safety of same-day delivery people and ensure that they understand their roles, rights and responsibilities in refusing delivery of liquor.
Section 143S Same-day delivery provider must keep same-day delivery RSA certificates	For record-keeping and compliance purposes.
Section 143T Same-day delivery provider must verify customer age	To ensure that liquor is not being purchased by a person under 18 years of age, as per the requirements of the Liquor Act.
Section 143U Same-day delivery of liquor not permitted to child or young person	To expand on the current safeguards in the <i>Liquor Act 2010</i> at division 8.3 which makes for offences relating to the supply of liquor to a child or young person. The purpose is to ensure consistency with the supply of liquor by same-day delivery and to further protect the community from alcohol-related harms

<p>Section 143W</p> <p>Same-day delivery of liquor not permitted to intoxicated person</p>	<p>To expand on the current safeguards in the <i>Liquor Act 2010</i> at division 8.2 which makes for offences relating to the supply of liquor to an intoxicated person. The purpose is to ensure consistency with the supply of liquor by same-day delivery and to further protect the community from alcohol-related harms.</p>
<p>Section 143X</p> <p>Same-day delivery of liquor must not be left unattended</p>	<p>To ensure that liquor is not delivered to minors or left unattended.</p>
<p>Section 143Y</p> <p>Abusive, threatening or intimidating behaviour toward delivery person</p>	<p>To expand on the current safeguards in the <i>Liquor Act 2010</i> at section 108 which makes it an offence to abuse, threaten or intimidate a staff member who refuses to supply liquor to an intoxicated person. The purpose is to ensure consistency with the Act and to protect same-day delivery drivers from harm as they comply with RSA requirements.</p>
<p>Section 143Z</p> <p>Same-day delivery provider must report incidents</p>	<p>To expand on current incident reporting requirements to further protect the community from harm from same-day delivery of liquor.</p>
<p>Section 143ZA</p> <p>Victimisation of delivery person for refusing to supply liquor by same-day delivery</p>	<p>To protect delivery people from unfair treatment by licensees and same-day delivery providers. These amendments uphold the harm minimisation principles under the Liquor Act by providing an explicit legislative mechanism for delivery drivers to refuse delivery in order to comply with RSA requirements.</p>
<p>Section 143ZB</p> <p>Same-day delivery provider must keep records of supply and refusal to supply</p>	<p>To capture data for compliance purposes.</p>
<p>Section 203A</p> <p>Offences—child or young person makes or receives order for same-day delivery etc</p>	<p>To ensure that liquor is not being purchased by a person under 18 years of age, as per the requirements of the Liquor Act.</p>

3. *Rational connection between the limitation and the purpose (s28(d))*

To ensure that the harm minimisation benefits of the same-day delivery scheme are achieved, it is necessary to provide adequate regulatory powers in support of enforcement when regulating same-day delivery in the ACT.

Strict liability provisions have been included in the Bill in instances where the significance for compliance is critical. They have been determined as critical for compliance due to their nature and ability to impede the efforts and intent of the scheme to protect the community from alcohol related harms arising from liquor supplied by same-day delivery or to protect delivery drivers from victimisation either from an employer or the public.

Where strict liability offences are applied to the same-day delivery framework, RSA, and in relation to the victimisation of a delivery person, they are necessary to deter non-compliance with these requirements and protections.

Where strict liability offences are applied to the abusive, threatening or intimidating behaviour toward a delivery person, they are in place to deter customers of same-day delivery from causing harm to delivery people.

Where strict liability offences are applied to a child or young person using a false identification document to place or take a delivery order, they are in place to deter children from using false identification to buy and consume liquor.

Where offences provide defences that impose an evidential burden on the accused, this limitation exists to ensure that the existence of the offence is not rendered futile. Should the prosecution be required to disprove all possible defences, even those that are irrelevant or fanciful, then prosecution of the offences would inevitably be impossible to pursue or rarely, if ever, succeed.

The limitation on section 22 of the HRA is aimed at promoting the regulatory framework to protect the health and safety of people being supplied with, and people supplying, liquor by same-day delivery.

4. *Proportionality (s28 (e))*

Part 8 of the Bill, which provides a number of offences for same-day delivery providers and delivery people, includes a number of strict liability offences which are necessary for the effective enforcement of the regulatory regime.

Strict liability offences typically arise in a regulatory context where, for reasons such as public safety and ensuring that regulatory schemes are complied with, criminal penalties are required. A defendant can reasonably be expected, because of their involvement with the regulated activity, to know what the requirements of the law are, and as such the mental, or fault, element can justifiably be excluded.

The strict liability offences in the Bill affect same-day delivery providers, delivery people, or the customer. In the respective contexts in which the offences are committed, each of the affected entities can be expected to have a high degree of awareness and understanding of the regulatory framework. Engaging in the physical elements prohibited by the offences is likely to require a high degree of premeditation and deliberate or wilful conduct. Therefore, in each case the relevant defendant can be reasonably expected to know what the requirements of the law are, and therefore the mental, or fault element can justifiably be excluded.

A less restrictive approach (namely, making the offences not strict liability) would still enable enforcement, but would not be as effective a deterrent given the nature of the strict liability offences, and the effect the prohibited conduct would have on the enforceability of the same-day delivery regulatory scheme. A less restrictive approach would compromise the ability to protect the community from alcohol-related harms arising from liquor supplied by same-day delivery and to protect delivery drivers from victimisation either from an employer or the public.

Some offences in the Bill provide exceptions that operate as a defence. As an orthodox legal principle an accused person has an evidential burden of proof when seeking to rely on a defence to a standard of 'reasonable possibility'. This is the case because to do otherwise would require the prosecution to disprove all possible defences, even if the defence is irrelevant or fanciful.

