

Version  
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## Sale and Supply of Alcohol Act 2012

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#### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**This Act is administered by the Ministry of Justice.**

**Part 2**  
**Sale and supply of alcohol generally**

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<b>Schedule 4</b>	220
<b>Rugby World Cup 2019 extended trading hours: game details</b>	
<i>[Repealed]</i>	
<b>Schedule 4</b>	220
<b>Rugby World Cup 2015 extended trading hours: game details</b>	
<i>[Repealed]</i>	

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

**1 Title**

This Act is the Sale and Supply of Alcohol Act 2012.

**2 Commencement**

- (1) Sections 3, 4, 102, 103, 105, 106, 128, 129, 131, 132, 140 to 142, 304, 363, 408, and 418(2) come into force on the day 6 months after the date on which this Act receives the Royal assent.
- (2) Sections 8 to 58, 59 (except subsections (3) and (4)), 60 to 74, 80 to 101, 104, 107 to 127, 130, 133 to 139, 143 to 168, 186 to 303, 305 to 362, 364 to 396, 409 to 411, 413 to 417, 418(3), and the schedules come into force on the day 12 months after the date on which this Act receives the Royal assent.
- (3) Section 59(3) and (4) comes into force on the earlier of the following days:
  - (a) a date appointed by the Governor-General by Order in Council:
  - (b) the day 2 years after the date on which this Act receives the Royal assent.
- (4) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.
- (5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 2(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## Part 1

### Preliminary matters

#### 3 Purpose

- (1) The purpose of Parts 1 to 3 and the schedules of this Act is, for the benefit of the community as a whole,—
  - (a) to put in place a new system of control over the sale and supply of alcohol, with the characteristics stated in subsection (2); and
  - (b) to reform more generally the law relating to the sale, supply, and consumption of alcohol so that its effect and administration help to achieve the object of this Act.
- (2) The characteristics of the new system are that—
  - (a) it is reasonable; and
  - (b) its administration helps to achieve the object of this Act.

#### 4 Object

- (1) The object of this Act is that—
  - (a) the sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and
  - (b) the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.
- (2) For the purposes of subsection (1), the harm caused by the excessive or inappropriate consumption of alcohol includes—
  - (a) any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and
  - (b) any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a).

#### 5 Interpretation

- (1) In this Act, unless the context otherwise requires,—

**airport bar** means premises that—

  - (a) are within or attached to an airport; and
  - (b) are used or intended to be used in the course of business principally for selling or supplying alcohol to air travellers arriving at or departing from the airport

**alcohol** means a substance—

  - (a) that—

- (i) is or contains a fermented, distilled, or spirituous liquor; and
- (ii) at 20°C is found on analysis to contain 1.15% or more ethanol by volume; or
- (b) that—
  - (i) is a frozen liquid, or a mixture of a frozen liquid and another substance or substances; and
  - (ii) is alcohol (within the meaning of paragraph (a)) when completely thawed to 20°C; or
- (c) that, whatever its form, is found on analysis to contain 1.15% or more ethanol by weight in a form that can be assimilated by people

**alcohol area**, in relation to a single-area condition, means the area described in the condition

**alcohol-inclusive matter** means any of the following:

- (a) entry into any premises where alcohol is or is to be supplied free:
- (b) participation in or presence at or during any event, activity, or function held or to be held on any premises where alcohol is or is to be supplied free:
- (c) carriage on, or participation in or presence at or during any event, activity, or function held or to be held on, a conveyance where alcohol is or is to be supplied free

**alcohol-related harm**—

- (a) means the harm caused by the excessive or inappropriate consumption of alcohol; and
- (b) includes—
  - (i) any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and
  - (ii) any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in subparagraph (i)

**amenity and good order of the locality**, in relation to an application for or for the renewal of a licence, means the extent to which, and ways in which, the locality in which the premises concerned are situated is (or, in the case of a conveyance, the localities where the conveyance is likely to travel are) pleasant and agreeable

**any relevant local alcohol policy**, in relation to any premises, a licence for any premises, or an application for a licence for any premises, at any time, means

those elements (if any) of any local alcohol policy then in force that relate to the part of the district where the premises are

**approved evidence of age document**—

- (a) means a document of a kind approved by regulations made under this Act for the purposes of this definition; and
- (b) in relation to a person, means an evidence of age document relating to the person

**approved evidence of age system** means a system of a kind approved by regulations made under this Act for the purposes of this definition; and **using an approved evidence of age system in the approved manner** means using an approved evidence of age system in the manner approved for it by the regulations that approved the system

**banned alcohol product** means a product—

- (a) declared by regulations made under this Act to be a banned product; or
- (b) of a kind declared by regulations made under this Act to be banned products

**bar**, in relation to a hotel or tavern, means a part of the hotel or tavern used principally or exclusively for the sale or consumption of alcohol

**building code** has the meaning given by section 7 of the Building Act 2004

**chief executive** means the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

**club** means a body that—

- (a) is a body corporate having as its object (or as one of its objects) participating in or promoting a sport or other recreational activity, otherwise than for gain; or
- (b) is a body corporate whose object is not (or none of whose objects is) gain; or
- (c) holds permanent club charter

**community trust** means a trust—

- (a) established under section 357 of this Act or section 219G of the Sale of Liquor Act 1989; or
- (b) resulting from the amalgamation of 2 or more community trusts under section 385 of this Act or section 219Z of the Sale of Liquor Act 1989

**company** means a body corporate—

- (a) registered under Part 2, 18, or 19 of the Companies Act 1993; or
- (b) reregistered under that Act in accordance with the Companies Reregistration Act 1993

**condition**, in relation to a licence, includes the designation (under this Act or a former licensing Act) of an area of the premises as—

- (a) an area to which minors must not be admitted; or
- (b) an area to which minors must not be admitted unless accompanied by a parent or guardian

**conveyance**—

- (a) means an aircraft, coach, ferry, hovercraft, ship, train, or other vehicle, used to transport people; and
- (b) includes part of a conveyance

**deliver**, in relation to any alcohol, includes arrange for it to be delivered

**distil** includes produce by fractional thawing

**district**, in relation to a territorial authority, has the meaning given by section 5(1) of the Local Government Act 2002

**elector** has the same meaning as in section 5(1) of the Local Electoral Act 2001

**electoral officer** has the same meaning as in section 5(1) of the Local Electoral Act 2001

**event** includes an occasion and a gathering, and any of a series of events

**exempt person**, in relation to licensed premises to whose licence a one-way door restriction applies,—

- (a) means a person who—
  - (i) is the licensee; or
  - (ii) is the licensee’s spouse, civil union partner, or de facto partner; or
  - (iii) is a manager; or
  - (iv) is a manager’s spouse, civil union partner, or de facto partner; or
  - (v) is a member of the immediate family of the licensee or a manager; or
  - (vi) during the hours he or she is employed to work on the premises, and for 60 minutes after those hours have ended, is an employee of the licensee who does not live on the premises; or
  - (vii) is an agent of the licensee, or acting under a contract with the licensee or a manager, and has the authority of the licensee or a manager to enter the premises at that time—
    - (A) to clean, repair, or restock the premises (or any equipment in them); or
    - (B) to check or remove cash; or

- (viii) is a person who has the authority of the licensee or a manager to enter the premises to remove equipment (for example, band equipment); or
- (ix) is an employee of the licensee who lives on the premises; or
- (x) is a person who—
  - (A) lives or lodges in the building in which licensed premises are situated; and
  - (B) is a tenant, lodger, or employee of the licensee; or
- (xi) is a genuine guest of a person who—
  - (A) is a person of a kind described in subparagraph (x); and
  - (B) is on the premises; and
- (b) at any particular time, includes a person who,—
  - (i) at that time, is authorised by an enactment other than this Act to enter the premises; or
  - (ii) enters the premises to deal with an emergency occurring at that time

**former licensing Act** means an enactment—

- (a) that is the Sale of Liquor Act 1989; or
- (b) that was repealed by a former licensing Act

**freely available to customers**, in relation to water, means—

- (a) supplied free in clean drinking vessels on request; or
- (b) available free in larger containers from which it may easily be poured or drawn by customers, together with clean drinking vessels that are also available free nearby; or
- (c) available free from a tap to which customers have easy access, together with clean drinking vessels that are also available free nearby

**generally accepted accounting practice** has the same meaning as in section 8 of the Financial Reporting Act 2013

**grocery store** has the meaning given by section 33(1)

**guardian** means guardian in accordance with section 246

**hotel** means premises used or intended to be used in the course of business principally for providing to the public—

- (a) lodging; and
- (b) alcohol, meals, and refreshments for consumption on the premises

**ingredient**, in relation to a product, means any substance forming part of the product, whether added to the product or inherent in it

**inspector** means an inspector appointed under section 197(1); and,—

- (a) in relation to premises that are not a conveyance, means an inspector appointed by the chief executive of the territorial authority in whose district the premises are situated; and
- (b) in relation to a conveyance, means an inspector appointed by the chief executive of the territorial authority in whose district the principal place of business in New Zealand of the applicant or licensee (as the case may be) is situated

**intoxicated** means observably affected by alcohol, other drugs, or other substances (or a combination of 2 or all of those things) to such a degree that 2 or more of the following are evident:

- (a) appearance is affected:
- (b) behaviour is impaired:
- (c) co-ordination is impaired:
- (d) speech is impaired

**licence**—

- (a) means a licence issued under this Act that is in force; and
- (b) in relation to any licensed premises, means the licence issued for them (or, in the case of premises that 2 or more licences have been issued for, any of those licences)

**licensed premises** means any premises for which a licence is held

**licensee**—

- (a) means a person who holds a licence; and
- (b) in relation to any licensed premises, means the person who holds the licence concerned

**licensee's alcohol** means alcohol of which the licensee is the manufacturer or a distributor, importer, or wholesaler

**licensing authority** means the Alcohol Regulatory and Licensing Authority continued in existence by section 169(1)

**licensing committee**—

- (a) means a licensing committee appointed under section 186; and
- (b) in relation to any premises, or any application relating to any premises, means the licensing committee for the district in which the premises are situated; and
- (c) in relation to a licence or manager's certificate, means the licensing committee that issued it

**licensing trust** means an entity established under section 300(1)

**liqueur** means a substance, produced by flavouring or mixing spirit with other foods, that contains more than 15% ethanol by volume measured at 20°C

**local alcohol policy**—

- (a) means a policy, in force under section 90, relating to the sale, supply, or consumption of alcohol (or to 2 or all of those matters) within the district of a territorial authority or the districts of 2 or more territorial authorities; and
- (b) in relation to a territorial authority, means a policy, in force under section 90, relating to the sale, supply, or consumption of alcohol (or to 2 or all of those matters) within its district or the districts of 2 or more territorial authorities that include it

**manager**—

- (a) means a manager of licensed premises appointed under this Act; and
- (b) in relation to any licensed premises, means a manager of those premises

**Medical Officer of Health** has the meaning given by section 2(1) of the Health Act 1956

**member**, in Part 3, means a member of a licensing trust

**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is responsible for the administration of this Act

**minor** means a person who is under the age of 18 years

**objector**—

- (a) means a person who has filed an objection under this Act; and
- (b) in relation to an application made under this Act, means a person who has filed an objection to it under this Act

**one-way door restriction**, in relation to a licence, is a requirement that, during the hours stated in the restriction,—

- (a) no person is to be admitted (or re-admitted) into the premises unless he or she is an exempt person; and
- (b) no person who has been admitted (or re-admitted) into the premises while the restriction applies to the licence is to be sold or supplied with alcohol

**permanent club charter** means a charter, granted under section 260(3) of the Licensing Act 1908 (or a corresponding provision of any earlier former licensing Act), that was in force immediately before the commencement of this section

**permitted trading hours**, in relation to any licensed premises,—

- (a) while a special licence applies to the premises, means the hours stated in the licence; and



- (b) in any other case, means the trading hours permitted for the premises that are stated in section 44 or 45; and
- (c) in the case of an RNZRSA club to which section 47A applies, includes the hours specified in section 47A(2)

**Police** means the New Zealand Police

**premises**—

- (a) includes a conveyance; and
- (b) includes part of any premises; and
- (c) in relation to a licence, means the premises it was issued for

**principal business**, in relation to the business carried on or to be carried on in any premises, means principal business as ascertained, assessed, or calculated by a means for the time being prescribed by regulations made under this Act for the purposes of this definition

**principal entrance**, in relation to licensed premises, means an entrance to the premises designated as the principal entrance by the licensing authority or licensing committee concerned when the licence was issued

**product** includes a substance that is not manufactured, but arises naturally

**public notice**, in a provision of this Act, means a notice published as required for the purposes of the provision (or of several provisions including it) by regulations made under this Act

**purchase age**, in relation to the sale or purchase of alcohol on licensed premises, means the age of 18 years

**remote sale**, in relation to alcohol, means a sale pursuant to a contract that—

- (a) has been entered into (using the Internet, by telephone or mail order, or in any other way) between—
  - (i) a seller who holds an off-licence; and
  - (ii) a person (whether the buyer or a person acting on the buyer's behalf) who is at a distance from the premises where the seller entered into the contract; and
- (b) contains a term providing for the alcohol to be delivered to the buyer (or to a person or place nominated by the buyer) by or on behalf of the seller

**restaurant** means premises that—

- (a) are not a conveyance; and
- (b) are used or intended to be used in the course of business principally for supplying meals to the public for eating on the premises

**restricted alcohol product** means a product—

- (a) declared by regulations made under this Act to be a restricted product; or

- (b) of a kind declared by regulations made under this Act to be restricted products

**restricted area**—

- (a) means an area that is designated (under section 119 or a corresponding provision of a former licensing Act) as an area to which minors must not be admitted; and
- (b) in relation to any licensed premises or the licensee or a manager of any licensed premises, means an area of those premises that is designated (under this Act or a former licensing Act) as an area to which minors must not be admitted

**RNZRSA** means the Royal New Zealand Returned and Services' Association that is incorporated under the Incorporated Societies Act 1908 and is registered as a charity under the Charities Act 2005

**RNZRSA club** means a club that is a member or an affiliate of RNZRSA

**secretary**, in relation to a licensing trust or a community trust, means the secretary of the trust

**sell**, in relation to alcohol, includes—

- (a) charge a fee (however described, and whether an entry fee, a ticket price, or a payment of any other kind) for an alcohol-inclusive matter; and
- (b) require, ask for, or (expressly or by implication) suggest the making of a koha or other donation (whether to be made before, after, or during the entry event, activity, or function concerned) in relation to an alcohol-inclusive matter

**single-area condition** means a condition under section 112(2)

**special consultative procedure** has the meaning given by section 5(1) of the Local Government Act 2002

**spirit** means a potable alcoholic distillate, including whisky, brandy, rum, gin, vodka, and tequila, that contains at least 23% ethanol by volume measured at 20°C, produced by distillation of fermented liquor derived from food sources, so as to have the taste, aroma, and other characteristics generally attributable to that particular spirit

**supervised area**—

- (a) means an area that is designated (under section 119 or a corresponding provision of a former licensing Act) as an area to which minors must not be admitted unless accompanied by a parent or guardian; and
- (b) in relation to any licensed premises or the licensee or a manager of any licensed premises, means an area of those premises that is designated (under this Act or a former licensing Act) as an area to which minors must not be admitted unless accompanied by a parent or guardian

**tavern**—

- (a) means premises used or intended to be used in the course of business principally for providing alcohol and other refreshments to the public; but
- (b) does not include an airport bar

**temporary authority** means a temporary authority order issued and in force under this Act

**territorial authority**—

- (a) has the meaning given by section 5(1) of the Local Government Act 2002; and
- (b) in relation to any premises, means the territorial authority within whose district the premises are situated

**verified the customer's age** means, in a manner of a kind described by regulations made under this Act for the purposes of this definition, ascertained that the customer appears to be of or over the purchase age

**wine**, except in section 58(3), means a product that is grape wine or fruit or vegetable wine within the meaning of section 58(3)

**working day** means a day of the week other than—

- (a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and
  - (b) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
  - (c) a day in the period commencing on 20 December in any year and ending with 15 January in the following year.
- (2) Any term or expression that is defined in the Local Electoral Act 2001 and used in any of sections 300 to 396 (which relate to licensing trusts and community trusts), but not defined in this Act, has the same meaning as in the Local Electoral Act 2001.

Compare: 1989 No 63 s 2

Section 5(1) **approved financial reporting standard**: repealed, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 5(1) **fire service**: repealed, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

Section 5(1) **generally accepted accounting practice**: replaced, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 5(1) **permitted trading hours** paragraph (b): amended, on 14 April 2016, by section 4(2) of the Sale and Supply of Alcohol (Anzac Day Trading Hours for Licensed RNZRSA Clubs) Amendment Act 2016 (2016 No 15).

