



Attorney-General
Minister for the Arts, Creative Industries and
Cultural Events
Minister for Building Quality Improvement
Minister for Business and Regulatory Services
Minister for Seniors and Veterans
Member for Ginninderra

Mrs Giulia Jones MLA
Chair
Standing Committee on Justice and Community Safety (Legislative Scrutiny Role)
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601

Dear Mrs Jones

Thank you for the Committee's assessment and advice regarding retrospectivity and drafting issues in the following Disallowable Instruments.

- Disallowable Instrument DI2020-117 – the *Liquor (Fees) Determination 2020*, made under section 227 of the *Liquor Act 2010* (the fees determination);
- Disallowable Instrument DI2020-119 – the *Liquor (COVID-19 Emergency Response—Licence Fee Waiver) Declaration 2020*, made under section 35 of the *Liquor Regulation 2010* (the licence fee waiver declaration); and
- Disallowable Instrument DI2020-120 – the *Liquor (COVID-19 Emergency Response—Permit Fee Waiver) Declaration 2020*, made under section 35 of the *Liquor Regulation 2010* (the permit fee waiver declaration)

These three instruments provide authority (among other things) for certain fee waivers as part of the Government's emergency relief measures for liquor licensees affected by COVID-19 business closures; and licence application fee reductions for new micro liquor producers.

The Committee has noted that the explanatory statements for the fee and permit waiver declarations (the fee waiver declarations) do not expressly identify their retrospective commencement or whether this is prejudicial. I acknowledge the Committee's comments. The fee waiver declarations commence retrospectively, with effect from 22 May 2020. As the fee waiver declarations provide retrospective authority for the Commissioner to waive fees that would ordinarily be payable, neither declaration has prejudicial operation. I have reminded my directorate to ensure instruments and explanatory statements expressly identify the nature and impact of their operation.

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The Committee has identified drafting issues in the fee waiver declarations – specifically the use of the letter X as a holding space where instrument numbers should be. I note these errors and have been assured by my directorate that action has been taken to avoid publication of instruments which lack the relevant instrument numbers, including cross-references, in the future.

I acknowledge the Committee’s observations regarding fee waiver declarations. In this case, the power to make a licence or permit waiver declaration was inserted at section 35 of the *Liquor Regulation 2010* as a COVID-19 emergency provision that will expire.¹ I agree that the inclusion of some reference to the circumstances and conditions in which the fee waiver declarations might be made would aid transparency in the fees determination explanatory statement. I have asked the Justice and Community Directorate to give effect to the Committee’s comments in future instruments.

I thank the Committee for its comments and for its ongoing work in the role of legislative scrutiny.

Yours sincerely

Gordon Ramsay MLA
Attorney-General

¹ Section 35 of the Liquor Regulation expires at the end of a 12-month-period in which no COVID-19 emergency has been in force. A declaration made under section 35 of the Liquor Regulation expires 12 months after the day it commences, or if an earlier day is specified in the declaration, the earlier day.