Where the Bill provides exceptions to offences which supply a defence, the accused person is uniquely or better placed to produce evidence to explain why they should be excused. It would impose an unreasonable burden on the prosecution to prove in every case for the offence at section 143U, prohibiting delivery to a child or young person, that the accused had *not* on delivery been shown identification documentation falsely identifying a young person, of greater than 16 years age, as an adult. Use of false identification by a young person receiving a liquor delivery is likely to be a rare occurrence. Moreover, placing the evidential burden on the accused seeking to rely on the defence reinforces the regulatory expectation that a same-day delivery provider has in place systems to ensure delivery people are confirming properly the identity and age of delivery recipients, with the Bill providing commensurate protections such as the authority to refuse delivery in section 143V. For proposed section 30E of the Liquor Regulation, providing an exception to the offence in section 143ZC, regarding delay of same-day delivery of liquor, it would be similarly unreasonable to require the prosecution to establish in every case that the liquor was sold with a meal and that the volume of liquor was less than the prescribed quantity or value.

Accordingly, the limitation of a person's rights under s 22 of the HR Act resulting from imposing an evidential burden on the accused where a defence is raised are necessary to ensure that appropriate regulatory action can be taken.

Outlined below is the rationale for the limitation involving strict liability being reasonable for each offence:

Section	Proportionality <i>Reason why the limitation is reasonable</i>
<p>Section 143K</p> <p>Same-day delivery provider must give notice of who sells liquor supplied by same-day delivery</p>	<p>The same-day delivery provider will be uniquely aware of and capable of providing the commissioner with written notice about the seller. Ensuring appropriate records are supplied to the commissioner will form part of the ordinary set-up of a same-day delivery service, therefore it is reasonable to require a same-day delivery provider to provide this information.</p>
<p>Section 143L</p> <p>Unauthorised sale of liquor supplied by same-day delivery</p>	<p>This offence ensures coherence between the regulation of same-day delivery and existing liquor regulation by ensuring that delivery of alcohol is nonetheless authorised by a person licensed to sell liquor.</p> <p>Note: this is not a strict liability offence.</p>
<p>Section 143M</p> <p>Daily liquor limit for same-day delivery</p>	<p>The same-day delivery provider is uniquely placed to track the amount of liquor sold to a single customer during a 24-hour period. The Bill is drafted flexibly to enable the provider to implement this requirement.</p>
<p>Section 143N</p> <p>Same-day delivery of liquor must be delayed</p>	<p>Strict compliance with delayed delivery is required to fulfil its purpose. The offence is framed to ensure proactive management of the delayed delivery obligation by providers, rendering knowledge or intent largely irrelevant.</p> <p>Regarding the exemption in section 30E of the Liquor Regulation, it would impose a significant burden on the possession if they were required in every case of suspected non-compliance to prove the counterfactual by proving that the delivery had not occurred with a meal.</p> <p>Placing the evidential burden on same-day delivery providers instead ensures that providers are incentivised to comply with the scheme and keep adequate records to demonstrate reliance on the exemption only where it is bona fide.</p>

<p>Section 143P</p> <p>Same-day delivery of liquor not permitted to certain public places</p>	<p>The same-day delivery provider will be uniquely aware of whether the place of delivery is a prohibited public place when an order is made by a customer.</p> <p>A delivery person will also be aware of the place of delivery due to their specified role as the person who supplies liquor to someone else.</p>
<p>Section 143Q</p> <p>Self-exclusion from same-day delivery of liquor</p>	<p>Sub-section (3)</p> <p>The same-day delivery provider is directly responsible for providing an option for the customer to self-exclude from the supply and direct marketing of same-day delivery of liquor.</p> <p>Providing for such an option is in the usual course of business for a same-day delivery provider and they can be reasonably expected to be aware of their obligations.</p> <p>Sub-section (4)</p> <p>The same-day delivery provider is directly responsible for taking delivery orders from the customer and checking other details specified in the delivery order.</p> <p>Sub-section (5)</p> <p>The same-day delivery provider is directly responsible for their advertising and marketing procedures and can be reasonably expected to know and comply with their obligations regarding self-excluded people.</p>
<p>Section 143R</p> <p>Same-day delivery provider and delivery person must have same-day delivery RSA certificate</p>	<p>Sub-section (1)</p> <p>The same-day delivery provider can be expected to have a high degree of awareness and understanding of the RSA framework because of their involvement with the regulated activity. Therefore, the same-day delivery provider can be reasonably expected to know what the RSA certificate requirements are, and therefore the mental, or fault element can justifiably be excluded.</p>

	<p>Sub-section (2)</p> <p>The same-day delivery provider can be expected to have a high degree of awareness and understanding of the RSA framework because of their involvement with the regulated activity. Therefore, the same-day delivery provider can be reasonably expected to know what the RSA certificate requirements are, and therefore the mental, or fault element can justifiably be excluded.</p> <p>Sub-section (3)</p> <p>The delivery person can be expected to have some degree of awareness and understanding of their individual RSA certificate requirements because of their involvement with the regulated activity and engagement with same-day delivery providers as part of being so involved.</p> <p>This offence has a reduced penalty for the delivery person as compared to the same-day delivery provider to reflect that the regulated activity and compliance with the law is largely the responsibility of the provider.</p>
<p>Section 143S</p> <p>Same-day delivery provider must keep same-day delivery RSA certificates</p>	<p>The same-day delivery provider can be expected to have a high degree of awareness and understanding of the same-day delivery framework because of their involvement with the regulated activity. Therefore, the same-day delivery provider can be reasonably expected to know what the record keeping requirements are, and therefore the mental, or fault element can justifiably be excluded.</p>
<p>Section 143T</p> <p>Same-day delivery provider must verify customer age</p>	<p>The same-day delivery provider can be expected to have a high degree of awareness and understanding of the same-day delivery framework because of their involvement with the regulated activity. Therefore, the same-day delivery provider can be reasonably expected to know what the identification verification requirements are, and therefore the mental, or fault element can justifiably be excluded.</p>

