

23 August 2019

Attorney-General

**BORA Vet: Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Bill 2019**

**Our Ref: ATT395/301**

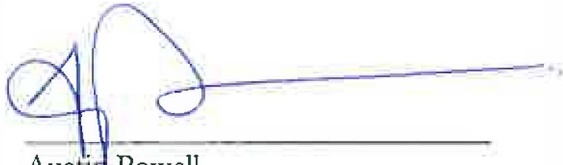
1. I have examined version 3.0 of the Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Bill 2019 (“the Bill”) for consistency with the New Zealand Bill of Rights Act 1990 (“the Bill of Rights Act”).
2. I could find no inconsistency with the Bill of Rights Act.

**The Bill**

3. The Bill is based on a similar regime that was put in place for the Rugby World Cup 2015.
4. Because the Rugby World Cup 2019 will be held in Japan, the time zone means that some of the matches will fall outside the permitted trading hours. The Bill proposes an extension to the normal trading hours for licenced premises to accommodate the televised matches.
5. In doing so it does not engage any of the rights guaranteed by the Bill of Rights Act.
6. The draft Bill is likely to undergo further changes before its introduction. We will monitor those changes and notify you immediately if any alteration to this advice becomes necessary.

**Review of this advice**

7. In accordance with Crown Law's policies, this advice has been peer reviewed by Peter Gunn, Crown Counsel.



Austin Powell  
Senior Crown Counsel

Encl.

Noted / ~~Approved~~ / ~~Not Approved~~



Hon David Parker  
Attorney-General  
26 / 8 / 2019

**IN CONFIDENCE**

## **Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Bill 2019**

Government Bill

### **Explanatory note**

#### **General policy statement**

[Q: MOJ to provide]

#### **Departmental disclosure statement**

The Ministry of Justice is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at [PPU to insert URL and link] (if it has been provided for publication).

Or [Counsel to delete the option that does not apply]

A departmental disclosure statement is not required for this Bill.

#### **Regulatory impact assessment**

The Ministry of Justice produced a regulatory impact assessment on [date] to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact assessment can be found at—

- [Insert URL link(s) to the RIA on the agency's/agencies' Internet site(s)]
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

#### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause. The Bill is to come into force on the day after the date on which it receives the Royal assent.

*Clause 3* states that the Bill amends the Sale and Sale and Supply of Alcohol Act 2012 (the **principal Act**).

## Part 1

### Substantive amendments

*Clause 4* sets out the provisions that extend trading hours during the Rugby World Cup 2019, namely *new sections 45A to 45G*.

*New section 45A* states the purpose of *new sections 45B to 45G*, which is to facilitate extended trading hours for some premises.

*New section 45B* defines some of the terms used in *new sections 45A to 45G*.

*New section 45C* applies *new section 45D to 45F* to certain licensed premises.

*New section 45D* provides for extended trading hours.

*New section 45E* sets out the effect of the extension.

*New section 45F* requires the display of certain information about the extension.

*New section 45G* provides that *new sections 45A to 45F* do not limit or affect an application for, or the operation of, a special licence.

*Clause 5* inserts *new Schedule 4* into the principal Act. *New Schedule 4*, which is set out in the Schedule of the Bill, sets out game details relevant to the extension.

*Clause 6* provides for the repeal of the provisions set out in the Bill on **4 November 2019**.

## Part 2

### Consequential amendments

*Clause 7* amends section 44 of the principal Act, which concerns permitted trading hours for premises without a relevant local alcohol policy. The amendment provides that *new sections 45A to 45G* override section 44.

*Clause 8* amends section 45 of the principal Act, which concerns permitted trading hours for premises with a relevant local alcohol policy. The amendment provides that *new sections 45A to 45G* override section 45.

*Clause 9* amends section 50 of the principal Act, which concerns compliance with one-way door restrictions in local alcohol policies. The amendment provides that *new sections 45A to 45G* override section 45.

*Hon Andrew Little*

# **Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Bill 2019**

Government Bill

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| 7                               | Section 44 amended (Permitted trading hours for premises without<br>relevant local alcohol policy) | 7    |
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| 9    | Section 50 amended (One-way door restrictions in local alcohol policies to be complied with)    | 7 |
|      | <b>Schedule</b><br>New Schedule 4 inserted  | 8 |

**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Act **2019**.

**2 Commencement**

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

**3 Principal Act**

This Act amends the Sale and Supply of Alcohol Act 2012 (the **principal Act**).