Section 5(1) **permitted trading hours** paragraph (c): inserted, on 14 April 2016, by section 4(2) of the Sale and Supply of Alcohol (Anzac Day Trading Hours for Licensed RNZRSA Clubs) Amendment Act 2016 (2016 No 15).

Section 5(1) **RNZRSA**: inserted, on 14 April 2016, by section 4(1) of the Sale and Supply of Alcohol (Anzac Day Trading Hours for Licensed RNZRSA Clubs) Amendment Act 2016 (2016 No 15).

Section 5(1) **RNZRSA club**: inserted, on 14 April 2016, by section 4(1) of the Sale and Supply of Alcohol (Anzac Day Trading Hours for Licensed RNZRSA Clubs) Amendment Act 2016 (2016 No 15).

Section 5(1) **working day**: replaced, on 13 December 2016, by section 4 of the Sale and Supply of Alcohol (Display of Low-alcohol Beverages and Other Remedial Matters) Amendment Act 2016 (2016 No 101).

Section 5(1) **working day** paragraph (a): replaced, on 12 April 2022, by wehenga 7 o Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/section 7 of the Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14).

## **5A Status of examples**

An example provided in this Act of the operation of a provision of an enactment—

- (a) does not limit the provision; and
- (b) may extend the operation of the provision.

Section 5A: inserted, on 1 September 2015, by section 7 of the Sale and Supply of Alcohol (Rugby World Cup 2015 Extended Trading Hours) Amendment Act 2015 (2015 No 69).

## **6 Use of electronic records**

- (1) To the extent that this Act makes provision to the effect that any person must or may record, register, or make or keep a record or register of, any information or matter, the person may instead record the information or matter electronically; and this Act must be interpreted accordingly.
- (2) Subsection (1) does not limit or affect any obligation under this Act to display a notice or sign.

## **7 Act binds the Crown**

This Act binds the Crown.

# **Part 2**

## **Sale and supply of alcohol generally**

Subpart 1—Licensing generally, requirements on licensees, and conditions

### *Exemptions*

## **8 Certain sales by makers, importers, distributors, and wholesalers exempted**

Nothing in this Act applies to the sale or supply of alcohol by a person, in the course of the person's business as a maker, importer, distributor, or wholesaler of alcohol, to—

- (a) a person in business as a maker, importer, distributor, or wholesaler of alcohol; or
- (b) the holder of a licence; or
- (c) the holder of a permanent club charter.

Compare: 1989 No 63 s 5(2)

## **9 Exemption for certain alcohol not intended for drinking**

- (1) Nothing in this Act applies to—
  - (a) the sale or supply as a perfume of spirituous or distilled alcohol; or
  - (b) the sale or supply of alcohol by a pharmacist for medicinal purposes; or
  - (c) the sale or supply of alcohol to a pharmacist for the purpose of sale or supply for medicinal purposes by the pharmacist; or
  - (d) the sale or supply of a product intended to be eaten, and containing alcohol in such a quantity that the product is unlikely to cause intoxication, even if consumed in large quantities; or
  - (e) the sale or supply of alcohol that has been made unsuitable to drink, or a product containing alcohol that has been made unsuitable to drink; or
  - (f) the sale or supply of a product that—
    - (i) contains alcohol; but
    - (ii) is unsuitable to drink or eat.

- (2) In subsection (1), **pharmacist** means a health practitioner who is, or is deemed to be, registered as a practitioner of the profession of pharmacy with the Pharmacy Council established by section 114(5) of the Health Practitioners Competence Assurance Act 2003.

Compare: 1989 No 63 s 5(3)

## **10 Certain messes and canteens exempted, but codes of practice required instead**

- (1) Nothing in this Act applies to the sale, supply, or keeping for sale or supply, of alcohol in—
  - (a) a canteen or mess, or any other place in a naval ship or defence area (within the meaning of section 2(1) of the Defence Act 1990), where the consumption and possession of alcohol is authorised by or under the Defence Act 1990 or by the Chief of Defence Force;
  - (b) an amenity set up and conducted by the Armed Forces Canteen Council constituted by section 3(1) of the Armed Forces Canteens Act 1948;
  - (c) a police canteen established with the authority of the Commissioner of Police;
  - (d) a canteen established with the authority of Fire and Emergency New Zealand.

- (2) The competent authority must put in place and (so far as is reasonably practicable) ensure that there is implemented on premises of a kind described in subsection (1) a code of practice, following as closely as is reasonably possible the requirements of this Act relating to the sale, supply, or keeping for sale or supply, of alcohol on premises for which a club licence is held.
- (3) For the purposes of subsection (2), **the competent authority**,—
- (a) for a canteen or mess, or any other place in a naval ship or defence area (within the meaning of section 2(1) of the Defence Act 1990), where the consumption and possession of alcohol is authorised by or under the Defence Act 1990 or by the Chief of Defence Force, means the Chief of Defence Force;
  - (b) for an amenity set up and conducted by the Armed Forces Canteen Council constituted by section 3(1) of the Armed Forces Canteens Act 1948, means the Chief of Defence Force;
  - (c) for a police canteen established with the authority of the Commissioner of Police, means the Commissioner of Police;
  - (d) for a canteen established with the authority of the board of Fire and Emergency New Zealand, means that board.

Compare: 1989 No 63 s 5(3)

Section 10(1)(d): amended, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

Section 10(3)(d): amended, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

## 11 **Authorised sales of alcohol at international airports exempted**

This Act is subject to section 96 of the Civil Aviation Act 1990.

## 12 **Homestays exempted**

- (1) This subsection applies to an individual person who—
- (a) occupies premises that are used exclusively or principally as his or her home or residence (or the home or residence of him or her and his or her family); and
  - (b) for reward, from time to time lets guests stay on the premises or other premises nearby.
- (2) Even if he or she does not hold a licence (or a licence of the appropriate kind) for the premises concerned, a person to whom subsection (1) applies may, in the course of or incidental to the stay of not more than 10 guests on the premises, sell or supply alcohol to some or all of them for consumption on the premises.

Compare: 1989 No 63 s 5A

*Kinds of licence and their effect*

**13 Kinds of licence**

There are 4 kinds of licence: on-licences, off-licences, club licences, and special licences.

**14 On-licences generally**

On any premises an on-licence (other than an on-licence endorsed under section 37) is held for, the licensee—

- (a) can sell and supply alcohol for consumption there; and
- (b) can let people consume alcohol.

Compare: 1989 No 63 s 7

**15 On-licences: BYO restaurants**

On any premises an on-licence endorsed under section 37 is held for (the restaurant), the licensee—

- (a) can—
  - (i) let any person who is in the restaurant to dine consume any alcohol brought there by that person or by any other person who is there to dine with him or her; and
  - (ii) let the person who brought the alcohol there remove any of it from the restaurant if the container it is in is sealed or resealed; and
- (b) can sell and supply, for consumption in the restaurant by any person who is there to dine, any food or hot drink containing not more than 14.33% alcohol by volume; and
- (c) can let people consume alcohol.

Compare: 1989 No 63 s 28

**16 On-licences: caterers**

In addition to doing the things stated in section 14, the holder of an on-licence endorsed under section 38 can deliver alcohol from the premises the licence is issued for and sell it on any other premises for consumption there by people attending a reception, function, or other social gathering promoted by a person or association of people other than the holder.

Compare: 1989 No 63 s 51(2)

**17 Off-licences: sale and supply on licensed premises**

- (1) On the premises an off-licence is held for, the licensee can sell alcohol for consumption somewhere else.

- (2) While the premises an off-licence is held for are open for the sale of alcohol for consumption somewhere else, the licensee can also supply alcohol free, as a sample, for consumption on the premises.

Compare: 1989 No 63 s 29(1), (3)

### **18 Off-licences: sale for delivery and sales at distance**

- (1) The holder of an off-licence not endorsed under section 40 can sell alcohol on or from the premises the licence is issued for and deliver it somewhere else.
- (2) The holder of an off-licence endorsed under section 40 can sell alcohol from the premises the licence is issued for and deliver it somewhere else.

Compare: 1989 No 63 s 29(1)

### **19 Off-licences: direct delivery of alcohol, by arrangement with holder, by distributor, importer, manufacturer, or wholesaler**

- (1) The distributor, importer, manufacturer, or wholesaler of any alcohol can deliver the alcohol from its own premises by arrangement with the holder of an off-licence.
- (2) Any alcohol that is delivered from the premises of its distributor, importer, manufacturer, or wholesaler by arrangement with the holder of an off-licence must for the purposes of this Act be treated as having been delivered by the holder from the premises the licence is issued for.

Compare: 1989 No 63 s 29(2)

### **20 Off-licences: auctioneers**

The holder of an off-licence endorsed under section 39 can sell alcohol by auction in the course of his or her business as an auctioneer.

Compare: 1989 No 63 s 52(3)

### **21 Club licences**

On the premises a club licence is held for, the licensee can sell and supply alcohol to authorised customers (within the meaning of section 60(3)), for consumption there.

Compare: 1989 No 63 s 53

### **22 Special licences**

- (1) There are 2 kinds of special licence: on-site special licences and off-site special licences.
- (2) On the premises a special licence designated as an on-site special licence is held for, the licensee can sell and supply alcohol, for consumption there, to people attending an event described in it.
- (3) Where the holder of an on-licence or a club licence for any premises also holds a special licence designated as an on-site special licence for the premises, the holder can at a time when the sale of alcohol on the premises would otherwise



be unlawful (whether by virtue of a provision of this Act relating to licensed premises or licensed premises of any kind, or by virtue of any condition subject to which the on-licence or club licence was issued) sell and supply alcohol, for consumption there, if it is sold or supplied—

- (a) to people attending an event described in the special licence; and
  - (b) in accordance with the special licence.
- (4) Subsection (3) does not limit or affect the generality of subsection (2).
- (5) On the premises a special licence designated as an off-site special licence is held for, the licensee can sell the licensee's alcohol, for consumption somewhere else, to people attending an event described in it.
- (6) While the premises a special licence designated as an off-site special licence is held for are open for the sale of the licensee's alcohol for consumption somewhere else, the licensee can also supply alcohol free, as a sample, for consumption on the premises.

Compare: 1989 No 63 ss 73, 74

Section 22(2): amended, on 17 December 2016, by section 87(1) of the Statutes Amendment Act 2016 (2016 No 104).

Section 22(3): amended, on 17 December 2016, by section 87(2) of the Statutes Amendment Act 2016 (2016 No 104).

### **23 Limitation on effect of sections 14 to 22**

Nothing in any of sections 14 to 22 authorises a person to do a thing forbidden by some other provision of this Act, or to fail to do a thing required by some other provision of this Act.

### **24 No obligation to serve**

- (1) A licence does not oblige its holder—
- (a) to deliver, sell, or supply alcohol at any time or to any person; or
  - (b) to let any person consume alcohol at any time on the premises the licence is issued for.
- (2) Subsection (1) is subject to the Human Rights Act 1993.

Compare: 1989 No 63 ss 15, 38, 61, 81

### **25 Issue of second licence for premises already licensed**

A licence of one kind can be issued—

- (a) for premises for which a licence of another kind is (or licences of other kinds are) already held; or
- (b) for premises for a part of which a licence of another kind is (or licences of other kinds are) already held; or

- (c) for a part of any premises for the whole of which a licence of another kind is (or licences of other kinds are) already held.

Compare: 1989 No 63 s 6(3)

### *Who can hold licences*

#### **26 Licences not to be held without express authority of this Act**

- (1) A person cannot hold an on-licence, an off-licence, or a special licence unless,—
  - (a) by virtue of section 28, the person can hold a licence of that kind; and
  - (b) the person is not a club unable to hold a licence of that kind by virtue of section 29(1) or (2).
- (2) A person cannot hold a club licence unless empowered by section 30 to hold a club licence.

#### **27 Licences not to be issued to persons not empowered to hold them**

A licence of a particular kind cannot be issued to a person who is not empowered to hold a licence of that kind.

#### **28 Who can hold on-licences, off-licences, and special licences**

- (1) An on-licence, an off-licence, or a special licence (or licences of 2 or all of those kinds) can be held by—
  - (a) a natural person who has attained the age of 20 years; or
  - (b) any body corporate; or
  - (ba) any company within the meaning of the Companies Act 1993 that is not prevented by a restriction in its constitution (if any) from selling alcohol or from holding a licence (or a licence of the kind or kinds concerned); or
  - (c) a board, organisation, or other body, that is authorised by an enactment other than this Act to sell alcohol or hold a licence (or a licence of the kind or kinds concerned); or
  - (d) a licensing trust or community trust; or
  - (e) a limited partnership registered under section 51 of the Limited Partnerships Act 2008 whose partnership agreement does not contain a restriction preventing it from selling alcohol, or from holding a licence (or a licence of the kind or kinds concerned); or
  - (f) a partnership each member of which is a person, body corporate, company, board, organisation, body, trust, or partnership, of a kind referred to in any of paragraphs (a) to (e); or
  - (g) a department of State or other instrument of the Crown; or

- (h) a territorial authority (whether or not expressly authorised by an enactment other than this Act to hold a licence); or
  - (i) a trustee within the meaning of the Trusts Act 2019.
- (2) A manager acting for a person pursuant to a property order made under the Protection of Personal and Property Rights Act 1988 can hold an on-licence, an off-licence, a special licence, or licences of 2 or all of those kinds, if the order authorises the manager to do so.
- (3) A club can hold a special licence.
- (4) A club can hold an off-licence if it has continuously held an off-licence since before the commencement of this section.
- (5) Subsection (1) is subject to section 413 (which relates to the interpretation of documents constituting certain bodies corporate incorporated before the commencement of this section).
- (6) Nothing in subsection (1) limits or affects—
- (a) any provision of the constitution of a company incorporated in New Zealand; or
  - (b) any provision of the constitution or equivalent governing document of any other body corporate.

Compare: 1989 No 63 ss 8, 30, 75

Section 28(1)(ba): inserted, on 13 December 2016, by section 5(1) of the Sale and Supply of Alcohol (Display of Low-alcohol Beverages and Other Remedial Matters) Amendment Act 2016 (2016 No 101).

Section 28(1)(f): amended, on 13 December 2016, by section 5(2) of the Sale and Supply of Alcohol (Display of Low-alcohol Beverages and Other Remedial Matters) Amendment Act 2016 (2016 No 101).

Section 28(1)(i): amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

## **29 Limitations on holding of on-licences and off-licences by clubs**

- (1) A club cannot hold an on-licence.
- (2) Except as provided in section 28(4), a club cannot hold an off-licence.
- (3) Subsections (1) and (2) override sections 25 and 28(1).

Compare: 1989 No 63 ss 8(2), 30(2)

## **30 Who can hold club licences**

Any club can hold a club licence.

Compare: 1989 No 63 s 54

## **31 Limitation on effect of sections 28 and 30**

Sections 28 and 30 are subject to subpart 7 of this Part.

*Restrictions on issue of off-licences***32 Kinds of premises for which off-licences may be issued**

- (1) An off-licence may be issued only—
- (a) to the holder of an on-licence issued for a hotel or tavern, for the premises (or part of the premises) for which the on-licence is held; or
  - (b) for retail premises where (in the opinion of the licensing authority or licensing committee concerned) at least 85% of the annual sales revenue is expected to be earned from the sale of alcohol for consumption somewhere else; or
  - (c) if—
    - (i) the premises for which it is to be issued are not retail premises; and
    - (ii) at least 85% of the annual income of the person to whom it is to be issued is (in the opinion of the licensing authority or licensing committee concerned) expected to be earned from the remote sale of alcohol; or
  - (d) for premises where (in the opinion of the licensing authority or licensing committee concerned) the principal business carried on is the manufacture of alcohol; or
  - (e) for premises that (in the opinion of the licensing authority or licensing committee concerned) are a supermarket with a floor area of at least 1 000 m<sup>2</sup> (including any separate departments set aside for such food-stuffs as fresh meat, fresh fruit and vegetables, and delicatessen items); or
  - (f) for premises that (in the opinion of the licensing authority or licensing committee concerned) are a grocery store.
- (2) Premises for which (by virtue of section 350(b)(i)) an off-licence must not be issued except to a licensing trust can still be premises for which (by virtue of subsection (1)) an off-licence may be issued.
- (3) Section 36 overrides subsection (1).

Compare: 1989 No 63 s 36(1)

**33 Determining whether premises are grocery store**

- (1) In this section,—
- food product**—
- (a) does not include—
    - (i) alcohol, confectionery, ready-to-eat prepared food, or snack food; or

- (ii) a drink (other than milk) sold in a container with a capacity of 1 litre or less; but
- (b) includes delicatessen items that are not ready-to-eat prepared food or snack food

**grocery store** means a shop that—

- (a) has the characteristics normally associated with shops of the kind commonly thought of as grocery shops; and
- (b) comprises premises where—
  - (i) a range of food products and other household items is sold; but
  - (ii) the principal business carried on is or will be the sale of food products

**ready-to-eat prepared food**—

- (a) includes food for the time being declared by regulations under this Act to be ready-to-eat prepared food; and
- (b) does not include food for the time being declared by regulations under this Act not to be ready-to-eat prepared food

**snack food**—

- (a) includes food for the time being declared by regulations under this Act to be snack food; and
- (b) does not include food for the time being declared by regulations under this Act not to be snack food.