<p>Section 143U</p> <p>Same-day delivery of liquor not permitted to child or young person</p>	<p>The strict liability offence under sub-section (2) reinforces the protective role of liquor regulation in preventing children and young people from being exposed to or consuming liquor.</p> <p>The offence does not apply under sub-section (4) where the accused has the evidential burden to show that at the time the young person was at least 16 years old and had shown a delivery person an identification document identifying the young person as an adult. It would impose a significant burden on the prosecution if they were required in every case of suspected non-compliance to prove the counterfactual (i.e. prove that there was delivery to a young person who had shown false identification). Placing the evidential burden on the accused also ensures that delivery people are incentivised to comply with the scheme and keep adequate records of refusal.</p> <p>The offence is not a strict liability offence for a same-day delivery provider when liquor is supplied by a delivery person as they do not at the point of delivery have reasonable control over the conduct of a delivery person doing or not doing something.</p>
<p>Section 143X</p> <p>Same-day delivery of liquor must not be left unattended</p>	<p>An offence under sub-section (2), related to the person effecting delivery, is a strict liability offence. As the responsible person for supplying liquor to someone by same-day delivery, a delivery person or a delivery person who is also the same-day delivery provider, is uniquely placed to control whether a delivery is handed directly to someone else.</p> <p>The offence is not a strict liability offence for a same-day delivery provider when liquor is supplied by a delivery person as they do not at the point of delivery have reasonable control over the conduct of a delivery person doing or not doing something.</p>

<p>Section 143Y</p> <p>Abusive, threatening or intimidating behaviour toward delivery person</p>	<p>This offence is a strict liability offence because it serves the legitimate objective of protecting delivery people from abusive, threatening or intimidating behaviour when a delivery person engages in conduct to comply with the regulatory regime, such as refusing delivery. While it would be less restrictive on the right to be presumed innocent found in section 22 of the HR Act to require proof of knowledge or recklessness, this would provide an insufficient signal of the community's disapproval of victimisation delivery people.</p>
<p>Section 143ZA</p> <p>Victimisation of delivery person for refusing to supply liquor by same-day delivery</p>	<p>The same-day delivery provider can be expected to have a high degree of awareness and understanding of the same-day delivery framework, because of their involvement with the regulated activity. Therefore, the same-day delivery provider can be reasonably expected to know their obligations in relation to delivery people and the obligations imposed on delivery people. Therefore, the mental or fault element can justifiably be excluded.</p>
<p>Section 143ZB</p> <p>Same-day delivery provider must keep records of supply and refusal to supply</p>	<p>Sub-section (4)</p> <p>The same-day delivery provider can be expected to have a high degree of awareness and understanding of the same-day delivery framework, because of their involvement with the regulated activity. Therefore, the same-day delivery provider can be reasonably expected to know what the record keeping requirements are, and therefore the mental, or fault element can justifiably be excluded.</p>
	<p>Sub-section (5)</p> <p>The same-day delivery provider can be expected to have a high degree of awareness and understanding of the same-day delivery framework, because of their involvement with the regulated activity. Therefore, the same-day delivery provider can be reasonably expected to know what the record keeping requirements are, and therefore the mental, or fault element can justifiably be excluded.</p>

<p>Section 203A</p> <p>Offences—child or young person makes or receives order for same-day delivery etc</p>	<p>Sub-section (2)</p> <p>The offence follows the existing offence in the Liquor Act, section 203, where it is a strict liability offence for a child or young person to use false identification to buy liquor.</p> <p>The existing offences are reasonable by reference to the need to protect children from consumption of alcohol and the high degree of premeditation involved in use of false identification to buy liquor.</p>
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Liquor Amendment Bill 2025

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Liquor Amendment Bill 2025**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly **is** consistent with the *Human Rights Act 2004*.

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Tara Cheyne MLA
Attorney-General

CLAUSE NOTES

Part 1 Preliminary

Clause 1 Name of Act

This clause names the short title of this Act as the *Liquor Amendment Act 2025*.

Clause 2 Commencement

This clause provides that this Act commences by written Ministerial notice.

If a Ministerial notice has not been made within 18 months of this Act being notified on the ACT Legislation Register, sections 15–20, 35 and 38, part 3, and schedule 1 of the Act will automatically commence on the first day after that period.

If a Ministerial notice has not been made within six months of this Act being notified on the ACT Legislation Register, the sections of the Act not mentioned above (excluding sections 1 and 2) will automatically commence on the first day after that period.

Clause 3 Legislation amended

This clause lists the legislation amended by this Act, which are the:

- *Liquor Act 2010*
- *Liquor Regulation 2010*
- *Magistrates Court (Liquor Infringement Notices) Regulation 2010*.

Part 2 Liquor Act 2010

Clause 4 Section 46A heading

This clause is a technical amendment that amends the heading of section 46A to reflect the amendments to this section made by this Act.

Clause 5 Section 46A (4), note

This clause removes the note in section 46A (4) as failure to pay a fee within 28 days after an immediate suspension notice is issued is no longer a ground to cancel a liquor licence under section 183 (3) of the Liquor Act.