**Part 1**  
**Substantive amendments**

**4 New sections 45A to 45G and cross-heading inserted**

After section 45, insert:

*Rugby World Cup 2019 extended trading hours*

**45A Purpose**

The purpose of **sections 45B to 45G** is to facilitate extended trading hours (and related adjustments to one-way door restrictions) for some premises—

- (a) for which an on-licence or a club licence is held; and
- (b) in which the licensee intends to televise, and televises, on a particular night, a notified game or games.

**45B Game, and other terms, defined**

- (1) In section 45A, this section, and **sections 45C to 45G**,—

**game** means a game of the Rugby World Cup 2019 tournament (the ninth quadrennial international rugby world championship, to be held in Japan, from **19 September 2019** (Japanese Standard Time) to **2 November 2019** (Japanese Standard Time), game details for which are set out, for public information and reference purposes only, in **Schedule 4**)

**night**, for licensed premises, means a period all or some of which is outside the permitted trading hours

**televis**e, for a game, means to show customers the game via a live audiovisual communication—

- (a) in any form, on any basis (for example, subscription to a television channel or service, or on-demand), and using any medium or media (for example, satellite television broadcast, or Internet video streaming); and
  - (b) to or for, or to or for a class of, the public.
- (2) **Permitted trading hours**, and other terms defined in section 5(1), have, in **section 45A**, this section, and **sections 45C to 45G**, the same meanings given to them by section 5(1).

#### **45C Eligible premises**

- (1) **Sections 45D to 45F** apply to any licensed premises for which an on-licence or a club licence—
- (a) is held, and not suspended or cancelled, immediately before a night—
    - (i) on or after **20 September 2019** (New Zealand standard time); and
    - (ii) before or on **3 November 2019** (New Zealand daylight time); and
  - (b) has not been varied or suspended under section 280 within 12 months before the date on which the licensee gives notice under this section.
- (2) However, **sections 45D to 45F** apply to the premises only if the licensee has given the licensing committee concerned and the Police at least 7 days' written notice—
- (a) that the licensee intends to televise in the premises on the night the game, all games, or any 1 or more stated games, on the night; and
  - (b) of the details of the noise management plan that is, or the other arrangements for managing noise levels that are, appropriate to the locality, and that the licensee is to have in place during every proposed extension under **section 45D** to the permitted trading hours.
- (3) The details under **subsection (2)(b)** must state how the licensee will comply with the noise level management conditions in **section 45E(1)(c)**.
- (4) The notification to the Police must be sent to the constable in charge of the police station nearest to the premises for which the licence is held.
- (5) **Sections 45D to 45F** cease to apply to the premises if—
- (a) an application for an order under section 280 suspending or cancelling the licence is made on the grounds, expressly stated in the application, that the premises have clearly been conducted in breach, without reasonable excuse, of any of **sections 45D to 45F**; and
  - (b) a copy of the application is sent to, and received by, the licensee.

- (6) To avoid doubt, this section and **sections 45A to 45B and 45D to 45G** only apply to premises that wish to trade during games that are being held at times that are outside of the premises' permitted trading hours.

#### **45D Trading hours extended**

- (1) The licensee has the extension provided in this section to the permitted trading hours, but only if the primary or sole purpose of the premises being open on the night is to allow customers to watch the televised game or games notified by the licensee under **section 45C**.
- (2) The premises can open 1 hour before the start of each game to be televised.
- (3) However, if the first or only game to be televised is to start no more than 2 hours after the end of the last period of permitted trading hours for the premises, the premises can stay open after that period, and until that game starts.
- (4) The premises can be open during each game televised.
- (5) The premises are required to close for the sale of alcohol 30 minutes after the end of each game televised (unless that 30-minute period ends after the start of the 1-hour period under **subsection (2)** for the next game to be televised).
- (6) Sections 255 and 256 make it an offence for a person to whom section 255(1) applies to be found in (and for the licensee or a manager of the premises to allow the person to be on) any part of the premises, if they are on-licence premises used principally or exclusively for the sale, supply, or consumption of alcohol, at any time that—
- (a) is not a time when a special licence applies to the premises; and
  - (b) is not between 6 am and the time when the next period of permitted trading hours for the premises begins; and
  - (c) is—
    - (i) more than 30 minutes after the premises are required to close for the sale of alcohol; or
    - (ii) a time when the premises are required to be closed for the sale of alcohol.

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#### **Example 1—game starts during permitted trading hours and finishes outside of those hours**

The licensee notifies the Wales v Georgia game on 23 September at 22.15 NZST. The last period of permitted trading hours for the premises ends at 23.30 NZST. The premises can be open during the game televised, which ends at 00.00 NZST. The premises are required to be closed for the sale of alcohol at 0.30 NZST.