(2) In forming for the purposes of this Act an opinion on whether any premises are a grocery store, the licensing authority or a licensing committee—

- (a) must have regard to—
  - (i) the size, layout, and appearance of the premises; and
  - (ii) a statement of the annual sales revenues (or projected annual sales revenues) of the premises, produced in accordance with any regulations in force under this Act prescribing what information such statements must contain and how it must be set out; and
  - (iii) the number, range, and kinds of items on sale (or expected to be on sale) on the premises; and
- (b) may have regard to any other matters it thinks relevant; and
- (c) may determine that the premises do not have the characteristics normally associated with a shop of the kind commonly thought of as a grocery shop by virtue of characteristics that the premises and the items on sale there lack or will lack, characteristics that the premises and the items on sale there have or will have, or a combination of both.

(3) Paragraph (a) of the definition in subsection (1) of **food product** is for the avoidance of doubt only, and does not extend the generality of the term.

**34 Exception for certain areas where some licensed premises not economic**

- (1) The licensing authority or licensing committee concerned may direct that an off-licence should be issued for premises not of a kind described in section 32(1) if satisfied—
  - (a) that, in the area where they are situated, the sale of alcohol in premises of a kind described in section 32(1)(b), (d), (e), or (f) would not be economic; and
  - (b) that the granting of the licence would not cause any significant increase in alcohol-related harm.
- (2) Subsection (1) overrides section 32(1) but is overridden by section 36.  
Compare: 1989 No 63 s 36(2)(a)

**35 Exception for certain complementary sales**

- (1) The licensing authority or licensing committee concerned may direct that an off-licence should be issued for premises not of a kind described in section 32(1) if it is satisfied that—
  - (a) the premises are a shop, but not a shop where the principal business carried on is the sale of food (whether food of a particular kind or kinds, or a range of food); and
  - (b) alcohol would be an appropriate complement to goods of the kind sold (or to be sold) in the shop.
- (2) Subsection (1) overrides section 32(1) but is overridden by section 36.  
Compare: 1989 No 63 s 36(2)(b)

**36 No off-licences for petrol stations, certain garages, dairies, convenience stores, conveyances, or shops within shops**

The licensing authority or licensing committee concerned must not direct that an off-licence should be issued for any premises if (in its opinion)—

- (a) the principal business carried on there is—
  - (i) the sale of automotive fuels; or
  - (ii) the repair and servicing of motor vehicles and the sale of automotive fuels; or
- (b) they are a shop of the kind commonly thought of as a dairy; or
- (c) they are a shop of the kind commonly thought of as a convenience store; or
- (d) they are a conveyance; or
- (e) they are situated (wholly or partially) within a shop; or

- (f) the public can reach them directly from a shop, or directly from premises where the principal business carried on is a business of a kind described in paragraph (a).

Compare: 1989 No 63 s 36(3)

*Endorsed licences for BYO restaurants, auctioneers, and caterers*

**37 On-licences for BYO restaurants**

- (1) The licensing authority or licensing committee concerned must, when directing that an on-licence should be issued, direct that it should be endorsed to indicate that this section applies to it if (and only if)—
  - (a) when applying for it, the holder asked for it to be endorsed under this section; and
  - (b) the authority or committee is satisfied that the holder carries on the business of a restaurateur on the premises for which it is to be issued.
- (2) An on-licence endorsed under this section may be issued subject to either or both of the following conditions:
  - (a) a condition requiring the appointment of 1 or more managers in accordance with this Part:
  - (b) a condition requiring a manager to be on duty on specified days and times.

Compare: 1989 No 63 s 28

**38 On-licences for caterers**

- (1) The licensing authority or licensing committee concerned must, when directing that an on-licence should be issued, direct that it should be endorsed to indicate that this section applies to it if (and only if),—
  - (a) when applying for it, the holder asked for it to be endorsed under this section; and
  - (b) the authority or committee is satisfied that the holder carries on the business of a caterer.
- (2) Sections 56 and 57 do not apply to any premises for which no licence is held while the holder of an on-licence endorsed under this section sells, for consumption there by people attending a reception, function, or other social gathering promoted by a person or association of people other than the holder, alcohol delivered from the premises the licence is issued for.

Compare: 1989 No 63 s 51

**39 Off-licences for auctioneers**

- (1) The licensing authority or licensing committee concerned must, when directing that an off-licence should be issued, direct that it should be endorsed to indicate that this section applies to it if (and only if),—

- (a) when applying for it, the holder asked for it to be endorsed under this section; and
  - (b) the authority or committee is satisfied that the holder is registered as an auctioneer under the Auctioneers Act 2013.
- (2) Sections 101 to 103 do not apply to an application for an off-licence if, when applying for it, the applicant asked for it to be endorsed under this section.
- (3) Sections 56, 57, and 212 do not apply to an off-licence endorsed under this section.

Compare: 1989 No 63 s 52

Section 39(1)(b): amended, on 18 December 2013, by section 28(3) of the Auctioneers Act 2013 (2013 No 148).

#### **40 Off-licences for remote sellers of alcohol**

- (1) The licensing authority or licensing committee concerned must, when directing that an off-licence should be issued, direct that it should be endorsed to indicate that this section applies to it if (and only if), when applying for it, the holder asked for it to be endorsed under this section.
- (2) Sections 56 and 57 do not apply to an off-licence endorsed under this section.

#### *Restrictions on issue of special licences*

#### **41 No special licence where permanent licence or variation of permanent licence more appropriate**

A special licence must not be issued in circumstances where (in the opinion of the licensing committee concerned) it would have been more appropriate for the applicant to apply for—

- (a) an on-licence, off-licence, or club licence; or
- (b) the variation of an existing on-licence, off-licence, or club licence.

#### **42 Restrictions on issue of special licences for consumption off-premises**

- (1) A special licence designated as an off-site special licence may be issued only to a person who (in the opinion of the licensing committee concerned) is a manufacturer, distributor, importer, or wholesaler of alcohol.
- (2) A special licence designated as an off-site special licence must not be issued for a conveyance.
- (3) Subsection (1) overrides section 28(1).

#### *Permitted trading hours*

#### **43 Default national maximum trading hours**

- (1) The default maximum national trading hours—



- (a) are the hours between 8 am on any day and 4 am on the next day for the sale and supply of alcohol for consumption on premises for which an on-licence or a club licence is held:
  - (b) are the hours between 7 am and 11 pm on any day for the sale of alcohol on premises for which an off-licence is held.
- (2) Subsection (1) is subject to sections 47 and 48 (which impose restrictions on the sale and supply of alcohol on Anzac Day morning, Good Friday, Easter Sunday, and Christmas Day).

#### **44 Permitted trading hours for premises without relevant local alcohol policy**

- (1) The trading hours permitted for any licensed premises are the default maximum national trading hours stated by section 43 for the premises if—
- (a) the premises are situated in a district where there is not in force a local alcohol policy containing an element that has the effect of stating maximum trading hours for the premises; and
  - (b) the licence has not been issued subject to a condition or conditions to the effect that some more restrictive maximum trading hours must be observed.
- (2) The trading hours permitted for any licensed premises are the more restrictive maximum trading hours concerned if—
- (a) the premises are situated in a district where there is not in force a local alcohol policy containing an element that has the effect of stating maximum trading hours for the premises; but
  - (b) the licence has been issued subject to a condition or conditions to the effect that some more restrictive maximum trading hours must be observed.
- (3) This section is overridden by sections 45A to 45H (Rugby World Cup 2023 extended trading hours).

(3) *[Repealed]*

(3) *[Repealed]*

Section 44(3): inserted, on 27 July 2023, by section 7 of the Sale and Supply of Alcohol (Rugby World Cup 2023 Extended Trading Hours) Amendment Act 2023 (2023 No 39).

Section 44(3): repealed, on 4 November 2019, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Act 2019 (2019 No 47).

Section 44(3): repealed, on 2 November 2016, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2015 Extended Trading Hours) Amendment Act 2015 (2015 No 69).

#### **45 Permitted trading hours for premises with relevant local alcohol policy**

- (1) The trading hours permitted for any licensed premises are the applicable maximum trading hours stated for the premises in the local alcohol policy concerned if—

- (a) the premises are situated in a district where there is in force a local alcohol policy containing an element that has the effect of stating maximum trading hours for the premises; and
  - (b) the licence has not been issued subject to a condition or conditions to the effect that some more restrictive maximum trading hours must be observed.
- (2) The trading hours permitted for any licensed premises are the more restrictive maximum trading hours concerned if—
- (a) the premises are situated in a district where there is in force a local alcohol policy containing an element that has the effect of stating maximum trading hours for the premises; but
  - (b) the licence has been issued subject to a condition or conditions to the effect that some more restrictive maximum trading hours must be observed.
- (3) This section is overridden by sections 45A to 45H (Rugby World Cup 2023 extended trading hours).
- (3) *[Repealed]*
- (3) *[Repealed]*

Section 45(3): inserted, on 27 July 2023, by section 8 of the Sale and Supply of Alcohol (Rugby World Cup 2023 Extended Trading Hours) Amendment Act 2023 (2023 No 39).

Section 45(3): repealed, on 4 November 2019, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Act 2019 (2019 No 47).

Section 45(3): repealed, on 2 November 2016, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2015 Extended Trading Hours) Amendment Act 2015 (2015 No 69).

### *Rugby World Cup 2023 extended trading hours*

Heading: inserted, on 27 July 2023, by section 4 of the Sale and Supply of Alcohol (Rugby World Cup 2023 Extended Trading Hours) Amendment Act 2023 (2023 No 39).

#### **45A Purpose**

The purpose of sections 45B to 45H 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.

Section 45A: inserted, on 27 July 2023, by section 4 of the Sale and Supply of Alcohol (Rugby World Cup 2023 Extended Trading Hours) Amendment Act 2023 (2023 No 39).

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

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

**game** means a game of the Rugby World Cup 2023 tournament (the tenth quadrennial international rugby world championship, to be held in France,

from 8 September 2023 (Central European Summer Time) to 28 October 2023 (Central European Summer 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, including morning 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 45H, the same meanings given to them by section 5(1).

Section 45B: inserted, on 27 July 2023, by section 4 of the Sale and Supply of Alcohol (Rugby World Cup 2023 Extended Trading Hours) Amendment Act 2023 (2023 No 39).

#### 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 9 September 2023 (New Zealand standard time); and
    - (ii) before or on 29 October 2023 (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 territorial authority 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; and
  - (b) of the details of a 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 a 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) A licensee who has given notice under subsection (2) but subsequently decides not to televise in the premises any games on the night specified in that notice must, as soon as is reasonably practicable, give notice of the decision to the territorial authority and the constable in charge of the police station nearest the premises for which the licence is held.
- (7) If notice is given under subsection (6), sections 45D to 45F cease to apply.

Section 45C: inserted, on 27 July 2023, by section 4 of the Sale and Supply of Alcohol (Rugby World Cup 2023 Extended Trading Hours) Amendment Act 2023 (2023 No 39).

#### **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 may 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 and finishes outside permitted trading hours**

The licensee notifies for the Italy v Namibia game played on 9 September at 23.00 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 0.45 NZST.

The premises are required to be closed for the sale of alcohol at 1.15 NZST.

The premises are on-licence premises used mainly or only for the sale, supply, or consumption of alcohol, so no customer can be found in, or allowed to be on, the premises after 1.45 NZST and before 6.00 NZST.

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**Example 2: game starts no more than 2 hours outside permitted trading hours**

The licensee notifies for the Japan v Argentina game played on 9 October at 0.00 NZDT.

The last period of permitted trading hours for the premises ends at 22.00 NZDT.

As the game is to start no more than 2 hours after 22.00 NZDT, the premises can stay open after 22.00 NZDT until the game starts at or about 0.00 NZDT.

The premises can be open during the game televised, which ends at 1.45 NZDT.

The premises are required to be closed for the sale of alcohol at 2.15 NZDT.

The premises are on-licence premises used mainly or only for the sale, supply, or consumption of alcohol, so no customer can be found in, or allowed to be on, the premises after 2.45 NZDT and before 6.00 NZDT.

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**Example 3: game starts more than 2 hours outside permitted trading hours**

The licensee notifies for the Australia v Fiji game played on 18 September at 3.45 NZST.

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

The premises can open at 2.45 NZST (1 hour before the start of the game).

The game ends at 5.30 NZST.

The premises are required to be closed for the sale of alcohol at 6.00 NZST.

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**Example 4: successive games**

The licensee notifies for the first, second, and third of these 3 games played on 8 October:

- the Wales v Georgia game to start at 2.00 NZDT:
- the England v Samoa game to start at 4.45 NZDT:
- the Ireland v Scotland game to start at 8.00 NZDT.

The last period of permitted trading hours for the premises ends at 0.30 NZDT.

The opening time for permitted trading hours is 8.00 NZDT.

The premises can remain open and sell, supply, and let people consume alcohol on the premises from 0.30 NZDT on 8 October (the end of the last period of permitted trading hours) until 0.30 NZDT on 9 October (the end of last period of permitted trading hours the following day), because—

- (a) the first game is to start no more than 2 hours after 0.30 NZDT; and
- (b) premises can open 1 hour before the start of each game to be televised; and
- (c) alcohol sales are required to close 30 minutes after the game ends, unless that 30-minute period ends after the start of the 1-hour period under (b); and
- (d) the third game starts at the premises' opening time for permitted trading hours at 8.00 NZDT.

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**Example 5: non-successive games**

The licensee notifies for the first and third, but not the second, of these 3 games played on 8 October:

- the Wales v Georgia game to start at 2.00 NZDT:
- the England v Samoa game to start at 4.45 NZDT:
- the Ireland v Scotland game to start at 8.00 NZDT.

The last period of permitted trading hours for the premises ends at 0.30 NZDT.

The opening time for permitted trading hours is 8.00 NZDT.

As the game is to start no more than 2 hours after the end of the last period of permitted trading hours, the premises can remain open from 0.30 NZDT to the end of the first game, at 3.45 NZDT.

The premises are required to be closed for the sale of alcohol at 4.15 NZDT.

The premises are on-licence premises used mainly or only for the sale, supply, or consumption of alcohol, so no customers can be found in, or allowed on, the premises after 4.45 NZDT and until 6.00 NZDT.

The premises can open again for the sale of alcohol at 7.00 NZDT (1 hour before the start of the third game).

The third game ends at 8.45 NZDT, within the premises' permitted trading hours, and can remain open until 0.30 NZDT on 9 October (the last period of permitted trading hours the following day).

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Section 45D: inserted, on 27 July 2023, by section 4 of the Sale and Supply of Alcohol (Rugby World Cup 2023 Extended Trading Hours) Amendment Act 2023 (2023 No 39).

**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) open areas cannot be used for any purpose (despite section 12 of the Smokefree Environments and Regulated Products Act 1990):
  - (ii) audio equipment (for example, loudspeakers, amplifiers, or audio relay equipment) cannot be used in an open area:
  - (iii) bottles, or other rubbish, cannot be disposed of, or left for collection in an open area.
- (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 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 of the premises under section 265 or 266, 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.
- (6) For the purposes of subsection (1)(c), **open area** has the same meaning as in section 2(1) of the Smokefree Environments and Regulated Products Act 1990.

Section 45E: inserted, on 27 July 2023, by section 4 of the Sale and Supply of Alcohol (Rugby World Cup 2023 Extended Trading Hours) Amendment Act 2023 (2023 No 39).

**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.
- (3) To avoid doubt, a person who fails or refuses to comply with subsection (2) commits an offence against section 259(1).

Section 45F: inserted, on 27 July 2023, by section 4 of the Sale and Supply of Alcohol (Rugby World Cup 2023 Extended Trading Hours) Amendment Act 2023 (2023 No 39).

**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.

Section 45G: inserted, on 27 July 2023, by section 4 of the Sale and Supply of Alcohol (Rugby World Cup 2023 Extended Trading Hours) Amendment Act 2023 (2023 No 39).

**45H Duty to keep records for research purposes**

- (1) The Police must keep records of the notices given under section 45C for research purposes.
- (2) The records must—
  - (a) specify the number of notices given under section 45C(2); and
  - (b) specify the number of notices given under section 45C(6); and
  - (c) classify the premises to which the notifications relate (including size, type, and location); and
  - (d) specify, for each premises,—



- (i) the period of extended hours that have been notified (hours and times); and
- (ii) the period of time between the giving of a notice and the start of the extended hours to which the notice relates.

Section 45H: inserted, on 27 July 2023, by section 4 of the Sale and Supply of Alcohol (Rugby World Cup 2023 Extended Trading Hours) Amendment Act 2023 (2023 No 39).