This clause also inserts new sections 46A (5) and (6) to provide the Commissioner for Fair Trading (the Commissioner) with the power to cancel liquor licences in limited circumstances. The amendments allow the Commissioner to issue a cancellation notice if the licensee fails to pay the fee within 28 days after an immediate suspension notice was given.

These amendments remove the power of the ACT Civil and Administrative Tribunal (ACAT) to cancel liquor licences by way of occupational discipline. This power is transferred to the Commissioner, foregoing the need to seek cancellation of a liquor licence through the ACAT.

Without this amendment, the only way to cancel a liquor licence due to non-payment of required fees is through an application by the Commissioner to the ACAT for an occupational discipline order in relation to a licensee. This process is not only costly, resource intensive, and time consuming, but it also allows for a liquor licence to be in force until it is eventually cancelled (see section 32 of the Liquor Act). These amendments, applying only to the limited circumstances of non-payment of fees, reduce red tape and allow liquor licences to be cancelled immediately, which is beneficial for regulatory efficacy.

Clause 6 Section 100 heading

This clause is a technical amendment that amends the heading of section 100 to reflect the amendments to this section made by this Act.

Clause 7 Section 100

This Act introduces a new responsible service of alcohol (RSA) training course about same-day delivery, for which a same-day delivery RSA certificate is issued. The existing RSA training course is now referred to as an RSA course, for which a general RSA certificate is issued.

This clause is a technical amendment that updates terminology in section 100 to distinguish that these offences apply to a person who does not hold a current general RSA certificate. This amendment does not change how the offences are applied.

Clause 8 Section 101 heading

This clause is a technical amendment that amends the heading of section 101 to reflect the amendments to this section made by this Act.

Clause 9 Section 101

This Act introduces a new RSA training course about same-day delivery, for which a same-day delivery RSA certificate is issued. The existing RSA training course is now referred to as an RSA course, for which a general RSA certificate is issued.

This clause is a technical amendment that updates terminology in section 101 to distinguish that these offences apply to a person who does not hold a current general RSA certificate. This amendment does not change how the offences are applied.

Clause 10 Section 102 heading

This clause is a technical amendment that amends the heading of section 102 to reflect the amendments to this section made by this Act.

Clause 11 Section 102

This Act introduces a new RSA training course about same-day delivery, for which a same-day delivery RSA certificate is issued. The existing RSA training course is now referred to as an RSA course, for which a general RSA certificate is issued.

This clause is a technical amendment that updates terminology in section 102 to distinguish that these offences apply to a person who does not hold a current general RSA certificate. This amendment does not change how the offences are applied.

Clause 12 Section 103 heading

This clause is a technical amendment that amends the heading of section 103 to reflect the amendments to this section made by this Act.

Clause 13 Section 103

This Act introduces a new RSA training course about same-day delivery, for which a same-day delivery RSA certificate is issued. The existing RSA training course is now referred to as an RSA course, for which a general RSA certificate is issued.

This clause is a technical amendment that updates terminology in section 103 to distinguish that these offences apply to a licensee or permit-holder who have failed to keep copies of current general RSA certificates of the licensee or permit-holder, employees who supply liquor, and crowd controllers. This amendment does not change how the offences are applied.

Clause 14 New part 8A

This clause creates new part 8A, which introduces new definitions for:

- *same-day delivery* – liquor that is ordered and supplied by delivery to a place in the ACT on the same day it is bought. Liquor bought from interstate is within the scope of the Act because of connection to the ACT as the place of delivery.
- *delivery order* – the commercial arrangement between a customer and same-day delivery provider for a same-day delivery order.
- *customer* – the person who places the same-day delivery order. This person may not always be the person receiving the delivery at the address.
- *delivery person* – the person who performs the delivery of the liquor to the customer. Depending on the business, the delivery person may also be the same person as the same-day delivery provider.
- *same-day delivery provider* – the business that supplies, or arranges for the supply of, the same-day delivery of liquor. This may be a licensee with a brick-and-mortar store, an online liquor retailer, or an independent contractor who performs the delivery of the liquor.
- *take* – the making of the commercial arrangement between a customer and same-day delivery provider for a same-day delivery order.

The same-day delivery framework will be subject to the current exemptions to the Liquor Act in sections 6–8A. Under these sections, certain activities are permitted, such as the administration, dispensing or sale of liquor for medicinal purposes, the supply, possession, consumption or purchase of liquor authorised by a law in force in the ACT, the duty-free sale of liquor, the sale of liquor by an auctioneer in an auction, the sale by, or on behalf of, the Commonwealth or Territory of liquor seized under a law in force in the ACT, the sale of liquor in an exempt university building, and the supply of liquor by exempt businesses (such as, traveller accommodation, florist or gift makers, hairdressers, hospitals, home or residential care service providers, retirement villages, hospices, or limousine or tour businesses). The same-day delivery framework is also exempt from the two-hour delivery delay if the liquor is delivered as part of a meal (see clause 47).

Clause 15 New division 8A.1 heading

This clause is a technical amendment that creates new division 8A.1 containing the important concepts inserted by clause 14.

Clause 16 New divisions 8A.2 to 8A.7

This clause creates new divisions 8A.2 to 8A.7, which establishes a legislative framework for same-day delivery of liquor. As part of the new same-day delivery framework, this Act introduces the sections discussed in the next paragraphs.

New division 8A.2

New section 143K introduces an obligation for a same-day delivery provider to give a written notice to the Commissioner of a same-day delivery seller of liquor. The written notice must include the name of the seller and their liquor licence number (see clause 47). A contravention of this section is a strict liability offence, carrying a maximum penalty of 50 penalty units. The purpose of this offence is to ensure that the regulatory authority is aware of who is selling liquor by same-day delivery.