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#### **Example 2—game starts outside of permitted trading hours**

The licensee notifies the quarter-final game on 20 October at 23.15 NZDT. The last period of permitted trading hours for the premises ends at 22.00 NZDT.



Because the match starts less than 2 hours after the end of the last period of permitted trading hours for the premises, the premises can stay open after that period, until the game starts and during the game.

The game ends at 1.00 NZDT, so the premises are required to be closed for the sale of alcohol at 1.30 NZDT.

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**Example 3—game starts beyond 2 hours outside of permitted trading hours**

The licensee notifies the Australia v Georgia game on Friday 11 October at 23.15 NZDT.

The last period of permitted trading hours for the premises ends at 17.00 NZDT.

Because there is more than 2 hours between the end of the trading period and the beginning of the game, the licensee would be required to close the premises.

They can reopen at 22.15 NZDT, 1 hour before the start of the game.

The game finishes at 1.00 NZDT, so the premises are required to be closed for the sale of alcohol at 1.30 NZDT.

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**45E Effect of extensions (on one-way door restrictions, etc)**

- (1) While the premises are open under an extension under **section 45D**,—
- (a) the licensee has, for the purposes of section 247(1), the authority of this Act to do any of the following things:
    - (i) sell or supply alcohol on the premises for consumption there; or
    - (ii) let people consume alcohol on the premises; and
  - (b) sections 46 to 63 and 259(1) require the licensee to comply with all applicable requirements and restrictions imposed by or under this Act, and with every (and, in particular, with the most restrictive relevant applicable) condition subject to which the licence has been issued or renewed, except so far as those requirements, restrictions, or conditions are overridden under **subsection (4)(a)**; and
  - (c) the licensee must comply with the following conditions:
    - (i) outside areas cannot be used for any purpose (despite section 12 of the Smoke-free Environments Act 1990):
    - (ii) outside audio equipment (for example, loudspeakers, amplifiers, or audio relay equipment) cannot be used:
    - (iii) bottles, or other rubbish, cannot be disposed of, or left for collection.
- (2) An extension under section 45D—
- (a) must be treated as if it were part of the permitted trading hours (for example, under sections 46(1) and 259(1)(a)) on a day on which alcohol may be sold and supplied; and

- (b) is not (for example, under sections 255(1)(c)(i) and (ii) and 256), while it operates, a time when the premises are required to close, or to be closed, for the sale of alcohol.
- (3) Any one-way door restriction (whether imposed on the licence, or in a relevant local alcohol policy) applicable to the premises during the permitted trading hours does not operate—
  - (a) within 1 hour before an extension starts under **section 45D(3)**; or
  - (b) during an extension under **section 45D** to the permitted trading hours; or
  - (c) within 1 hour and 30 minutes after the premises are required under **section 45D(5)** to close for the sale of alcohol.
- (4) Section 45D and this section—
  - (a) override any contrary provisions of this Act, of a relevant local alcohol policy, or of a condition of the licence; and
  - (b) do not affect closure under section 265 or 266 of the premises, or the operation of subpart 9 of Part 2 (Other enforcement provisions) in respect of the premises.
- (5) A person's use of land must be treated as not contravening section 9 of the Resource Management Act 1991 if—
  - (a) it complies with **section 45D** and the rest of this section; and
  - (b) it would comply with section 9 of the Resource Management Act 1991 if it occurred only during permitted trading hours.

#### **45F Display of information about extensions**

- (1) If **sections 45D and 45E** apply, under **section 45C**, to licensed premises, the licensee must display promptly a general statement about how **sections 45D and 45E** may be, and are to be, used in respect of the premises.
- (2) The statement must be displayed in the way section 57(1) or (2) requires display of a statement of all conditions subject to which the licence is issued.

#### **45G Special licences unaffected, and not limiting, but do not apply if notice given**

- (1) **Sections 45A to 45F** and this section do not limit or affect—
  - (a) an application for a special licence issued in respect of an event related to a game or games; or
  - (b) the operation of a special licence of that kind.
- (2) **Section 45C(1)** applies to premises even if a special licence is also held for the premises, and has been issued in respect of an event related to all or any games that the licensee intends to televise in those premises in reliance instead on **sections 45D and 45E**.