### *Rugby World Cup 2019 extended trading hours*

*[Repealed]*

Heading: repealed, on 4 November 2019, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Act 2019 (2019 No 47).

#### **45A Purpose**

*[Repealed]*

Section 45A: repealed, on 4 November 2019, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Act 2019 (2019 No 47).

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

*[Repealed]*

Section 45B: repealed, on 4 November 2019, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Act 2019 (2019 No 47).

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

*[Repealed]*

Section 45C: repealed, on 4 November 2019, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Act 2019 (2019 No 47).

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

*[Repealed]*

Section 45D: repealed, on 4 November 2019, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Act 2019 (2019 No 47).

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

*[Repealed]*

Section 45E: repealed, on 4 November 2019, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Act 2019 (2019 No 47).

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

*[Repealed]*

Section 45F: repealed, on 4 November 2019, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Act 2019 (2019 No 47).

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

*[Repealed]*

Section 45G: repealed, on 4 November 2019, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Act 2019 (2019 No 47).

***Rugby World Cup 2015 extended trading hours***

*[Repealed]*

Heading: repealed, on 2 November 2016, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2015 Extended Trading Hours) Amendment Act 2015 (2015 No 69).

**45A Purpose**

*[Repealed]*

Section 45A: repealed, on 2 November 2016, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2015 Extended Trading Hours) Amendment Act 2015 (2015 No 69).

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

*[Repealed]*

Section 45B: repealed, on 2 November 2016, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2015 Extended Trading Hours) Amendment Act 2015 (2015 No 69).

**45C Eligible premises**

*[Repealed]*

Section 45C: repealed, on 2 November 2016, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2015 Extended Trading Hours) Amendment Act 2015 (2015 No 69).

**45D Trading hours extended**

*[Repealed]*

Section 45D: repealed, on 2 November 2016, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2015 Extended Trading Hours) Amendment Act 2015 (2015 No 69).

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

*[Repealed]*

Section 45E: repealed, on 2 November 2016, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2015 Extended Trading Hours) Amendment Act 2015 (2015 No 69).

**45F Display of information about extensions**

*[Repealed]*

Section 45F: repealed, on 2 November 2016, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2015 Extended Trading Hours) Amendment Act 2015 (2015 No 69).

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

*[Repealed]*

Section 45G: repealed, on 2 November 2016, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2015 Extended Trading Hours) Amendment Act 2015 (2015 No 69).

*Restrictions relating to trading hours*

**46 No sale or supply outside permitted trading hours: all licences**

- (1) The holder of a licence must ensure that no alcohol is sold or supplied on the premises outside the permitted trading hours.
- (2) Subsection (1) is subject to section 173 of the Gambling Act 2003.
- (3) Subsection (1) does not apply where any alcohol previously placed in an area or unit (commonly known as a mini-bar) of a hotel room is, in that room, sold or supplied to—
  - (a) a person (a **guest**) who is, under an agreement, entitled to occupy that room; or
  - (b) a person whom that guest permits, consistently with that agreement, to be in that room.

Section 46(3): inserted, on 5 December 2013, by section 4 of the Sale and Supply of Alcohol Amendment Act 2013 (2013 No 131).

**47 Sale and supply on Anzac Day morning, Good Friday, Easter Sunday, and Christmas Day restricted: on-licences**

- (1) The holder of an on-licence must ensure that no alcohol is sold or supplied on the premises on Good Friday, Easter Sunday, or Christmas Day, or before 1 pm on Anzac Day, unless—
  - (a) it is sold or supplied while the holder also holds a special licence for the premises; or
  - (b) the buyer is a person of a kind described in subsection (2).
- (2) The kinds of person referred to in subsection (1) are—
  - (a) people residing or lodging on the premises;
  - (b) people who are present on the premises to dine.
- (3) For the purposes of subsection (2),—
  - (a) a person resides or lodges on licensed premises if he or she resides or lodges in the building in which the premises are situated as the guest, lodger, tenant, or employee of the licensee;
  - (b) a person is not present on licensed premises to dine if he or she is there at a time—
    - (i) more than an hour before he or she starts (or is due to start) eating a meal; or

- (ii) more than an hour after he or she finishes eating a meal.
- (4) Subsection (1) is subject to section 173 of the Gambling Act 2003.

#### **47A Anzac Day trading hours for licensed RNZRSA clubs**

- (1) This section applies to licensed premises if—
  - (a) the premises houses an RNZRSA club; and
  - (b) the club holds a club licence for the premises.
- (2) Despite anything in section 44 or 45, the permitted trading hours for any licensed premises to which this section applies include the hours from 4 am to 1 pm on Anzac Day.
- (3) Any one-way door restriction applicable to the premises does not operate during the hours specified in subsection (2).
- (4) An RNZRSA club's use of land at its licensed premises during the hours specified in subsection (2) must be treated as not contravening section 21 of the Natural and Built Environment Act 2023 if—
  - (a) this section applies to the premises; and
  - (b) the use would comply with section 21 of the Natural and Built Environment Act 2023 if it occurred during any other permitted trading hours.

Section 47A: inserted, on 14 April 2016, by section 7 of the Sale and Supply of Alcohol (Anzac Day Trading Hours for Licensed RNZRSA Clubs) Amendment Act 2016 (2016 No 15).

Section 47A(4): amended, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

Section 47A(4)(b): amended, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

#### **48 Sale on Anzac Day morning, Good Friday, Easter Sunday, and Christmas Day restricted: off-licences**

The holder of an off-licence must ensure that—

- (a) no alcohol is sold on or delivered from the premises on Good Friday, or Christmas Day, or before 1 pm on Anzac Day; and
- (b) no alcohol is sold on or delivered from the premises at any time on Easter Sunday unless it is grape wine or fruit or vegetable wine made—
  - (i) on the premises; or
  - (ii) from produce harvested from land on which the premises are situated.

Compare: 1989 No 63 s 37(1)

#### **49 Remote sales exempted from trading hours restrictions**

- (1) A remote sale of alcohol may be made at any time on any day.
- (2) Subsection (1)—
  - (a) overrides the restrictions on sales imposed by sections 46 and 48; but

- (b) is subject to the restrictions on delivery imposed by sections 48 and 59(1).

*Requirements on holders of on-licences and club licences*

**50 One-way door restrictions in local alcohol policies to be complied with**

- (1) The holder of an on-licence or club licence must ensure that every applicable one-way door restriction in any relevant local alcohol policy is complied with.
- (2) The fact that elements of a one-way door restriction imposed on the licence are less restrictive than the equivalent elements of an applicable one-way door restriction in a relevant local alcohol policy does not limit or affect the holder's obligation to comply with subsection (1).
- (3) This section is overridden by sections 45A to 45H (Rugby World Cup 2023 extended trading hours).
- (3) *[Repealed]*
- (3) *[Repealed]*

Section 50(3): inserted, on 27 July 2023, by section 9 of the Sale and Supply of Alcohol (Rugby World Cup 2023 Extended Trading Hours) Amendment Act 2023 (2023 No 39).

Section 50(3): repealed, on 4 November 2019, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Act 2019 (2019 No 47).

Section 50(3): repealed, on 2 November 2016, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2015 Extended Trading Hours) Amendment Act 2015 (2015 No 69).

**51 Non-alcoholic drinks to be available**

The holder of an on-licence or club licence must ensure that, at all times when the premises are open for the sale and supply of alcohol, there is available for sale and consumption on the premises, at reasonable prices, a reasonable range of non-alcoholic drinks.

**52 Low-alcohol drinks to be available**

- (1) The holder of an on-licence or club licence must ensure that there is available for sale and consumption on the premises alcohol containing not more than 2.5% ethanol by volume at 20°C.
- (2) The requirements of subsection (1) do not apply to the premises if—
- (a) they are premises whose licensee—
- (i) sells on those premises only alcohol manufactured by the licensee; and
- (ii) does not manufacture (whether on those premises or somewhere else) alcohol of the kind described in subsection (1); and
- (b) the licence was issued or last renewed (whichever occurred more recently), subject to a condition exempting the holder from those requirements.

**53 Food to be available**

The holder of an on-licence or club licence must ensure that, at all times when the premises are open for the sale and supply of alcohol, a reasonable range of food is available for sale and consumption on the premises, in portions suitable for a single customer,—

- (a) at reasonable prices; and
- (b) within a reasonable time of being ordered.

**54 Help with and information about transport to be available**

The holder of an on-licence or club licence must ensure that, at any time customers are lawfully on the premises,—

- (a) there is readily available to the customers, free, comprehensive, and accurate information about the forms of transport from the premises that are available at that time; and
- (b) there are on the premises, and readily accessible to the customers, staff able to give them comprehensive and accurate information about the forms of transport from the premises that are available at that time; and
- (c) those staff will on demand give any customer appropriate advice free.

*Requirements on holders of special licences***55 Requirements relating to special licences for consumption off-premises**

The holder of a special licence designated as an off-site special licence must ensure that, while it is in force,—

- (a) only the licensee's alcohol is to be sold or supplied on the premises; and
- (b) alcohol is not supplied free, as a sample, for consumption on the premises, at a time when the premises are not open for the sale of the licensee's alcohol for consumption somewhere else; and
- (c) alcohol is not sold for consumption on the premises at any time when the licensee does not also hold for the premises a special licence designated as an on-site special licence.

*Other restrictions and requirements***56 Display of signs: on-licences, off-licences**

The holder of an on-licence issued for premises or an off-licence (other than an off-licence issued for premises for which a club licence is held) must ensure that for each principal entrance to the premises there is displayed at all times a sign attached to the inside or outside of the premises, so as to be easily read by people immediately outside the entrance, stating the ordinary hours of business

during which the premises are open for the sale of alcohol (or, in the case of an on-licence endorsed under section 37, open for the consumption of alcohol).

Compare: 1989 No 63 ss 25(1), 48(2)

### **57 Display of licence: all licences**

- (1) The holder of an on-licence or an off-licence (other than an off-licence issued for premises for which a club licence is held or a remote-sale off-licence) must ensure that at all times a copy of the licence, together with a statement of all conditions subject to which it is issued, is displayed—
  - (a) attached to the inside of the premises concerned; and
  - (b) so as to be easily read by people entering each principal entrance.
- (2) The holder of a club licence must ensure that at all times a copy of the licence, together with a statement of all conditions subject to which it is issued (and, if it is issued for premises for which an off-licence is held, a copy of that licence, together with a statement of all conditions subject to which it is issued), is displayed—
  - (a) attached to the inside of the premises; and
  - (b) so as to be easily read by people using the premises.
- (3) When issuing a special licence, the licensing committee may give any directions relating to its display, and the display of a statement of any conditions subject to which it is issued, as the committee thinks necessary or desirable.
- (4) The holder of a special licence must ensure that all directions under subsection (3) given when it was issued are complied with.

Compare: 1989 No 63 ss 25(2), 48(2), (3), 83

### **58 Restriction on kinds of alcohol sold in supermarkets and grocery shops, and premises directly accessible from supermarket or grocery shop**

- (1) The holder of an off-licence issued for premises of a kind described in subsection (2) must ensure that no alcohol is sold on the premises unless it contains no more than 15% ethanol by volume measured at 20°C and is—
  - (a) beer that complies with the appropriate New Zealand food standard for beer; or
  - (b) mead that complies with the appropriate New Zealand food standard for mead; or
  - (c) fruit or vegetable wine that complies with the appropriate New Zealand food standard for fruit or vegetable wine (however that product may be described in the standard); or
  - (d) grape wine that complies with the appropriate New Zealand food standard for grape wine (however that product may be described in the standard); or

- (e) a food flavouring, prepared for culinary purposes, that is unsuitable for drinking undiluted.
- (2) The kinds of premises referred to in subsection (1) are—
  - (a) premises that are or form part of a supermarket or grocery shop; and
  - (b) premises that can be reached from a supermarket or grocery shop without leaving it.
- (3) In subsection (1),—

**appropriate New Zealand food standard**, in relation to any kind of alcohol, means the standard for alcohol of that kind that is for the time being in force under the Food Act 2014

**beer** means the product, characterised by the presence of hops or preparations of hops, prepared by the yeast fermentation of an aqueous extract of malted or unmalted cereals, or both

**fruit or vegetable wine**—

- (a) means the product prepared from the complete or partial fermentation of any or all of the following:
  - (i) fruit, vegetables, grains, and cereals;
  - (ii) preparations of fruit, vegetables, grains, and cereals; but
- (b) does not include grape wine

**grape wine** means the product of the complete or partial fermentation of fresh grapes, or a mixture of that product and products derived solely from grapes

**mead** means the product prepared from the complete or partial fermentation of honey.

Compare: 1989 No 63 s 37(3)

Section 58(3): amended, on 1 March 2016, by section 447 of the Food Act 2014 (2014 No 32).

## 59 Requirements relating to remote sales by holders of off-licences

- (1) The holder of an off-licence must ensure that any alcohol sold by remote sale is not delivered to the buyer (or to any other person on the buyer's behalf) at any time after 11 pm on any day and before 6 am on the next day.
- (2) Subsection (1) applies whether the alcohol is delivered by the seller or by some other person.
- (3) The holder of an off-licence must take reasonable steps to verify that the buyer of any alcohol that the holder sells by remote sale (and, if a person other than the buyer is to receive it, to verify that the receiver) is not under the purchase age.
- (4) The holder of an off-licence takes reasonable steps to verify that the buyer of any alcohol that the holder sells by remote sale is not under the purchase age if he or she complies with a procedure declared by regulations made under this



Act to be a reasonable procedure for the purposes of complying with subsection (3).

- (5) The holder of an off-licence who sells alcohol by remote sale via the Internet must comply with any regulations made under this Act requiring information to be visible on the holder's website when people browse, enter, or otherwise access it.
- (6) The holder of an off-licence who sells alcohol by remote sale by mail order must comply with any regulations made under this Act requiring information to be published in the holder's catalogues.
- (7) The holder of an off-licence who sells alcohol by remote sale by telephone must comply with any regulations made under this Act requiring information to be given to callers.

## **60 Sale and supply in clubs to members and guests only**

- (1) The holder of a club licence must ensure that no alcohol is sold or supplied to any person for consumption on the premises unless the person is—
  - (a) an authorised customer; or
  - (b) if the licence issued subject to a condition allowing alcohol to be sold or supplied to people of that kind, a person who is on the premises at the invitation of an authorised visitor who is also on the premises.
- (2) If a club licence and an off-licence are held for the same premises, the holder must ensure that no alcohol is sold or supplied to any person for consumption off the premises unless the person is an authorised customer.
- (3) In this section,—

**authorised customer**, in relation to premises a club licence is held for, means a person who—

- (a) is a member of the club concerned; or
- (b) is on the premises at the invitation of, and is accompanied by, a member of the club concerned; or
- (c) is an authorised visitor

**authorised visitor**, in relation to premises a club licence is held for, means a member of some other club with which the club concerned has an arrangement for reciprocal visiting rights for members

**member**, in relation to a club, means a person who—

- (a) has expressly agreed in writing to comply with the club's rules; and
- (b) is recognised as a member of the club by those rules.

## **61 Administrative requirements for club licences**

The holder of a club licence must take all practicable steps to ensure that—

- (a) there is at all times a secretary of the club; and

- (b) within 10 working days of the appointment of a new secretary, the secretary of the appropriate licensing committee is told the name of the new secretary; and
- (c) all proceeds from the sale of alcohol belong to the club.

Compare: 1989 No 63 s 60(1)

## **62 No bring-your-own alcohol in clubs**

The holder of a club licence must ensure that, while the premises are open for the sale or supply of alcohol, no person consumes on the premises any alcohol not sold or supplied on the premises by the licensee.

### *Requirements imposed as conditions*

## **63 Requirements and restrictions imposed as conditions**

The holder of a licence must comply with every condition subject to which it has been issued or renewed.

### *Miscellaneous licensing provisions*

## **64 Issue of licences, certificates, and authorities**

- (1) As soon after the licensing authority or a licensing committee has directed that a licence, certificate, or authority should be issued as its secretary is satisfied that all requirements imposed by the authority or committee as a condition of its issue have been met, he or she must issue the licence, certificate, or authority (endorsed, where appropriate, as the authority or committee has directed) to the applicant.
- (2) Even if the licensing authority or a licensing committee has directed that a licence should be issued for any premises, the premises are not licensed premises until the licence has been issued.

Compare: 1989 No 63 s 114

## **65 Secretary of authority to set up and maintain registers**

- (1) The secretary of the licensing authority must set up and maintain one or more registers recording all prescribed particulars relating to licences and managers' certificates, and to applications for or in respect of them.
- (2) Any member of the public may, on payment of the prescribed fee, obtain from the secretary of the licensing authority an extract from a register.