New section 143L makes it an offence to sell liquor by same-day delivery without a liquor licence. This offence applies to a same-day delivery provider, and carries a maximum penalty of 100 penalty units, 12 months imprisonment, or both. The purpose of this offence is to ensure that the liquor being supplied and delivered by same-day delivery is sold under a liquor licence in compliance with existing liquor regulation.

New division 8A.3

New section 143M makes it an offence to supply an amount of liquor that exceeds the prescribed daily amount as legislated in the Liquor Regulation to the same customer by same-day delivery. This involves taking into consideration other orders made by a customer with a single same-day delivery provider within the 24-hour period. This offence applies to a same-day delivery provider, and is a strict liability offence, carrying a maximum penalty of 50 penalty units. The purpose of this offence is to reduce the risk of harm arising from excessive alcohol consumption within a 24-hour period.

New section 143N makes it an offence to deliver liquor by same-day delivery within the delayed delivery period prescribed by the Liquor Regulation, which is two hours from the time of the order (see clause 47). This offence applies to a same-day delivery provider and a delivery person who is also a same-day delivery provider, as a strict liability offence that carries a maximum penalty of 50 penalty units. This offence also applies to a delivery person as a strict liability offence, carrying a maximum penalty of 10 penalty units. The purpose of this offence is to mitigate alcohol-related harm resulting from prolonged and excessive alcohol consumption by preventing rapid access to alcohol.

New section 143O makes it an offence to deliver liquor outside the times prescribed by the Liquor Regulation, which is 10am–10pm (see clause 47). This offence applies to a same-day delivery provider and carries a maximum penalty of 50 penalty units. This offence applies as a strict liability offence to a delivery person who is also a same-day delivery provider, and a delivery person, carrying a maximum penalty of 50 penalty units and 10 penalty units respectively. The purpose of

this offence is to address the higher risk of alcohol harm that occurs later at night by reducing these risks through limiting the easy overnight availability of alcohol.

New section 143P makes it an offence to deliver liquor to a prohibited public place (bus interchange, bus station, light rail stop, a public place that is within 50 metres of a bus interchange, bus station, light rail stop, shop, licensed or permitted premises, or a permanent or temporary alcohol-free place). This offence applies to a same-day delivery provider and a delivery person who is also a same-day delivery provider as a strict liability offence that carries a maximum penalty of 50 penalty units. This offence also applies to a delivery person as a strict liability offence, carrying a maximum penalty of 10 penalty units. The purpose of this offence is to expand on current safeguards to further protect the community from harm from same-day delivery of liquor.

New section 143Q contains three offences in relation to self-exclusion from same-day delivery of liquor, making it an offence to:

- fail to provide an option for the customer to self-exclude from the supply and direct marketing of same-day delivery of liquor;
- take an order of liquor from or deliver an order of liquor to a self-excluded person; and
- market to a self-excluded person about same-day delivery of liquor.

These offences apply to a same-day delivery provider, and are strict liability offences, carrying a maximum penalty of 50 penalty units. The purpose of these offences is to reduce harm from liquor for those recovering from or at risk of alcohol-use disorder.

New division 8A.4

New section 143R requires a same-day delivery provider (that is, each person that has day-to-day control of delivery operations) and delivery people to hold a current same-day delivery RSA certificate. A contravention of this section is a strict liability offence, carrying a maximum penalty of 50 penalty units for a same-day delivery provider, and 10 penalty units for a delivery person. The purpose of these offences is to expand existing RSA requirements to apply to same-day delivery providers and employees. It is intended as a measure to educate, support and protect the safety of same-day delivery people and ensure that they understand their roles, rights and responsibilities in refusing delivery of liquor.

New section 143S makes it an offence to fail to keep a copy of current same-day delivery RSA certificates for the same-day delivery provider, individuals who have day-to-day control of same-day delivery operations, and delivery people who make same-day deliveries. This offence applies to a same-day delivery provider, and is a strict liability offence, carrying a maximum penalty of 20 penalty units. The purpose of this offence is to ensure appropriate record-keeping and compliance.

New division 8A.5

New section 143T makes it an offence to fail to verify the customer's age when the order is made. This offence applies to a same-day delivery provider, and is a strict liability offence, carrying a maximum penalty of 50 penalty units. The purpose of this offence is to ensure that liquor is not being purchased by a person under 18 years of age, as per the requirements of the Liquor Act.

New section 143U makes it an offence to supply liquor by same-day delivery to a child or young person. This offence applies to a same-day delivery provider and carries a maximum penalty of 50 penalty units. This offence applies as a strict liability offence to a delivery person who is also a same-day delivery provider, and a delivery person, carrying a maximum penalty of 50 penalty units and 10 penalty units, respectively. It is a defence to the same-day delivery provider or the delivery person if the young person was at least 16 years old and had shown an identification document identifying them as an adult. The purpose of this offence is to expand on current safeguards to further protect the community from harm from same-day delivery of liquor.

New section 143V gives the delivery person discretion to refuse to supply the liquor if the person receiving the order does not show an identification document to prove they are at least 18 years old.

New section 143W makes it an offence to supply liquor by same-day delivery to a person who is intoxicated. This offence applies to a same-day delivery provider and carries a maximum penalty of 50 penalty units. This offence applies as a strict liability offence to a delivery person who is also a same-day delivery provider, and a delivery person, carrying a maximum penalty of 50 penalty units and 10 penalty units, respectively. The purpose of this offence is to expand on current safeguards to further protect the community from harm from same-day delivery of liquor.