- (3) However, if the holder of the special licence gives notice under **section 45C(2)** that the licensee intends to televise 1 or more games in reliance on **sections 45D and 45E**,—
- (a) **sections 45D to 45F** apply to the premises; and
  - (b) for the period of the extension provided by **section 45D**, the special licence does not apply to the premises.
- 5 **New Schedule 4 inserted**  
After **Schedule 3**, insert the Schedule 4 set out in the **Schedule** of this Act.
- 6 **Repeal of extended trading hours provisions**  
**Sections 44(3), 45(3), 45A to 45G, and 50(3)**, the cross-heading above **section 45A**, and **Schedule 4**, are repealed on **4 November 2019**.

## Part 2 Consequential amendments

- 7 **Section 44 amended (Permitted trading hours for premises without relevant local alcohol policy)**  
After **section 44(2)**, insert:
- (3) This section is overridden by **sections 45A to 45G** (Rugby World Cup 2019 extended trading hours).
- 8 **Section 45 amended (Permitted trading hours for premises with relevant local alcohol policy)**  
After **section 45(2)**, insert:
- (3) This section is overridden by **sections 45A to 45G** (Rugby World Cup 2019 extended trading hours).
- 9 **Section 50 amended (One-way door restrictions in local alcohol policies to be complied with)**  
After **section 50(2)**, insert:
- (3) This section is overridden by **sections 45A to 45G** (Rugby World Cup 2019 extended trading hours).

## Schedule

### New Schedule 4 inserted

s 5

### Schedule 4

#### Rugby World Cup 2019 extended trading hours: game details

s 45B(1)

**Notes**

**NZST** means New Zealand Standard Time, and **NZDT** means New Zealand Daylight Time.

**JST** means Japanese Standard Time

Pool games involving New Zealand, and playoff games, are in **bold**.

| New Zealand time         | Japan time              | Game (and venue)                  |
|--------------------------|-------------------------|-----------------------------------|
| <i>Pool games</i>        |                         |                                   |
| Fri 20 Sep, 22.45 NZST   | Fri 20 Sep, 19.45 JST   | Japan v Russia                    |
| Sat 21 Sep, 16.45 NZST   | Sat 21 Sep, 13.45 JST   | Australia v Fiji                  |
| Sat 21 Sep, 19.15 NZST   | Sat 21 Sep, 16.15 JST   | France v Argentina                |
| Sat 21 Sep, 21.45 NZST   | Sat 21 Sep, 18.45 JST   | <b>New Zealand v South Africa</b> |
| Sun 22 Sep, 17.15 NZST   | Sun 22 Sep, 14.15 JST   | Italy v Namibia                   |
| Sun 22 Sep, 19.45 NZST   | Sun 22 Sep, 16.45 JST   | Ireland v Scotland                |
| Sun 22 Sep, 22.15 NZST   | Sun 22 Sep, 19.15 JST   | England v Tonga                   |
| Mon 23 Sep, 22.15 NZST   | Mon 23 Sep, 19.15 JST   | Wales v Georgia                   |
| Tues 24 Sep, 22.15 NZST  | Tues 24 Sep, 19.15 JST  | Russia v Samoa                    |
| Wed 25 Sep, 17.15 NZST   | Wed 25 Sep, 14.15 JST   | Fiji v Uruguay                    |
| Thurs 26 Sep, 19.45 NZST | Thurs 26 Sep, 16.45 JST | Italy v Canada                    |
| Thurs 26 Sep, 22.45 NZST | Thurs 26 Sep, 19.45 JST | England v USA                     |
| Sat 28 Sep, 16.45 NZST   | Sat 28 Sep, 13.45 JST   | Argentina v Tonga                 |
| Sat 28 Sep, 19.15 NZST   | Sat 28 Sep, 16.15 JST   | Japan v Ireland                   |
| Sat 28 Sep, 21.45 NZST   | Sat 28 Sep, 18.45 JST   | South Africa v Namibia            |
| Sun 29 Sep, 18.15 NZDT   | Sun 29 Sep, 14.15 JST   | Georgia v Uruguay                 |
| Sun 29 Sep, 20.45 NZDT   | Sun 29 Sep, 16.45 JST   | Australia v Wales                 |
| Mon 30 Sep, 23.15 NZDT   | Mon 30 Sep, 19.15 JST   | Scotland v Samoa                  |
| Wed 2 Oct, 20.45 NZDT    | Wed 2 Oct, 16.45 JST    | France v USA                      |