Compare: 1989 No 63 s 220

## **66 Record of applications**

- (1) The secretary of each licensing committee must keep—
  - (a) a record of every application filed with the licensing committee and the decision on the application; and

- (b) a register of licensees to whom special licences have been issued by the committee, recording all prescribed particulars relating to those licences.
- (2) Any member of the public may, on payment of the prescribed fee, obtain from the secretary of the licensing committee an extract from any record or register kept under this section.
- (3) The secretary of each licensing committee must send to the secretary of the licensing authority a copy of every application made to the committee, and a copy of every decision made by it.

Compare: 1989 No 63 s 221

#### **67 Certified extracts to be evidence**

An extract of any register or record kept by the secretary of the licensing authority or by the secretary of a licensing committee, and certified as such by the secretary, is evidence of the matters stated in the extract.

Compare: 1989 No 63 s 222

#### **68 Licensees and managers to have address for service**

- (1) Every licensee and every manager must notify an address for service to the secretary of the licensing authority promptly after adopting a new address for service.
- (2) A licensee's or manager's last known address for service is a sufficient address for service under this section until a new address for service is notified under subsection (1).
- (3) A notice or other document required by this Act to be served on a licensee or manager (the **recipient**) may be—
  - (a) sent by post to the recipient's address for service; or
  - (b) left at the recipient's address for service; or
  - (c) given to the recipient.
- (4) Unless the contrary is proved, the notice or other document—
  - (a) is to be treated as having been served when it would in the ordinary course of post have been delivered, if it is proved that it was addressed to the recipient at the recipient's address for service, and dispatched by post; and
  - (b) is to be treated as having been served when it was left at the recipient's address for service, if it is proved that it was addressed to the recipient at the recipient's address for service and left at that address.

Compare: 1989 No 63 s 223

**69 Notification of licensing authority by company of changes in company shareholding or name**

- (1) A company that holds a licence and is not a party to a listing agreement with a stock exchange must notify the secretary of the licensing authority of any change in—
  - (a) the shareholding of the company; or
  - (b) the directors of the company.
- (2) A company that holds a licence and is a party to a listing agreement with a stock exchange must notify the secretary of the licensing authority of any change in—
  - (a) the shareholding of the company whereby any person becomes the holder of at least 20% of the shares, or of any particular class of the shares, issued by the company, if that person did not hold at least 20% of the shares or of that class of the shares when the licence was issued to the company; and
  - (b) the directors of the company.
- (3) Any notice required by subsection (1) or (2) must be given within 10 working days after the board of the company becomes aware of the change to which it relates.
- (4) Where a company that holds a licence changes its name, it must notify the secretary of the licensing authority of the change within 10 working days after the change.
- (5) If a company fails to comply with any of subsections (1) to (4), every director of the company commits an offence and is liable on conviction to a fine not exceeding \$10,000.
- (6) It is a defence to a director charged with an offence against this section relating to a failure to comply with one of its provisions if he or she proves that—
  - (a) the company took all reasonable and proper steps to ensure that the provision concerned would be complied with; or
  - (b) he or she took all reasonable and proper steps to ensure that the company complied with the provision; or
  - (c) in the circumstances he or she could not reasonably have been expected to take steps to ensure that the company complied with the provision.
- (7) In this section, **stock exchange** has the same meaning as in section 2(1) of the Companies Act 1993.

Compare: 1989 No 63 s 225

Section 69(7): inserted, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

**70 Notification of licensing authority by beneficial owner of shares of changes in shareholding**

- (1) Any person on whose behalf any shares are held by any other person in any company that holds a licence must notify the secretary of the licensing authority if, after the licence is issued to the company, the number of shares held changes so that the shareholding reaches at least 20% of the shares, or of any particular class of the shares, issued by the company.
- (2) The notice must be given within 10 working days after the person required to give it becomes aware that the number of shares has reached at least 20% of the shares, or of any particular class of the shares, issued by the company.
- (3) If a person required to give a notice under subsection (1) fails to comply with subsection (1) or (2), he or she commits an offence and is liable on conviction to a fine not exceeding \$10,000.

Compare: 1989 No 63 s 225A

**71 Notification of Police**

- (1) On receiving any notice under section 69 or 70, the secretary of the licensing authority must send a copy of it to—
  - (a) the constable in charge of the police station nearest to—
    - (i) the premises for which the licence is held by the company; or
    - (ii) the secretary's office, where the licence is held by the company for a conveyance; and
  - (b) an inspector.
- (2) Despite anything in this Act, on receipt of a copy of any notice under subsection (1), any constable or any inspector may apply to the licensing authority for the cancellation of the licence on the ground that, by virtue of the change to which the notice relates, the company is no longer suitable as the holder of the licence.
- (3) The provisions of section 280, with any necessary modifications, apply to any application under subsection (2).

Compare: 1989 No 63 s 225B

**72 Duplicate licence or certificate**

If the secretary of the licensing authority or a licensing committee is satisfied that any licence or manager's certificate issued by the licensing authority or licensing committee has been lost or destroyed, the secretary may issue a duplicate licence or certificate to the holder.

Compare: 1989 No 63 s 226

**73 Surrender of licence or manager's certificate**

- (1) The holder of a licence or manager's certificate may at any time surrender it by—

- (a) notifying the secretary of the licensing committee of its surrender; and
  - (b) sending it to the secretary.
- (2) The licence or certificate ceases to have effect from the day the secretary receives it; and the secretary must—
- (a) notify the secretary of the licensing authority that the licence or certificate was surrendered on that day; and
  - (b) record—
    - (i) the day on which he or she was notified of the surrender; and
    - (ii) the day on which the licence or certificate was received.
- (3) The licensee or person surrendering his or her manager's certificate is entitled to a proportionate refund of any fee paid for the licence or certificate, ascertained by—
- (a) deducting from the amount of the fee the cost of processing the application for it or granting it; and
  - (b) calculating the proportion of the remainder that relates to the period for which the licence or certificate would have had effect if it had not been surrendered.
- (4) The surrender of a licence or manager's certificate does not affect the licensee's or the manager's liability—
- (a) to perform any obligation required to be performed by the licensee or manager by or under this Act before the date on which the licence or the manager's certificate ceases to have effect; or
  - (b) for any act done or default made before that date.

Compare: 1989 No 63 s 227

#### **74 Temporary licence during repairs, etc**

- (1) The appropriate licensing committee may authorise a licensee to sell alcohol pursuant to the licence on or from premises other than the licensed premises concerned for any period it from time to time determines where—
- (a) the licensed premises are unfit for the sale of alcohol because of a fire, storm, earthquake, or other unforeseen event; or
  - (b) the licensed premises are or will become unfit for the sale of alcohol because of their repair, alteration, or rebuilding, or the building of additions to them; or
  - (c) any other circumstances have arisen or will arise (in respect of the premises) that prevent or will prevent the sale of alcohol on the licensed premises.
- (2) While an authority under subsection (1) is in force, this Act has effect as if—
- (a) the licensed premises concerned were not licensed premises; and

- (b) the other premises were the licensed premises to which the licence concerned relates.

## Subpart 2—Local alcohol policies

### **75 Territorial authorities may have local alcohol policies**

- (1) Any territorial authority may have a policy relating to the sale, supply, or consumption of alcohol within its district (or to 2 or all of those matters).
- (2) A local alcohol policy—
  - (a) may provide differently for different parts of its district; and
  - (b) may apply to only part (or 2 or more parts) of its district; and
  - (c) may apply differently to premises for which licences of different kinds are held or have been applied for.
- (3) A local alcohol policy must be produced, adopted, and brought into force, in accordance with this subpart.
- (4) No territorial authority is required to have a local alcohol policy.

### **76 Territorial authorities may adopt joint local alcohol policy**

Two or more territorial authorities may adopt a single local alcohol policy for their districts; and in that case this subpart applies as if they were a single territorial authority with a single district.

### **77 Contents of policies**

- (1) A local alcohol policy may include policies on any or all of the following matters relating to licensing (and no others):
  - (a) location of licensed premises by reference to broad areas:
  - (b) location of licensed premises by reference to proximity to premises of a particular kind or kinds:
  - (c) location of licensed premises by reference to proximity to facilities of a particular kind or kinds:
  - (d) whether further licences (or licences of a particular kind or kinds) should be issued for premises in the district concerned, or any stated part of the district:
  - (e) maximum trading hours:
  - (f) the issue of licences, or licences of a particular kind or kinds, subject to discretionary conditions:
  - (g) one-way door restrictions.
- (2) Paragraphs (a) to (d) of subsection (1) do not apply to special licences, or premises for which a special licence is held or has been applied for.

- (3) A local alcohol policy must not include policies on any matter not relating to licensing.

**78 Territorial authorities must produce draft policy**

- (1) A territorial authority that wishes to have a local alcohol policy must produce a draft policy.
- (2) When producing a draft policy, a territorial authority must have regard to—
- (a) the objectives and policies of the relevant plan under the Natural and Built Environment Act 2023; and
  - (b) the number of licences of each kind held for premises in its district, and the location and opening hours of each of the premises; and
  - (c) any areas in which bylaws prohibiting alcohol in public places are in force; and
  - (d) the demography of the district’s residents; and
  - (e) the demography of people who visit the district as tourists or holiday-makers; and
  - (f) the overall health indicators of the district’s residents; and
  - (g) the nature and severity of the alcohol-related problems arising in the district.
- (3) For the purposes of subsection (2), a district’s residents include people who have holiday homes there.
- (4) The authority must not produce a draft policy without having consulted the Police, inspectors, and Medical Officers of Health, each of whom must, if asked by the authority to do so, make reasonable efforts to give the authority any information they hold relating to any of the matters stated in subsection (2)(c) to (g).

Section 78(2)(a): amended, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

**79 Territorial authority must produce provisional policy by consulting on draft policy using special consultative procedure**

- (1) If, after producing a draft policy under section 78, a territorial authority continues to wish to have a local alcohol policy, it must produce a provisional policy by using the special consultative procedure to consult on the draft policy.
- (2) When producing a provisional policy, a territorial authority must have regard to the matters stated in section 78(2).



**80 Territorial authority wishing to adopt provisional policy must give public notice**

- (1) If, after producing a provisional policy under section 79, a territorial authority continues to wish to have a local alcohol policy, it must then give public notice of—
  - (a) the provisional policy; and
  - (b) rights of appeal against it; and
  - (c) the ground on which an appeal may be made.
- (2) The public notice must be given in accordance with regulations made under this Act.

**81 Right of appeal to licensing authority**

- (1) A person or an agency that made submissions as part of the special consultative procedure on a draft local alcohol policy may, within 30 days of the public notification of the resulting provisional local alcohol policy, appeal to the licensing authority against any element of that provisional local alcohol policy.
- (2) The Police or a Medical Officer of Health may, within 30 days of the public notification of the resulting provisional local alcohol policy, appeal to the licensing authority against any element of that provisional local alcohol policy.
- (3) Except as provided in subsection (2), a person or agency that did not make submissions as part of the special consultative procedure on a draft local alcohol policy cannot appeal against any element of the resulting provisional local alcohol policy.
- (4) The only ground on which an element of the provisional policy can be appealed against is that it is unreasonable in the light of the object of this Act.
- (5) The appeal must be made in accordance with regulations made under this Act.
- (6) The territorial authority concerned is the respondent in an appeal under this section.

Section 81(1): replaced, on 26 March 2015, by section 4 of the Sale and Supply of Alcohol Amendment Act 2015 (2015 No 33).

Section 81(2): replaced, on 26 March 2015, by section 4 of the Sale and Supply of Alcohol Amendment Act 2015 (2015 No 33).

**82 Appeals to be dealt with in public**

The licensing authority must deal with every appeal under section 81 by way of public hearing (but may consider, and come to its decisions, in private).

**83 Consideration of appeals by licensing authority**

- (1) The licensing authority must dismiss an appeal against an element of a provisional local alcohol policy if it—
  - (a) is not satisfied that the element is unreasonable in the light of the object of this Act; or

- (b) is satisfied that the appellant did not make submissions as part of the special consultative procedure on the draft local alcohol policy concerned.
- (2) The licensing authority must ask the territorial authority concerned to reconsider an element of a provisional local alcohol policy appealed against if it is satisfied that—
  - (a) the appellant made submissions as part of the special consultative procedure on the draft local alcohol policy concerned; and
  - (b) the element is unreasonable in the light of the object of this Act.
- (3) The licensing authority must notify the appellant and territorial authority of its decision.
- (4) The appellant has no right of appeal against the decision of the licensing authority.
- (5) Subsection (4) does not limit or affect the Judicial Review Procedure Act 2016.  
Section 83(2): amended, on 26 March 2015, by section 5 of the Sale and Supply of Alcohol Amendment Act 2015 (2015 No 33).  
Section 83(5): amended, on 1 March 2017, by section 24 of the Judicial Review Procedure Act 2016 (2016 No 50).

#### **84 Actions territorial authority may take if asked to reconsider element of provisional policy**

- (1) If the licensing authority asks a territorial authority to reconsider an element of a provisional local alcohol policy, the territorial authority must—
  - (a) resubmit the policy to the licensing authority with the element deleted; or
  - (b) resubmit the policy to the licensing authority with the element replaced with a new or amended element; or
  - (c) appeal to the High Court against the licensing authority’s finding that the element is unreasonable in the light of the object of this Act; or
  - (d) abandon the provisional policy.
- (2) In an appeal to the High Court against the licensing authority’s finding that an element of a provisional local alcohol policy is unreasonable in the light of the object of this Act, every person who appealed to the licensing authority against the element is a respondent.

#### **85 Effect of High Court decisions on appeal by territorial authority**

- (1) If the High Court overturns the licensing authority’s finding that an element of a provisional local alcohol policy is unreasonable in the light of the object of this Act, the element stands as part of the policy.

- (2) If the High Court upholds the licensing authority's finding that an element of a provisional local alcohol policy is unreasonable in the light of the object of this Act, the territorial authority must—
  - (a) resubmit the policy to the licensing authority with the element deleted; or
  - (b) resubmit the policy to the licensing authority with the element replaced with a new or amended element; or
  - (c) abandon the provisional policy.

**86 Effect of resubmission of provisional policy to licensing authority**

- (1) The licensing authority must deal with the resubmission of a provisional local alcohol policy under section 84(1)(b) or 85(2)(b) as if it were an appeal against every new or amended element that has replaced an earlier element appealed against; and sections 81 to 85 apply accordingly.
- (2) The licensing authority may deal with all or any part of the resubmission in private.
- (3) Subsection (2) overrides subsection (1) and section 82.

**87 When local alcohol policy adopted**

- (1) If no appeal against any element of a provisional local alcohol policy is made earlier, the policy is adopted 30 days after its public notification.
- (2) If appeals against elements of a provisional local alcohol policy have been made but they have all been dismissed by the licensing authority, the policy is adopted 30 days after the last of them is dismissed.
- (3) If a provisional local alcohol policy has been resubmitted to the licensing authority under section 84(1)(b) or 85(2)(b) and the licensing authority decides that it is satisfied that every element it asked the territorial authority to reconsider (other than an element in respect of which the High Court has overturned the licensing authority's finding that it is unreasonable in the light of the object of this Act) has been either deleted or replaced by a new or amended element that is not unreasonable in the light of the object of this Act, the resubmitted policy is adopted when the licensing authority makes its decision.
- (4) If the High Court has overturned every finding of the licensing authority that an element of a provisional local alcohol policy is unreasonable in the light of the object of this Act, the policy is adopted when the High Court makes its decision.
- (5) A provisional local alcohol policy ceases to be provisional when it is adopted.
- (6) Even after it has been adopted, a local alcohol policy or amendment of a local alcohol policy has no effect until it is brought into force.

**88 Territorial authority may discontinue development of local alcohol policy**

- (1) A territorial authority may at any time before the adoption of a local alcohol policy discontinue its development.
- (2) Subsection (1) overrides section 87(1) to (4).

**89 Disallowance of local alcohol policy**

- (1) Once a provisional local alcohol policy has been adopted and ceased to be provisional,—
  - (a) any elements of it relating to maximum trading hours or a one-way-door policy must be treated as secondary legislation under section 161A(2) of the Local Government Act 2002; and subpart 2 of Part 5 of the Legislation Act 2019 (which relates to disallowance) applies accordingly; but
  - (b) the rest of it must be treated as not being secondary legislation within the meaning of that Act.
- (2) The disallowance under the Legislation Act 2019 of an element of a local alcohol policy (or of a local alcohol policy that has been brought into force) does not affect the rest of the policy.
- (3) Subsections (1) and (2) apply to any element of an amendment of a local alcohol policy relating to maximum trading hours or a one-way-door policy (whether an amendment of an existing element relating to one of those matters or the insertion of a new or substituted element relating to one of those matters) as if the adoption of the amendment were the adoption of a new policy.