New section 143X makes it an offence to leave a delivery of liquor unattended at the place of delivery. This offence applies to a same-day delivery provider and carries a maximum penalty of 50 penalty units. This offence applies as a strict liability offence to a delivery person who is also a same-day delivery provider, and a delivery person, carrying a maximum penalty of 50 penalty units and 10 penalty units, respectively. The purpose of this offence is to ensure that liquor is not delivered to minors and is safely delivered to the appropriate person.

New division 8A.6

New section 143Y makes it an offence to abuse, threaten or intimidate a delivery person because they refused to supply the liquor as required under the Liquor Act. This offence applies to any person at the place of delivery, and is a strict liability offence, carrying a maximum penalty of 10 penalty units. The purpose of this offence is to expand on current safeguards to further protect same-day delivery drivers from harm as they comply with RSA requirements.

New section 143Z makes it an offence to fail to give the Commissioner an incident report within 24 hours, concerning abusive, threatening or intimidating behaviour towards a delivery person at the place of delivery, or the refusal to show a delivery person an identification document, or other incidents prescribed by legislation. The incident report must contain details of the incident (such as, date and time, and description of events), the names, addresses and contact details of all involved parties, the action taken by the same-day delivery provider or delivery person, and a police report reference number, if reported. This offence applies to a same-day delivery provider, and carries a maximum penalty of 10 penalty units. The purpose of this offence is to expand on current incident reporting requirements to further protect the community from harm from same-day delivery of liquor. It will also enable the regulator or police to investigate incidents involving same-day delivery.

New section 143ZA makes it an offence to take, or threaten to take, detrimental action against the delivery person for refusing or proposing to refuse, to supply liquor by same-day delivery to a customer, on the basis that doing so would be an offence against the Liquor Act. This offence applies

to a same-day delivery provider, and is a strict liability offence, carrying a maximum penalty of 50 penalty units. The purpose of this offence is to protect delivery people from unfair treatment by licensees and same-day delivery providers. These amendments would uphold the harm minimisation principles under the Liquor Act by providing an explicit legislative mechanism for delivery drivers to refuse delivery in order to comply with RSA requirements.

New division 8A.7

New section 143ZB contains two offences about record-keeping, making it an offence to:

- fail to make a record of the supply or refusal of same-day deliveries; and
- fail to keep a record of the supply or refusal of same-day deliveries for at least six years.

This offence applies to a same-day delivery provider, and are strict liability offences, carrying maximum penalties of 20 penalty units and 50 penalty units, respectively. The purpose of these offences is to capture data for compliance purposes.

New section 143ZC allows exemptions from the same-day delivery framework to be legislated through the Liquor Regulation.

Clause 17 Section 144 heading

This clause is a technical amendment that amends the heading of section 144 to reflect the amendments to this section made by this Act.

Clause 18 New section 144 (2) (g) and (h)

Section 144 of the Liquor Act allows the Commissioner to issue a written direction to a licensee or permit-holder and their employees or any other people working at the premises, if the Commissioner believes on reasonable grounds that there is, or is likely to be, a contravention of the Liquor Act or a breach of a liquor licence or permit. This clause expands section 144 to allow the Commissioner to issue a written direction to a same-day delivery provider or delivery person for the same grounds.

This amendment expands on existing safeguards in the Liquor Act to further protect the community from harm from same-day delivery of liquor.

Clause 19 Definitions—div 9.3

Section 149, definition of *caution offence*, new paragraph (fa)

This clause specifies that new section 203A is a caution offence. This means that if a child or young person is committing, or has committed, an offence under new section 203A (see clause 35), a police officer may issue a written caution to the child or young person, under section 150 of the Liquor Act, provided that they have not received a caution in the past 12 months. A caution prohibits the child or young person from being prosecuted for the offence.

Clause 20 Grounds for occupational discipline—licensee

New section 183 (1) (l)

This clause establishes a new ground for occupational discipline under section 183 (1) for situations where a licensee has failed to take reasonable steps to ensure that the same-day delivery provider and its delivery people comply with the Liquor Act. Under section 187 (1) of the Liquor Act, the Commissioner may apply to the ACAT for an occupational discipline order in relation to the licensee, if the Commissioner believes on reasonable grounds that one of the grounds for occupational discipline in section 183 (1) exists.

This amendment expands on existing safeguards in the Liquor Act to further protect the community from harm from same-day delivery of liquor.

Clause 21 Section 183 (3)

This clause omits section 183 (3), removing the power of the ACAT to cancel liquor licences by way of occupational discipline. This power is transferred to the Commissioner (see clause 5), foregoing the need to seek cancellation of a liquor licence through the ACAT.

Clause 22 New division 12.1A heading

This clause is a technical amendment that inserts new division 12.1A to reflect the amendments to part 12 of the Liquor Act made by this Act.

Clause 23 Section 188 heading

This clause is a technical amendment that amends the heading of section 188 to indicate that the definitions in section 188 are not restricted to division 12.1 of the Liquor Act, and apply to the entire part 12 of the Liquor Act.

Clause 24 Section 188

This clause is a technical amendment that amends the application of section 188 to apply to the entire part 12 of the Liquor Act, and not restricted to division 12.1 of the Liquor Act.

Clause 25 Section 188, new definition of *RSA training course approval*

This clause is a technical amendment that provides a definition for *RSA training course approval*.

Clause 26 Section 188 (as amended)

This clause is a technical amendment that relocates section 188, as amended, to new division 12.1A.