**Sale and Supply of Alcohol (Rugby World Cup 2019  
Extended Trading Hours) Amendment Bill 2019**

Schedule

| <b>New Zealand time</b> | <b>Japan time</b>      | <b>Game (and venue)</b>                          |
|-------------------------|------------------------|--|
| Wed 2 Oct, 23.15 NZDT   | Wed 2 Oct, 19.15 JST   | <b>New Zealand v Canada</b>                      |
| Thurs 3 Oct, 18.15 NZDT | Thurs 3 Oct, 14.15 JST | Georgia v Fiji                                   |
| Thurs 3 Oct, 23.15 NZDT | Thurs 3 Oct, 19.15 JST | Ireland v Russia                                 |
| Fri 4 Oct, 22.45 NZDT   | Fri 4 Oct, 18.45 JST   | South Africa v Italy                             |
| Sat 5 Oct, 18.15 NZDT   | Sat 5 Oct, 14.15 JST   | Australia v Uruguay                              |
| Sat 5 Oct, 21.00 NZDT   | Sat 5 Oct, 17.00 JST   | England v Argentina                              |
| Sat 5 Oct, 23.30 NZDT   | Sat 5 Oct, 19.30 JST   | Japan v Samoa                                    |
| Sun 6 Oct, 17.45 NZDT   | Sun 6 Oct, 13.45 JST   | <b>New Zealand v Namibia</b>                     |
| Sun 6 Oct, 20.45 NZDT   | Sun 6 Oct, 16.45 JST   | France v Tonga                                   |
| Tues 8 Oct, 23.15 NZDT  | Tues 8 Oct, 19.15 JST  | South Africa v Canada                            |
| Wed 9 Oct, 17.45 NZDT   | Wed 9 Oct, 13.45 JST   | Argentina v USA                                  |
| Wed 9 Oct, 20.15 NZDT   | Wed 9 Oct, 16.15 JST   | Scotland v <del>Russia</del>                     |
| Wed 9 Oct, 22.45 NZDT   | Wed 9 Oct, 18.45 JST   | Wales v Fiji                                     |
| Fri 11 Oct, 23.15 NZDT  | Fri 11 Oct, 19.15 JST  | Australia v Georgia                              |
| Sat 12 Oct, 17.45 NZDT  | Sat 12 Oct, 13.45 JST  | <b>New Zealand v Italy</b>                       |
| Sat 12 Oct, 21.15 NZDT  | Sat 12 Oct, 17.15 JST  | England v France                                 |
| Sat 12 Oct, 23.45 NZDT  | Sat 12 Oct, 19.45 JST  | Ireland v Samoa                                  |
| Sun 13 Oct, 16.15 NZDT  | Sun 13 Oct, 12.15 JST  | Namibia v Canada                                 |
| Sun 13 Oct, 18.45 NZDT  | Sun 13 Oct, 14.45 JST  | USA v Tonga                                      |
| Sun 13 Oct, 21.15 NZDT  | Sun 13 Oct, 17.15 JST  | Wales v Uruguay                                  |
| Sun 13 Oct, 23.45 NZDT  | Sun 13 Oct, 19.45 JST  | Japan v Scotland                                 |
| <i>Quarter-finals</i>   |                        |  |
| Sat 19 Oct, 20.15 NZDT  | Sat 19 Oct, 16.15 JST  | <b>Winner Pool C v Runner up Pool D</b>          |
| Sat 19 Oct, 23.15 NZDT  | Sat 19 Oct, 19.15 JST  | <b>Winner Pool B v Runner up Pool A</b>          |
| Sun 20 Oct, 20.15 NZDT  | Sun 20 Oct, 16.15 JST  | <b>Winner Pool D v Runner up Pool C</b>          |
| Sun 20 Oct, 23.15 NZDT  | Sun 20 Oct, 19.15 JST  | <b>Winner Pool A v Runner up Pool B</b>          |
| <i>Semi-finals</i>      |                        |  |
| Sat 26 Oct, 21.00 NZDT  | Sat 26 Oct, 17.00 JST  | <b>Winner QF1 v Winner QF2</b>                   |
| Sun 27 Oct, 22.00 NZDT  | Sun 27 Oct, 18.00 JST  | <b>Winner QF3 v Winner QF4</b>                   |
| <i>Finals</i>           |                        |  |
| Fri 1 Nov, 22.00 NZDT   | Fri 1 Nov, 18.00 JST   | <b>Bronze Medal Match: Loser SF1 v Loser SF2</b> |

| Schedule  |                      |                                 |
|---|----------------------|---------------------------------|
| Sale and Supply of Alcohol (Rugby World Cup 2019<br>Extended Trading Hours) Amendment Bill 2019 |                      |                                 |
| New Zealand time  | Japan time           | Game (and venue)                |
| Sat 2 Nov, 22.00 NZDT   | Sat 2 Nov, 18.00 JST | Final: Winner SF1 v Winner SF2) |