Section 89(1)(a): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 89(1)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 89(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

**90 When local alcohol policy is in force**

- (1) Once a provisional local alcohol policy has been adopted and ceased to be provisional, the territorial authority concerned—
  - (a) must give public notice of its adoption; and
  - (b) may then bring it into force on a day stated by resolution.
- (2) If subsection (6) applies to a local alcohol policy (or an amendment of a local alcohol policy),—
  - (a) the element or elements (or modification or modifications) by virtue of which that subsection applies must not be brought into effect under subsection (1)(b) on a day earlier than the day 3 months after the day on which public notice of its adoption was given; but
  - (b) the rest of the policy or amendment may be brought into effect under subsection (1)(b) on any day stated by resolution.

- (3) Subsection (2) overrides subsection (1).
- (4) Regulations prescribing the manner in which public notice of the adoption of a local alcohol policy must be given may require publication of the whole of a local alcohol policy adopted (or, in the case of an amendment of a local alcohol policy, the whole of the policy as amended).
- (5) Promptly after adopting a local alcohol policy or an amendment of a local alcohol policy to which subsection (6) applies, the territorial authority must take all reasonably practicable steps to give licensees affected by an element by virtue of which the subsection applies written notice of the adoption of the policy or amendment, and a brief written description of the effect of the element.
- (6) This subsection—
  - (a) applies to a local alcohol policy if—
    - (i) it contains an element having the effect of stating maximum trading hours for licensed premises, or licensed premises of any kind, that differ from those applying previously; or
    - (ii) it contains an element having the effect of stating a new one-way door restriction for licensed premises, or licensed premises of any kind; and
  - (b) applies to an amendment of a local alcohol policy if—
    - (i) it modifies (in such a way as to change the maximum trading hours stated for licensed premises, or licensed premises of any kind) an element having the effect of stating maximum trading hours for licensed premises; or
    - (ii) it modifies (in such a way as to change the one-way door restriction stated for licensed premises, or licensed premises of any kind) an element having the effect of stating a one-way door restriction for licensed premises.

#### **91 Licensing authority to be given copy of local alcohol policy**

- (1) Promptly after a local alcohol policy has been brought into force, the territorial authority concerned must give the licensing authority a copy.
- (2) Promptly after an amendment of a local alcohol policy has been brought into force, the territorial authority concerned must give the licensing authority a copy of the amendment, or of the policy as amended.
- (3) Promptly after the revocation of a local alcohol policy takes effect, the territorial authority concerned must notify the licensing authority that it has been revoked.

#### **92 Licensing authority to keep register of local alcohol policies**

- (1) The secretary of the licensing authority must keep a register of local alcohol policies in force (reflecting all amendments notified under section 91(2)).

- (2) Any member of the public may, on payment of any prescribed fee, obtain an extract from the register from the secretary.

### **93 Relationship of local alcohol policies and plans under Natural and Built Environment Act 2023**

- (1) A local alcohol policy may contain a policy more restrictive than the relevant plan under the Natural and Built Environment Act 2023.
- (2) A local alcohol policy does not authorise any thing forbidden by the relevant plan under the Natural and Built Environment Act 2023.

Section 93 heading: amended, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

Section 93(1): amended, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

Section 93(2): amended, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

### **94 Local alcohol policies to be consistent with general law**

- (1) A local alcohol policy must be consistent with this Act and the general law.
- (2) Subsection (1) is subject to section 93(1).

### **95 Amendment of local alcohol policies**

- (1) A territorial authority may amend its local alcohol policy.
- (2) This Act, with any necessary modifications, applies to the amendment of a local alcohol policy as if it were the adoption of a local alcohol policy.

### **96 Revocation of local alcohol policies**

- (1) A territorial authority may, by using the special consultative procedure,—
- (a) revoke its local alcohol policy, and adopt another in its place; or
  - (b) revoke its local alcohol policy without adopting another in its place.
- (2) This Act, with any necessary modifications, applies to the revocation of a local alcohol policy and adoption of another in its place as if it were the adoption of a local alcohol policy.

### **97 Local alcohol policies to be reviewed every 6 years**

A territorial authority that has a local alcohol policy must review it, using the special consultative procedure,—

- (a) no later than 6 years after it came into force; and
- (b) no later than 6 years after the most recent review of it was completed.

### Subpart 3—Licensing process: on-licences, off-licences, and club licences

#### **98 Licences to which subpart applies**

This subpart applies only to on-licences, off-licences, and club licences.

#### *Applications for licences*

#### **99 Applications to be made to licensing committee**

- (1) An application for a licence must be filed with the licensing committee for the district in which the premises concerned are situated, unless it is an application for an on-licence for a conveyance.
- (2) An application for an on-licence for a conveyance must be filed with the licensing committee for the district in which the applicant's principal place of business in New Zealand is situated.

#### **100 Form of application**

An application for a licence—

- (a) must be made in the name of the person or club who will hold it if the application is granted; and
- (b) must be made in the prescribed form and manner; and
- (c) must contain the prescribed particulars; and
- (d) if it relates to any premises, must be accompanied by a statement by the applicant that—
  - (i) the owner of the building in which the premises are situated provides and maintains an evacuation scheme as required by section 76 of the Fire and Emergency New Zealand Act 2017; or
  - (ii) because of the building's current use, its owner is not required to provide and maintain such a scheme; or
  - (iii) because of the nature of the building, its owner is exempt from the requirement to provide and maintain such a scheme; and
- (e) must be accompanied by the prescribed fee; and
- (f) except in the case of an application relating to a conveyance, must be accompanied by a certificate by the territorial authority that the proposed use of the premises meets requirements of the Natural and Built Environment Act 2023 and of the building code.

Section 100(d)(i): amended, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

Section 100(f): amended, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

**101 Notification requirements**

An applicant for a licence must,—

- (a) within 10 working days after filing the application, ensure that notice of the application in the prescribed form is attached in a conspicuous place on or adjacent to the site to which the application relates; and
- (b) within 20 working days after filing the application, give public notice of the application.

**102 Objections to applications**

- (1) A person may object to the grant of a licence only if he or she has a greater interest in the application for the licence than the public generally.
- (2) An objection must be in writing and filed with the licensing committee within 15 working days after the first publication of the public notice of the making of the application.
- (3) No objection may be made in relation to a matter other than a matter specified in section 105.
- (4) This subsection applies to an application—
  - (a) for a licence for premises that is of the same kind as the licence currently in force for those premises; and
  - (b) in which the conditions sought are the same as apply to that licence.
- (4A) In the case of an application to which subsection (4) applies, the ground for an objection may not relate to any matter other than the suitability of the applicant.
- (5) The secretary of the licensing committee concerned must give a copy of every objection to the applicant.

Section 102(1): amended, on 17 December 2016, by section 88 of the Statutes Amendment Act 2016 (2016 No 104).

Section 102(4): replaced, on 26 March 2015, by section 6 of the Sale and Supply of Alcohol Amendment Act 2015 (2015 No 33).

Section 102(4A): inserted, on 26 March 2015, by section 6 of the Sale and Supply of Alcohol Amendment Act 2015 (2015 No 33).

**103 Police, Medical Officer of Health, and inspector must inquire into applications**

- (1) On receiving an application for a licence, the secretary of the licensing committee concerned must send a copy of it, and of each document filed with it, to—
  - (a) the constable in charge of the police station nearest to—
    - (i) the premises for which the licence is sought; or
    - (ii) the secretary's office, where the licence is sought for a conveyance; and



- (b) an inspector; and
- (c) the Medical Officer of Health—
  - (i) in whose district the premises are situated; or
  - (ii) in whose district the applicant's principal place of business in New Zealand is situated, where the licence is sought for a conveyance.
- (2) The inspector must inquire into, and file with the licensing committee a report on, the application.
- (3) The Police and the Medical Officer of Health—
  - (a) must each inquire into the application; and
  - (b) if either has any matters in opposition to it, must file with the licensing committee a report on it within 15 working days after receiving the copy of it.
- (4) The licensing committee may assume that, if no report is received from the Police or Medical Officer of Health within 15 working days after the Police or Medical Officer of Health received the copy of the application, the Police or Medical Officer of Health does not oppose the application.
- (5) The secretary must send to the applicant a copy of any report filed with the licensing committee under this section.

Section 103(4): amended, on 17 December 2016, by section 89 of the Statutes Amendment Act 2016 (2016 No 104).

#### **104 Who decides application for licence**

- (1) A licensing committee may decide any application for a licence.
- (2) With the leave of the chairperson of the licensing authority, a licensing committee may refer an application for a licence to the authority for decision.
- (3) The licensing committee must give the licensing authority the complete file relating to any application for a licence to be decided by the authority. The **complete file** means—
  - (a) the application and any papers filed in support of it; and
  - (b) a copy of the public notice of the application, and a statement of the dates of publication of the notice; and
  - (c) any objection, and any papers filed in support of it; and
  - (d) any reports made under section 103; and
  - (e) the certificate referred to in section 100(f).

#### **105 Criteria for issue of licences**

- (1) In deciding whether to issue a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:
  - (a) the object of this Act:

- (b) the suitability of the applicant:
  - (c) any relevant local alcohol policy:
  - (d) the days on which and the hours during which the applicant proposes to sell alcohol:
  - (e) the design and layout of any proposed premises:
  - (f) whether the applicant is engaged in, or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods:
  - (g) whether the applicant is engaged in, or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services:
  - (h) whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the licence:
  - (i) whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that—
    - (i) they would be unlikely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects of the issue of the licence; but
    - (ii) it is nevertheless desirable not to issue any further licences:
  - (j) whether the applicant has appropriate systems, staff, and training to comply with the law:
  - (k) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under section 103.
- (2) The authority or committee must not take into account any prejudicial effect that the issue of the licence may have on the business conducted pursuant to any other licence.

**106 Considering effects of issue or renewal of licence on amenity and good order of locality**

- (1) In forming for the purposes of section 105(1)(h) an opinion on whether the amenity and good order of a locality would be likely to be reduced, by more than a minor extent, by the effects of the issue of a licence, the licensing authority or a licensing committee must have regard to—
- (a) the following matters (as they relate to the locality):
    - (i) current, and possible future, noise levels:
    - (ii) current, and possible future, levels of nuisance and vandalism:

- (iii) the number of premises for which licences of the kind concerned are already held; and
  - (b) the extent to which the following purposes are compatible:
    - (i) the purposes for which land near the premises concerned is used:
    - (ii) the purposes for which those premises will be used if the licence is issued.
- (2) In forming for the purposes of section 131(1)(b) an opinion on whether the amenity and good order of a locality would be likely to be increased, by more than a minor extent, by the effects of a refusal to renew a licence, the licensing authority or a licensing committee must have regard to the following matters (as they relate to the locality):
- (a) current, and possible future, noise levels:
  - (b) current, and possible future, levels of nuisance and vandalism.

**107 Authority or committee may refuse licence even if application not opposed**

The licensing authority or licensing committee concerned may, having regard to any matter stated in section 105, refuse to issue a licence, even if no objection was filed against the application for it under section 102 and no report was filed under section 103 opposing that application.

**108 Licence may be refused if contrary to local alcohol policy**

The licensing authority or licensing committee concerned may refuse to issue a licence if—

- (a) there is any relevant local alcohol policy; and
- (b) in its opinion, the issue of the licence, or the consequences of the issue of the licence, would be inconsistent with the policy.

**109 Conditions may be imposed if required by local alcohol policy**

The licensing authority or licensing committee concerned may issue a licence subject to particular conditions if—

- (a) there is any relevant local alcohol policy; and
- (b) in its opinion, the issuing of the licence, or the consequences of the issuing of the licence, without those conditions would be inconsistent with the policy.

**110 Particular conditions: on-licences and club licences**

- (1) The licensing authority or licensing committee concerned may issue an on-licence or club licence subject to conditions of any or all of the following kinds:

- (a) conditions prescribing steps to be taken by the licensee to ensure that the provisions of this Act relating to the sale or supply of alcohol to prohibited persons are observed:
  - (b) conditions prescribing steps to be taken by the licensee to ensure that the provisions of this Act relating to the management of the premises concerned are observed:
  - (c) conditions prescribing the people or kinds of person to whom alcohol may be sold or supplied:
  - (d) conditions imposing one-way door restrictions:
  - (e) in the case of a club licence or an on-licence endorsed under section 37, conditions requiring a manager to be on duty.
- (2) The licensing authority or licensing committee concerned must ensure that every on-licence and club licence it issues is issued subject to conditions—
- (a) stating the days on which and the hours during which alcohol may be sold and supplied; and
  - (b) if there are in force regulations under this Act empowering the authority or committee to determine different levels of licensing fee prescribed by the regulations for premises of different kinds, stating the fees payable for the licensing of the premises concerned; and
  - (c) stating (directly or by description) a place or places on the premises at which drinking water is to be freely available to customers while the premises are open for business.
- (3) In deciding the conditions under subsection (2)(a) subject to which a licence is to be issued, the licensing authority or licensing committee concerned may have regard to the site of the premises in relation to neighbouring land use.
- (4) Subsection (1)(c) is subject to the Human Rights Act 1993.

### **111 Imposition of one-way door restrictions by condition**

- (1) A condition imposing one-way door restriction on a licence may be created simply by issuing or renewing the licence subject to a condition—
- (a) stating that the licence is subject to a one-way door restriction; and
  - (b) stating the day or days on which and the periods when the restriction applies.
- (2) To the extent (if any) that elements of a one-way door restriction imposed on a licence are more restrictive than the equivalent elements of an applicable one-way door restriction in a relevant local alcohol policy, the more restrictive elements prevail.

**112 Compulsory conditions relating to display and promotion of alcohol in single area in supermarkets and grocery stores**

- (1) The purpose of this section and sections 113 and 114 is to limit (so far as is reasonably practicable) the exposure of shoppers in supermarkets and grocery stores to displays and promotions of alcohol, and advertisements for alcohol.
- (2) The licensing authority or licensing committee concerned must ensure that, when it issues or renews an off-licence for premises that are a supermarket or grocery store, it imposes on the licence a condition describing one area within the premises as a permitted area for the display and promotion of alcohol.
- (3) On the renewal of an off-licence for premises that are a supermarket or grocery store, any single-area condition imposed when the licence was issued (or was last renewed) expires.
- (4) Subsection (3) is subject to section 115(4).

**113 Describing alcohol areas**

- (1) The licensing authority or licensing committee concerned must have regard to section 112(1)—
  - (a) when describing an alcohol area; and
  - (b) when taking any other action under this section; and
  - (c) when forming any opinion for the purposes of this section.
- (2) An alcohol area must be described by means of a plan of the footprint of the premises concerned (or, in the case of premises on more than one level, a plan of the footprint of the level on which the area is or is to be located) showing—
  - (a) the proposed configuration and arrangement (or, in the case of the renewal of a licence, the existing or any proposed new configuration and arrangement) of the premises or level; and
  - (b) the perimeter of the area.
- (3) The area may be so described that it is divided into 2 or 3 sub-areas; and in that case,—
  - (a) the perimeter of each sub-area must be separately described; and
  - (b) the licensing authority or licensing committee concerned must designate one sub-area as the core area and one sub-area as the secondary area, and (if the area is divided into 3 sub-areas) must designate one sub-area as the overflow area.
- (4) The perimeter of the area or any sub-area may pass through the proposed locations (or, in the case of the renewal of a licence, any existing or proposed new locations) of any display units.
- (5) The authority or committee must describe an alcohol area within the premises only if, in its opinion,—
  - (a) it is a single area; and

- (b) the premises are (or will be) so configured and arranged that the area does not contain any part of (or all of)—
  - (i) any area of the premises through which the most direct pedestrian route between any entrance to the premises and the main body of the premises passes; or
  - (ii) any area of the premises through which the most direct pedestrian route between the main body of the premises and any general point of sale passes.
- (6) For the purposes of this section and section 114, **general point of sale** means anything that is—
  - (a) a checkout, till, or cashbox where goods other than alcohol (or alcohol and goods other than alcohol) may be bought; or
  - (b) a device by which goods other than alcohol (or alcohol and goods other than alcohol) may be paid for without the involvement of any person other than the buyer.