Clause 27 RSA training course approval—application

Section 189 (1)

Section 189 (1) requires a registered training organisation to apply to the Commissioner for approval to provide a training course in relation to RSA. This clause amends section 189 (1) to extend this requirement to the provision of training course about responsible same-day delivery of alcohol.

This amendment supports the new same-day delivery framework. The development of a new training course about the responsible same-day delivery of alcohol is intended as a measure to educate, support and protect the safety of delivery people and ensure that they understand their roles, rights and responsibilities in refusing the delivery of liquor.

Clause 28 RSA training course approval—decision on application

Section 190 (1)

This clause is a technical amendment that amends section 190 (1) to reflect the amendments to section 189 (1) made by this Act. This amendment clarifies that the Commissioner may issue an RSA training course approval in relation to a training course on RSA or responsible same-day delivery of alcohol, if it is in the public interest.

This amendment supports the new same-day delivery framework. The development of a new training course about the responsible same-day delivery of alcohol is intended as a measure to educate, support and protect the safety of delivery people and ensure that they understand their roles, rights and responsibilities in refusing delivery of liquor.

Clause 29 RSA training course approval—form

New section 191 (ca)

Section 191 sets out the requirements for an RSA training course approval, which must be in writing, identifying the registered training organisation and training course, any conditions of the approval, and the dates of issue and expiry. This clause amends section 191 to add a requirement that the type of training course – RSA or responsible same-day delivery of alcohol – must be specified.

This amendment supports the new same-day delivery framework. The development of a new training course about the responsible same-day delivery of alcohol is intended as a measure to educate, support and protect the safety of delivery people and ensure that they understand their roles, rights and responsibilities in refusing delivery of liquor.

Clause 30 Sections 193 and 194

Section 193 defines *RSA certificate*, *interstate RSA training provider*, and *interstate RSA certificate*. This clause makes the following amendments to section 193 as a consequence of the development of the new responsible same-day delivery of alcohol training:

- Renaming *RSA certificate* as *general RSA certificate*. The definition remains the same as the preceding meaning.
- Introducing the term, *same-day delivery RSA certificate*, and defining it as a certificate issued for completing a training course about the responsible same-day delivery of alcohol. Interstate certificates for completion of responsible same-day delivery of alcohol training are recognised.
- Amending the definitions of *interstate RSA certificate* and *interstate RSA training provider* to reflect the development of a new training course about the responsible same-day delivery of alcohol.

Section 194 outlines the requirement that an RSA training provider must issue an RSA certificate to a person who has satisfactorily completed an RSA training course. This certificate is valid for three years. This clause amends section 194 to reflect the development of the new same-day delivery RSA training, and extends the expiry period of all RSA certificates to five years to harmonise with NSW requirements and promote cross-border labour mobility with NSW.

Clause 31 Offence—consume liquor at certain public places

Section 199 (1) (b) (iv)

Section 199 prohibits the consumption of liquor, including low-alcohol liquor, at prescribed public places. However, the wording of section 199 (1) (b) (iv) inadvertently captures private residences that are within 50 meters from a bus interchange or station, light rail stop, shop, licensed or permitted premises, or permanent or temporary alcohol-free places. This clause amends section 199 (1) (b) (iv) to limit the application of this offence to a public place.

Clause 32 Section 199 (5)

This clause is a technical amendment to relocate the definition of *light rail stop* to the dictionary of the Act, as the definition will be used outside of section 199.

Clause 33 Offence—possess open container of liquor at certain public places

Section 200 (1) (b) (iv)

Section 200 prohibits the possession of an open container of liquor, including low-alcohol liquor, at prescribed public places. However, the wording of section 200 (1) (b) (iv) inadvertently captures private residences that are within 50 meters from a bus interchange or station, light rail stop, shop, licensed or permitted premises, or permanent or temporary alcohol-free places. This clause amends section 200 (1) (b) (iv) to limit the application of this offence to a public place.

Clause 34 Section 200 (4), definition of *light rail stop*

This clause is a technical amendment to relocate the definition of *light rail stop* to the dictionary of the Act, as the definition will be used outside of section 200.

Clause 35 New section 203A

This clause creates new offences under section 203A for children and young people.

New section 203A (1) makes it an offence for a child or young person to place an order of liquor by same-day delivery, or to receive a delivery of liquor supplied by same-day delivery, with a maximum penalty of five penalty units.

New section 203A (2) makes it an offence for a child or young person to use a false identification document to place an order of liquor by same-day delivery, or to receive a delivery of liquor supplied by same-day delivery, with a maximum penalty of five penalty units. This offence is a strict liability offence.

Both of these offences are categorised as caution offences (see clause 19).

The purpose of these new offences is to ensure that liquor is not being purchased by a person under 18 years of age, as per the requirements of the Liquor Act.

Clause 36 Liquor guidelines

New section 223 (2) (f)

Section 223 allows the Commissioner to make guidelines for the Liquor Act by way of a notifiable instrument. This clause amends section 223 (2) to specify that the Commissioner may make a guideline about the supply of liquor by same-day delivery, removing ambiguity about the Commissioner's powers.

Clause 37 Regulation-making power

New section 229 (2) (e)

Section 229 allows the Executive (as defined in the *Legislation Act 2001*) to make regulations for the Liquor Act. This clause amends section 229 (2) to specify that the Executive may make regulations about the supply of liquor by same-day delivery, removing ambiguity about the Executive's regulation-making powers.

Clause 38 New section 230

This clause creates new section 230 requiring the Minister responsible for the Liquor Act to undertake a review of the operation of the same-day delivery framework. The review is required to commence three years after the framework commences, and a report will be due to be presented to the Legislative Assembly within 12 months of the review commencing.