#### 114 Effect of single-area conditions

- (1) Every single-area condition takes effect as a condition that the licensee of the premises concerned must ensure that—
  - (a) no display or promotion of, or advertisement for, alcohol occurs on the premises at any place outside the alcohol area; and
  - (b) the premises are not reconfigured or rearranged in a way whose effect (whether intentional or not) is that the alcohol area contains—
    - (i) any area of the premises through which the most direct pedestrian route between any entrance to the premises and the main body of the premises passes; or
    - (ii) any area of the premises through which the most direct pedestrian route between the main body of the premises and any general point of sale passes.
- (2) If the alcohol area has not been so described that it is divided into 2 or 3 sub-areas, a single-area condition also takes effect as a condition that the licensee of the premises concerned must ensure that no display or promotion of, or advertisement for, a product that is not alcohol occurs on the premises at any place inside the alcohol area.
- (3) If the alcohol area has been so described that it is divided into 2 sub-areas, a single-area condition also takes effect as a condition that the licensee of the premises concerned must ensure that—
  - (a) no display or promotion of, or advertisement for, a product that is not alcohol occurs on the premises at any place inside the sub-area designated as the core sub-area; and

- (b) no display or promotion of, or advertisement for, a product that is not alcohol occurs on the premises at any place inside the sub-area designated as the secondary sub-area unless it occurs at a time when no display or promotion of, or advertisement for, alcohol is occurring inside that sub-area.
- (4) If the alcohol area has been so described that it is divided into 3 sub-areas, a single-area condition also takes effect as a condition that the licensee of the premises concerned must ensure that—
  - (a) no display or promotion of, or advertisement for, a product that is not alcohol occurs on the premises at any place inside the sub-area designated as the core sub-area; and
  - (b) no display or promotion of, or advertisement for, a product that is not alcohol occurs on the premises at any place inside the sub-area designated as the secondary sub-area unless it occurs at a time when—
    - (i) no display or promotion of, or advertisement for, alcohol is occurring inside that sub-area; and
    - (ii) no display or promotion of, or advertisement for, alcohol is occurring inside the sub-area designated as the overflow sub-area; and
  - (c) no display or promotion of, or advertisement for, a product that is not alcohol occurs on the premises at any place inside the sub-area designated as the overflow sub-area unless it occurs at a time when no display or promotion of, or advertisement for, alcohol is occurring inside that sub-area.
- (4A) The effect of a single-area condition set out in subsections (1) to (4) does not apply in relation to the display or promotion of, or the advertisement for, low-alcohol or non-alcoholic beer, wine, or mead.
- (5) For the purposes of this section,—
  - (a) neither of the following is a promotion of alcohol:
    - (i) a sign (consistent with other general signage in the supermarket or grocery store concerned) giving directions to, or describing the location of, an area where alcohol is available for purchase;
    - (ii) a newspaper, magazine, or catalogue containing a promotion of or advertisement for alcohol; and
  - (b) **described** means described under section 113; and
  - (c) **designated** means designated under section 113(3)(b); and
  - (d) **low-alcohol or non-alcoholic beer, wine, or mead** means a product that is specified in section 58(1)(a) to (d) but that is not alcohol.

Section 114(4A): inserted, on 13 December 2016, by section 6(1) of the Sale and Supply of Alcohol (Display of Low-alcohol Beverages and Other Remedial Matters) Amendment Act 2016 (2016 No 101).

Section 114(5)(c): amended, on 13 December 2016, by section 6(2) of the Sale and Supply of Alcohol (Display of Low-alcohol Beverages and Other Remedial Matters) Amendment Act 2016 (2016 No 101).

Section 114(5)(d): inserted, on 13 December 2016, by section 6(3) of the Sale and Supply of Alcohol (Display of Low-alcohol Beverages and Other Remedial Matters) Amendment Act 2016 (2016 No 101).

### **115 Application of single-area conditions can be delayed for some renewals**

- (1) In this section, **new single-area condition** means a single-area condition—
  - (a) that is imposed on the renewal of an off-licence that is not subject to a single-area condition; or
  - (b) that—
    - (i) is imposed on the renewal of an off-licence that is subject to a single-area condition; but
    - (ii) is (in the opinion of the licensing authority or licensing committee concerned) materially different from that condition.
- (2) When imposing a new single-area condition, the licensing authority or licensing committee concerned may state a period (not exceeding 18 months) from the day on which the renewal concerned takes effect during which the condition will not apply.
- (3) The period stated must be no longer than (in the opinion of the licensing authority or licensing committee concerned) is reasonably necessary to enable the licensee to configure the premises concerned so that the new single-area condition can be complied with.
- (4) When stating a period under subsection (2), the licensing authority or licensing committee concerned may state any other conditions (being conditions the authority or committee thinks reasonable) to apply while the new single-area condition does not apply.
- (5) Until the new single-area condition applies, the other conditions take effect as conditions imposed under section 117 or 132.
- (6) If the licensing authority or licensing committee concerned does not state a period under subsection (2) on renewing an off-licence subject to a new single-area condition, the new condition applies as soon as the renewal takes effect.

### **116 Particular discretionary conditions, and other compulsory conditions: off-licences**

- (1) The licensing authority or licensing committee concerned may issue an off-licence subject to conditions of any or all of the following kinds:



- (a) conditions prescribing steps to be taken by the licensee to ensure that the provisions of this Act relating to the sale of alcohol to prohibited persons are observed;
  - (b) conditions prescribing the people or kinds of person to whom alcohol may be sold or supplied;
  - (c) in the case of premises where (in the opinion of the authority or committee) the principal business carried on is not the manufacture or sale of alcohol, conditions relating to the kind or kinds of alcohol that may be sold or delivered on or from the premises.
- (2) The licensing authority or licensing committee concerned must ensure that every off-licence it issues is issued subject to conditions—
- (a) stating the days on which and the hours during which alcohol may be sold or delivered; and
  - (b) if there are in force regulations under this Act empowering the authority or committee to determine for premises of different kinds different levels of licensing fee prescribed by the regulations, stating the fees payable for the licensing of the premises concerned; and
  - (c) stating (directly or by description) a place or places on the premises at which drinking water is to be freely available to customers, while alcohol is being supplied free as a sample on the premises.
- (3) In deciding the conditions under subsection (2)(a) subject to which a licence is to be issued, the licensing authority or licensing committee concerned may have regard to the site of the premises in relation to neighbouring land use.
- (4) Subsection (1)(b) is subject to the Human Rights Act 1993.

**117 Other discretionary conditions**

- (1) The licensing authority or licensing committee concerned may issue any licence subject to any reasonable conditions not inconsistent with this Act.
- (2) The generality of subsection (1) is not limited or affected by any other provision of this Act.

**118 Different conditions may apply to different parts of premises**

Any condition subject to which a licence is issued may do either or both of the following:

- (a) apply differently to different parts of the premises;
- (b) apply differently to the same part of the premises at different times, on different days, or both.

**119 Restricted and supervised areas**

- (1) The licensing authority or licensing committee concerned must do one of the things described in subsection (3) when issuing an on-licence for a hotel or a tavern.
- (2) The licensing authority or licensing committee concerned may do one of the things described in subsection (3) when issuing a licence of any kind for any premises other than a hotel or a tavern.
- (3) The things referred to in subsections (1) and (2) are—
  - (a) designate all of the premises—
    - (i) an area to which minors must not be admitted; or
    - (ii) an area to which minors must not be admitted unless accompanied by a parent or guardian:
  - (b) designate a part (or any of 2 or more parts) of the premises an area to which minors must not be admitted:
  - (c) designate a part (or any of 2 or more parts) of the premises an area to which minors must not be admitted unless accompanied by a parent or guardian:
  - (d) both—
    - (i) designate a part (or any of 2 or more parts) of the premises an area to which minors must not be admitted; and
    - (ii) designate a part (or any of 2 or more parts) of the premises an area to which minors must not be admitted unless accompanied by a parent or guardian.

*Variation of conditions***120 Variation of conditions**

- (1) The holder of a licence may at any time apply to the licensing committee to vary or cancel any condition of the licence (whether the condition was imposed by the licensing authority or the committee).
- (2) The application must be made in the prescribed form and manner and be accompanied by any prescribed fee.
- (3) The applicant must comply with the notification requirements in section 101.
- (4) A person may object to the grant of the application if he or she has a greater interest in the application than the public generally.
- (5) Every objection must comply with the requirements set out in section 102(2) to (5).
- (6) Sections 103 and 104, with any necessary modifications, apply to applications under this section.

- (7) In considering the application, the licensing authority or licensing committee concerned must have regard to any relevant matter that is specified in section 105.
- (8) In deciding whether or not, or to what extent, to vary any conditions imposed on a licence, the licensing authority or licensing committee concerned must have regard to any inconsistency between the conditions as proposed to be varied and any relevant local alcohol policy.

### *Duration*

#### **121 Licence expires when new licence issued for same premises**

A licence of any kind expires when another licence of the same kind is issued for the premises concerned.

#### **122 Expiry or renewal of licences**

- (1) In this section,—  
**end of its currency,—**
  - (a) for a licence that has been renewed before, means the close of the last day of the period for which it was last renewed:
  - (b) for a licence that has not been renewed before, means the close of the day 12 months after the day it was issued**end of the prospective renewal period,—**
  - (a) for a licence that has been renewed before, means the close of the day 3 years after the last day of the period for which it was last renewed:
  - (b) for a licence that has not been renewed before, means the close of the day 4 years after the day it was issued.
- (2) If no application to renew a licence has been made before the end of its currency, it expires at the end of its currency.
- (3) A licence expires as provided in subsection (4) or (5), or continues in force as provided in subsection (6), if—
  - (a) an application to renew it has been made before the end of its currency; but
  - (b) it has not been renewed before the end of its currency.
- (4) If a decision to refuse to renew the licence has been made before the end of the prospective renewal period, it expires on the day stated under section 135(2).
- (5) If no decision on the application to renew the licence has been made before the end of the prospective renewal period, it expires at the end of the prospective renewal period.
- (6) If a decision to renew the licence is made before the end of the prospective renewal period, its renewal takes effect (for the period stated under section 135(1)) at the end of its currency.

**123 Application of section 122**

Section 122 applies to a licence only if it has not already expired under another provision of this Act; and is subject to—

- (a) the requirements of this Act relating to the payment of fees; and
- (b) the provisions of this Act relating to the suspension, cancellation, and surrender of licences.

**124 Application for renewal lapses if licence expires**

An application for the renewal of a licence lapses when the licence expires.

*Renewals***125 Restriction on renewal of off-licences**

The licensing authority or licensing committee concerned must not renew an off-licence unless—

- (a) the premises are premises for which (by virtue of section 32, 34, or 35) an off-licence can be issued; or
- (b) the licence has continuously been held by a club since before the commencement of section 28.

**126 Renewal of licence held by auctioneer or caterer**

The licensing authority or licensing committee concerned must not renew a licence endorsed under section 38 or 39 unless the licensee continues to qualify for the endorsement of the licence.

**127 Application for renewal of licence**

- (1) The holder of a licence may apply in accordance with this section to renew the licence.
- (2) Every application for renewal—
  - (a) must be filed with the licensing committee with which the application for the licence was filed; and
  - (b) must be made no later than 20 working days before the expiry of the licence, or by such later date (not being later than the date of the expiry of the licence) as the licensing committee may allow; and
  - (c) must be made in the prescribed form and manner; and
  - (d) must contain the prescribed particulars; and
  - (e) if it relates to any premises, must be accompanied by a statement by the applicant that—
    - (i) the owner of the building in which the premises are situated provides and maintains an evacuation scheme as required by section 76 of the Fire and Emergency New Zealand Act 2017; or

- (ii) because of the building's current use, its owner is not required to provide and maintain such a scheme; or
  - (iii) because of the nature of the building, its owner is exempt from the requirement to provide and maintain such a scheme; and
  - (f) must be accompanied by the prescribed fee.
- (3) The applicant must comply with the notification requirements set out in section 101; but public notice of the application must be given within 10 working days after filing the application, not 20 working days.

Section 127(2)(e)(i): amended, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

### **128 Objections to renewal**

- (1) A person may object to a renewal of a licence if he or she has a greater interest in the application than the public generally.
- (2) Every objection must be in writing, and must be filed with the licensing committee within 15 working days after the first publication of the public notice of the making of the application.
- (3) No objection may be made in relation to any matter other than those stated in section 131.
- (4) The secretary must send a copy of every objection to the applicant.

### **129 Police, Medical Officer of Health, and inspector must inquire into application**

The obligations of the secretary, Police, Medical Officer of Health, and inspector set out in section 103 apply to an application for a renewal of a licence.

### **130 Who decides application for renewal**

- (1) A licensing committee may decide any application for renewal of a licence.
- (2) With the leave of the chairperson of the licensing authority a licensing committee may refer any application for renewal of a licence to the authority for decision.
- (3) The licensing committee must forward the complete file relating to the application to the licensing authority. The **complete file** means—
  - (a) the application and any papers filed in support of the application; and
  - (b) a copy of the public notice of the application, and a statement of the dates of publication of the notice; and
  - (c) any objection and any papers filed in support of the objection; and
  - (d) any reports made under section 103.

**131 Criteria for renewal**

- (1) In deciding whether to renew a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:
  - (a) the matters set out in paragraphs (a) to (g), (j), and (k) of section 105(1):
  - (b) whether (in its opinion) the amenity and good order of the locality would be likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence:
  - (c) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made by virtue of section 129:
  - (d) the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol.
- (2) The authority or committee must not take into account any prejudicial effect that the renewal of the licence may have on the business conducted pursuant to any other licence.

**132 Imposition of conditions on renewal**

- (1) When renewing a licence of any kind, the licensing authority or the licensing committee concerned—
  - (a) may impose any conditions subject to which it may issue a licence of that kind; and
  - (b) must impose any conditions subject to which it must issue a licence of that kind; and
  - (c) may, whether consequentially or not, vary or cancel any conditions applying to the licence before its renewal (whether they are conditions subject to which the licence was issued or conditions imposed on some earlier renewal).
- (2) A condition imposed—
  - (a) has the same effect as it would if it were a condition subject to which the licence was issued; and (in particular) a failure or refusal to comply with it has the same effect, and may result in the same consequences, as a failure or refusal to comply with a condition subject to which the licence was issued; and
  - (b) may be varied under section 120 as if it were a condition subject to which the licence was issued.
- (3) Subsection (1) applies to all renewals of licences, whether they were issued under this Act or a former licensing Act.

*Matters that relate to decisions to renew licences*

**133 Renewal of licences where relevant local alcohol policy exists**

- (1) In considering whether to renew a licence, the licensing authority or licensing committee concerned must not take into account any inconsistency between a relevant local alcohol policy and—
  - (a) the renewal of the licence; or
  - (b) the consequences of its renewal.
- (2) The licensing authority or licensing committee concerned may impose particular conditions on any licence it renews if—
  - (a) there is any relevant local alcohol policy; and
  - (b) it considers that the renewal of the licence, or the consequences of the renewal of the licence, without those conditions imposed on it would be inconsistent with the policy.

**134 Licensing committee may decide certain application on papers**

The licensing committee may decide an application for renewal of a licence on the papers if there are no reports opposing renewal, or objections.

**135 Decision on renewal**

- (1) After considering an application for the renewal of a licence, the licensing authority or the licensing committee concerned may, subject to section 133, renew the licence for a further period of not more than 3 years on—
  - (a) the conditions presently attaching to it; or
  - (b) any different conditions, relating to any matter, that the authority or committee thinks fit.
- (2) If the licensing authority or the committee refuses to renew the licence, it must state the day on which the licence expires, and that day must be no later than 3 months after the date of its decision.

Section 135(2): amended, on 26 March 2015, by section 7 of the Sale and Supply of Alcohol Amendment Act 2015 (2015 No 33).

*Temporary authorities*

**136 Temporary authorities: on-licences and off-licences**

- (1) A licensing committee may, on the application of a person who appears to the committee to have any right, title, estate, or interest in any premises, or any business conducted in any premises, for which an on-licence or off-licence is in force, make an order authorising the applicant (or some suitable person nominated by the applicant) to carry on the sale and supply of alcohol for a period, not exceeding 3 months, stated in the order.

- (2) The application must be made in the prescribed form and manner and be accompanied by the prescribed fee.
- (3) The committee may hear and determine the application without notice, or direct that notice of the application and the time and place fixed for any hearing be served on any persons and in any manner the committee specifies.
- (4) On making an order, the committee or the chair (as the case may be)—
  - (a) must impose any conditions that this Act requires an on-licence or off-licence (as the case requires) to be issued subject to; and
  - (b) may impose any conditions that this Act enables an on-licence or off-licence (as the case requires) to be issued subject to; and
  - (c) may impose any other reasonable conditions it thinks fit.
- (4A) Despite subsection (1), if the application is uncontested, the chair of the committee may make an order instead of the committee.
- (5) The person authorised by the order has for the purposes of this Act the same duties, obligations, and liabilities as the holder of the on-licence or off-licence concerned.
- (6) For the purposes of this section, if the chair of the committee makes an order instead of the committee, a reference to the committee in any other relevant provision of this Act is to be treated as a reference to the chair.

Compare: 1989 No 63 ss 24, 47

Section 136(4): amended, on 24 October 2019, by section 134(1) of the Statutes Amendment Act 2019 (2019 No 56).

Section 136(4A): inserted, on 24 October 2019, by section 134(2) of the Statutes Amendment Act 2019 (2019 No 56).

Section 136(6): inserted, on 24 October 2019, by section 134(3) of the Statutes Amendment Act 2019 (2019 No 56).