This review will enable the proper consideration of how the framework is operating to determine whether the policy objectives are satisfied. It will give the Government an opportunity to identify issues with how the framework is operating and implement suitable recommendations from the review to enhance the effectiveness of the framework.

This section will expire five years after commencement, which will give sufficient time for this requirement to be discharged.

Clause 39 New part 26

This clause creates new part 26, which contains transitional provisions in response to the amendments made by this Act to the RSA training requirements.

New section 275 provides a definition for *amending Act*, which is this Act.

New section 276 converts RSA training course approvals in force when clause 27 commences, to a training course about RSA, differentiating from the responsible same-day delivery of alcohol training.

New section 277 converts RSA certificates in force when clause 28 commences, to a general RSA certificate. This section also extends the expiry period of those certificates to five years from the day

the person completed the training course, to harmonise with NSW requirements and promote cross-border labour mobility with NSW.

New section 278 is a sunset clause and provides that part 26 will expire six years after commencement, giving sufficient time for the transitional period.

Clause 40 Reviewable decisions

Schedule 1, new item 4A

Schedule 1 of the Liquor Act contains a list of decisions made by the Commissioner that may be reviewed on application to the ACAT. This clause adds the Commissioner's decision to cancel a liquor licence as a reviewable decision in Schedule 1. This allows a licensee and other affected people to apply to the ACAT for a review of this decision, upholding the requirement of procedural fairness.

Clause 41 Dictionary, definitions of *approved RSA training course* and *approved RSA training provider*

This clause is a technical amendment that updates the definitions of *approved RSA training course* and *approved RSA training provider* to refer to part 12 of the Liquor Act, as a consequence of amendments made by this Act.

Clause 42 Dictionary, new definitions

This clause is a technical amendment that provides new definitions for *customer*, *delivery order*, and *delivery person* to support the new same-day delivery framework.

This clause also provides a new definition for *general RSA certificate* to reflect the development of the new responsible same-day delivery of alcohol training.

This clause relocates the definition of *light rail stop* from sections 199 and 200 of the Liquor Act to the dictionary, as it will now be used in a number of places in the Liquor Act. The definition remains unchanged.

Clause 43 Dictionary, definition of *registered training organisation*

This clause is a technical amendment that updates the definition of *registered training organisation* to refer to part 12 of the Liquor Act, as a consequence of amendments made by this Act.

Clause 44 Dictionary, definition of *RSA certificate*

This clause is a technical amendment that removes the superseded definition of *RSA certificate*.

Clause 45 Dictionary, definition of *RSA training course approval*

This clause is a technical amendment that updates the definition of *RSA training course approval* to refer to part 12 of the Liquor Act, as a consequence of amendments made by this Act.

Clause 46 Dictionary, new definitions

This clause is a technical amendment that provides new definitions for *same-day delivery*, *same-day delivery provider* and *take* to support the new same-day delivery framework.

This clause also provides a new definition for *same-day delivery RSA certificate* to reflect the development of the new responsible same-day delivery of alcohol training.

Part 3 Liquor Regulation 2010

Clause 47 New part 7A

This clause creates new part 7A in the Liquor Regulation to support the new same-day delivery framework in the Liquor Act.

New section 30A prescribes the information required under new section 143K (2) (b) of the Liquor Act, for a written notice to the Commissioner of licensees selling liquor by same-day delivery, including inter-state sellers. This section requires the licensee's liquor licence number.

New section 30B legislates the necessary period of delay between the time the same-day delivery order is made and when it can be delivered, as required under new section 143N (4) of the Liquor Act. The prescribed period of delay is currently set at two hours from the time the order is placed.

New section 30C legislates the times when a same-day delivery of liquor can be delivered, as required under new sections 143O (1) (d) and (2) (c) of the Liquor Act. Currently, same-day delivery can occur between 10:00am–10:00pm.

New section 30D prescribes the information required under new section 143ZB of the Liquor Act, for record-keeping purposes in relation to the supply of or refusal to supply liquor by same-day delivery. This section requires the names of the same-day delivery provider, seller of the liquor, customer and person receiving the order, and the delivery person, the order details (day and time of order, day and time of delivery, delivery address, name and volume of liquor, whether it was delivered with a meal), liquor licence number, and reasons why the delivery was refused.

New section 30E provides an exemption to the period of delay required under new section 143N of the Liquor Act. This section exempts liquor that is sold and delivered with a meal from being subject to the prescribed period of delay from the time of order, provided that the liquor is less than 1.5L and the amount paid for the liquor is up to half the total value of the order. This ensures that, within limits in place to control the amount of liquor that can be ordered, the customer can receive their meals in a timely manner while enjoying an appropriate amount of liquor.

Clause 48 Dictionary, note 3

This clause is a technical amendment that refers to the Liquor Act for definitions for *customer*, *delivery order*, *delivery person*, *same-day delivery*, and *same-day delivery provider*.

Schedule 1 Magistrates Court (Liquor Infringement Notices) Regulation 2010—Consequential amendment

Clause 1.1 Schedule 1, new items 45A to 45U

This clause updates schedule 1 of the *Magistrates Court (Liquor Infringement Notices) Regulation 2010* with the new same-day delivery offences that will form part of the infringement notices scheme, which are sections:

- 143K (3)
- 143M (1)
- 143N (1) and (2)
- 143O (2)
- 143P (1) and (2)
- 143Q (3), (4) and (5)
- 143R (1), (2) and (3)
- 143S (1)
- 143T (1)
- 143U (2)
- 143W (2)
- 143X (2)
- 143Y (1)
- 143ZA (1)
- 143ZB (4) and (5).