## Subpart 4—Licensing process: special licences

### *Applications for special licences*

#### **137 Filing of applications**

- (1) An application for a special licence must be filed, at least 20 working days before the day on which the event concerned begins,—
  - (a) with the licensing committee for the district in which the premises concerned are situated, if it is an application for a licence for premises that are not a conveyance:
  - (b) with the licensing committee for the district in which the applicant's principal place of business in New Zealand is situated, if it is an application for a licence for a conveyance.
- (2) The licensing committee may consider an application for a special licence filed less than 20 working days before the day on which the event concerned begins,



if satisfied that the need for a special licence could not reasonably have been foreseen earlier.

- (3) If (under subsection (2)) the licensing committee decides to consider an application for a special licence filed less than 20 working days before the day on which the event concerned begins,—
- (a) it must, after consulting the Police and the Medical Officer of Health, fix a period of less than 15 working days after receiving a copy of the application within which reports from the Police or Medical Officer of Health must be received; and
  - (b) it must notify the Police, an inspector, and the Medical Officer of Health of the period fixed when sending copies of the application under section 141(1).
- (4) If the licensing committee fixes under subsection (3) a period of less than 15 working days, the references in section 141 to 15 working days must (in relation to any report on the application concerned) be read as a reference to the period fixed.

Compare: 1989 No 63 s 76(2)

### **138 Form of application**

An application for a special licence—

- (a) must be made in the name of the person who will hold it if the application is granted; and
- (b) must state whether the applicant wishes the licence to be designated as an on-site special licence, an off-site special licence, or both; and
- (c) must be made in the prescribed form and manner; and
- (d) must contain the prescribed particulars; and
- (e) must be accompanied by the prescribed fee.

Compare: 1989 No 63 s 76(1)

### **139 Notification requirements**

An applicant for a special licence—

- (a) must comply with any applicable notification requirements prescribed by regulations made under this Act; and
- (b) if required to do so by the secretary of the licensing committee concerned, must, within 10 working days after filing the application, ensure that notice of the application in the prescribed form is attached in a conspicuous place on or adjacent to the site to which the application relates.

Compare: 1989 No 63 s 76(4)

### **140 Objections to applications**

- (1) A person may object to the grant of a special licence only if—

- (a) he or she has a greater interest in the application for it than the public generally; and
  - (b) the secretary of the licensing committee concerned has under section 139(b) required the applicant to give notice of the application.
- (2) An objection must be in writing, and filed with the licensing committee within any period the secretary requires after the applicant has complied with the requirement under section 139(b).
  - (3) No objection may be made in relation to a matter other than a matter specified in section 142.
  - (4) The secretary must give a copy of every objection to the applicant.

Compare: 1989 No 63 s 77

#### **141 Inquiry into applications by Police, inspector, and Medical Officer of Health**

- (1) On receiving an application for a special licence, the secretary of the licensing committee concerned must send a copy of it, and of each document filed with it, to—
  - (a) the constable in charge of the police station nearest to—
    - (i) the premises for which the licence is sought; or
    - (ii) the secretary's office, where the licence is sought for a conveyance; and
  - (b) an inspector; and
  - (c) the Medical Officer of Health—
    - (i) in whose district the premises are situated; or
    - (ii) in whose district the applicant's principal place of business in New Zealand is situated, where the licence is sought for a conveyance.
- (2) The inspector must inquire into, and file with the licensing committee a report on, the application.
- (3) The Police—
  - (a) must inquire into the application; and
  - (b) if they have any matters in opposition to it, must file with the licensing committee a report on it within 15 working days after receiving the copy of it.
- (4) The Medical Officer of Health—
  - (a) may inquire into the application; and
  - (b) if he or she has any matters in opposition to it, may file with the licensing committee a report on it within 15 working days after receiving the copy of it.

- (5) The licensing committee may assume that, if no report is received from the Police or Medical Officer of Health within 15 working days after the Police or Medical Officer of Health received the copy of the application, the Police or Medical Officer of Health does not oppose the application.
- (6) The secretary must send to the applicant a copy of any report filed with the licensing committee under this section.
- (7) This section is subject to section 137(4).

Compare: 1989 No 63 s 78

Section 141(5): amended, on 17 December 2016, by section 90 of the Statutes Amendment Act 2016 (2016 No 104).

#### **142 Criteria for issue of special licences**

- (1) In deciding whether to issue a special licence, the licensing committee concerned must have regard to the following matters:
  - (a) the object of this Act:
  - (b) the nature of the particular event for which the licence is sought and, in particular,—
    - (i) whether the applicant is engaged in, or proposes at the event to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods; and
    - (ii) whether the applicant is engaged in, or proposes at the event to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services:
  - (c) the suitability of the applicant:
  - (d) any relevant local alcohol policy:
  - (e) whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, by more than a minor extent, by the effects of the issue of the licence:
  - (f) the days on which and the hours during which the applicant proposes to sell alcohol:
  - (g) the design and layout of the premises concerned:
  - (h) whether the applicant has appropriate systems, staff and training to comply with the law:
  - (i) any areas of the premises that the applicant proposes should be designated as restricted areas or supervised areas:
  - (j) any steps the applicant proposes to take to ensure that the requirements of this Act in relation to the sale and supply of alcohol to prohibited persons are observed:

- (k) the applicant's proposals relating to—
  - (i) the sale and supply of non-alcoholic drinks and food; and
  - (ii) the sale and supply of low-alcohol drinks; and
  - (iii) the provision of help with or information about alternative forms of transport from the premises:
- (l) any matters dealt with in any report from the Police, the Medical Officer of Health, or an inspector made under section 141.
- (2) The licensing committee must not take into account any prejudicial effect that the issue of the special licence may have on the business conducted pursuant to any other licence.

Compare: 1989 No 63 s 79

### **143 Additional requirements for large-scale events**

- (1) If, in the opinion of the licensing committee concerned, an application for a special licence relates to a large-scale event, the committee may do any or all of the following:
  - (a) require the applicant to provide the committee with a management plan describing how the applicant proposes to deal with matters such as security, monitoring, interaction with local residents, and public health concerns;
  - (b) require the applicant to provide the committee with a certificate by the territorial authority that the proposed use of the premises meets the requirements of the Natural and Built Environment Act 2023 and of the building code;
  - (c) require the applicant to liaise with the Police and the territorial authority on planning for the event.
- (2) In deciding whether to issue a special licence, the licensing committee concerned may have regard to the following matters (in addition to the matters stated in section 142(1)):
  - (a) whether, and how well, the applicant has complied with any requirement under subsection (1)(a);
  - (b) whether, and how well, the applicant has complied with any requirement under subsection (1)(c), and whether the Police and the territorial authority are satisfied with any liaison that has taken place.

Section 143(1)(b): amended, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

### **144 Licensing committee may refuse special licence of own motion**

The licensing committee concerned may, having regard to any matter stated in section 142, refuse to issue a special licence, even if no objection was filed

against the application for it under section 140 and no report was filed under section 141 opposing that application.

**145 Special licence may be refused if contrary to local alcohol policy**

The licensing committee concerned may refuse to issue a special licence if—

- (a) there is any relevant local alcohol policy; and
- (b) in its opinion, the issue of the licence, or the consequences of the issue of the licence, would be inconsistent with the policy.

**146 Conditions may be imposed if required by local alcohol policy**

The licensing committee concerned may issue a special licence subject to particular conditions if—

- (a) there is any relevant local alcohol policy; and
- (b) in its opinion, the granting of the licence, or the consequences of the granting of the licence, without those conditions would be inconsistent with the policy.

**147 Particular discretionary conditions and compulsory conditions: special licences**

(1) The licensing committee concerned may issue a special licence subject to conditions of any or all of the following kinds:

- (a) conditions prescribing steps to be taken by the licensee to ensure that the provisions of this Act relating to the sale of alcohol to prohibited persons are observed:
- (b) conditions prescribing the people or kinds of person to whom alcohol may be sold or supplied:
- (c) in the case of premises where (in the opinion of the committee) the principal business carried on is not the manufacture or sale of alcohol, conditions relating to the kind or kinds of alcohol that may be sold or delivered on or from the premises:
- (d) conditions requiring the provision of food for consumption on the premises concerned:
- (e) conditions requiring low-alcohol beverages to be available for sale and supply:
- (f) conditions requiring non-alcoholic beverages to be available for sale and supply:
- (g) conditions requiring assistance with or information about alternative forms of transport from the premises concerned to be available:
- (h) conditions requiring the exclusion of the public from the premises concerned:
- (i) conditions—

- (i) requiring alcohol to be sold and supplied on the premises concerned only in containers of certain descriptions; or
    - (ii) requiring alcohol not to be sold and supplied on the premises concerned in containers of certain descriptions:
  - (j) conditions requiring the filing of returns relating to alcohol sold pursuant to the licence:
  - (k) any conditions of a kind subject to which any licence may be issued under section 110 or 116:
  - (l) any reasonable conditions that, in the committee's opinion, are not inconsistent with this Act.
- (2) The licensing committee concerned may do one of the things described in section 119(3) when issuing a special licence for any premises.
- (3) The licensing committee concerned must ensure that every special licence it issues is issued subject to conditions—
- (a) stating the days on which and the hours during which alcohol may be sold or delivered; and
  - (b) stating (directly or by description) a place or places on the premises at which drinking water is to be freely available to customers while the event (or any of the events) described in it is taking place.
- (4) In deciding the conditions under subsection (3)(a) subject to which a licence is to be issued, the licensing committee concerned may have regard to the site of the premises in relation to neighbouring land use.
- (5) Subsection (1)(b) is subject to the Human Rights Act 1993.

Compare: 1989 No 63 s 80

#### **148 Different conditions may apply in certain cases**

- (1) A special licence may be issued subject to conditions applying differently to different parts of the premises concerned.
- (2) A special licence designated as both an on-site special licence and an off-site special licence may be issued subject to conditions applying differently to the activities to be undertaken by virtue of the different designations.

#### **149 Duration of special licences**

- (1) A special licence is in force as follows:
  - (a) if issued for a single event, it is in force on the day or days on which the event occurs:
  - (b) if issued for a series of events, it is in force for the lesser of the following periods:
    - (i) the period during which the events occur:
    - (ii) the 12 months after its issue:

- (c) if issued to the holder of an on-licence or a club licence, for the premises for which the on-licence or club licence is held, it is in force—
  - (i) for a period (of not more than 12 months) after its issue stated by the licensing committee concerned when issuing it; or
  - (ii) if no period is stated, for 12 months after its issue.
- (2) If a single event, or any part of a single event, for which a special licence is issued is postponed to some other day, the licence is in force on the day on which the event or part takes place.

Compare: 1989 No 63 s 82

### **150 Display of special licences**

- (1) On issuing a special licence, the licensing committee concerned may give any directions relating to the display of the licence, and of the conditions subject to which it is issued, the committee thinks necessary or desirable.
- (2) The holder of a special licence must ensure that all directions under subsection (1) are complied with.

Compare: 1989 No 63 s 83

#### *Other matters*

### **151 Medical Officer of Health may delegate functions**

- (1) A Medical Officer of Health may delegate to any person the exercise or performance of any or all of his or her powers or functions under this Act in relation to the health district concerned.
- (2) The Medical Officer of Health may delegate the exercise or performance of any power or function to a person only if satisfied that he or she is suitably qualified or trained to exercise or perform it.
- (3) A delegation must be written, and must—
  - (a) contain a reference to this section; and
  - (b) state the full name of the delegate; and
  - (c) state the name of the health district.

#### **Subpart 5—Appeals**

##### *Effect of decisions when appeal may be filed or while appeal is pending*

### **152 Suspension of certain decisions (by licensing committee or licensing authority) to grant licence or manager's certificate**

- (1) This section applies to every decision to grant an application for a licence or a manager's certificate if—
  - (a) an objection to the application has been duly filed and has not been withdrawn; or

- (b) a report has been submitted by the Police or an inspector or an employee, volunteer, or contractor of Fire and Emergency New Zealand or a Medical Officer of Health recommending that the application be refused.
- (2) A decision to which this section applies has no effect during the period allowed for filing an appeal against the decision and, if an appeal is filed against the decision, also has no effect while the appeal is pending.
- (3) Where an appeal relates to a decision to which this section applies but is limited to 1 or more conditions that form part of the decision, the appellate tribunal may, subject to any conditions the appellate tribunal thinks fit to impose, order that the decision is to have effect while the appeal is pending.
- (4) An order under subsection (3) may only be made if the appellate tribunal is satisfied that all parties to the appeal agree to the order, including any conditions imposed by the tribunal.
- (5) No appeal may be brought against a refusal to make an order under subsection (3).
- (6) In this section and in section 153, **appellate tribunal** means the licensing authority or the court that hears and determines an appeal under this Act.

Compare: 1989 No 63 s 147

Section 152(1)(b): amended, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

### **153 Effect of appeal against other decisions**

- (1) This section applies to every decision that is not a decision to which section 152 applies.
- (2) A decision to which this section applies has effect during the period allowed for filing an appeal against the decision and, if an appeal is filed against the decision, also has effect while the appeal is pending.
- (3) However, the appellate tribunal may, on its own initiative or on an application made for the purpose, order that a decision to which this section applies is not to have effect while the appeal is pending.
- (4) Despite subsection (3), an appellate tribunal may not make an order under that subsection in relation to a decision made under section 286 (which relates to the suspension of licences for non-compliance with public health or fire precaution requirements).
- (5) Where an appellate tribunal makes an order under subsection (3) in relation to a decision to refuse to renew, to suspend, or to cancel any licence or manager's certificate, the licence or manager's certificate must, if the appeal is not finally determined on or before the expiry of the licence or certificate, be deemed to be extended until the final determination of the appeal.

Compare: 1989 No 63 s 147A



*Appeals to licensing authority*

**154 Who may appeal**

Any party to any proceedings before a licensing committee who is dissatisfied with the decision or any part of the decision may appeal to the licensing authority against the decision or any part of the decision.

Compare: 1989 No 63 s 137(1)

**155 Procedure for commencing appeal**

- (1) An appeal under section 154 must be made by the appellant giving notice of appeal to the licensing authority within 10 working days after the date on which notice of the decision is given to that party.
- (2) Despite subsection (1), on the application of any person having a right of appeal under this section, the licensing authority may extend the time for making an appeal to any time it sees fit if the licensing authority is of the opinion that there was reasonable cause for the failure or inability of the appellant to give notice within the prescribed time.
- (3) The notice of appeal must—
  - (a) be in writing; and
  - (b) specify the grounds of appeal in sufficient detail to fully inform the licensing authority and other parties of the issues in the appeal; and
  - (c) be sent to the secretary of the licensing authority; and
  - (d) be accompanied by the prescribed fee.
- (4) The Police, inspectors, and Medical Officers of Health are not required to pay the prescribed fee.
- (5) Either before or immediately after the notice of appeal is sent to the secretary of the licensing authority, a copy of the notice must be served on each of the other parties to the proceedings before the licensing committee, and a copy left with the secretary of that licensing committee.
- (6) As soon as possible after the receipt by the secretary of the licensing committee of a copy of a notice of appeal, the secretary must send to the secretary of the licensing authority—
  - (a) any application and supporting documents filed with the licensing committee, and any written submissions, statements, reports, and other papers relating to the decision appealed against;
  - (b) a copy of any notes or other record made by the licensing committee of the evidence given at the hearing;
  - (c) any exhibits in the custody of the licensing committee;
  - (d) a copy of the decision appealed against.

Compare: 1989 No 63 s 137(1)–(5)

**156 Adjournment if notice of appeal not given**

- (1) If the licensing authority is not satisfied that a copy of the notice of appeal has been given to each of the other parties to the proceedings before the licensing committee, the licensing authority may adjourn the proceedings and give directions for the service of copies of the notice as it thinks fit.
- (2) Every person on whom a copy of the notice of appeal is served is entitled to attend as a party to the proceedings before the licensing authority.

**157 Appeals by way of rehearing**

- (1) Every appeal is by way of rehearing.
- (2) However, where any question of fact is involved in any appeal, the evidence taken before the licensing committee bearing on the question must, subject to any special order, be brought before the licensing authority as follows:
  - (a) as to any evidence given orally, by the production of a copy of the chairperson of the licensing committee's note or of a written statement read by the witness while under oath, or of such other materials as the licensing committee may consider expedient:
  - (b) as to any evidence taken by affidavit and as to any exhibits, by the production of the affidavits and such of the exhibits as may have been forwarded to the licensing authority by the licensing committee, and by the production by the parties to the appeal of such exhibits as are in their custody.
- (3) Despite subsection (2), the licensing authority may in its discretion rehear the whole or any part of the evidence, and must rehear the evidence of any witness if the licensing authority has reason to believe that any note of the evidence of that witness made by the chairperson of the licensing committee is or may be incomplete in any material particular.
- (4) The licensing authority has full discretionary power to hear and receive further evidence on questions of fact, either by oral evidence or by affidavit.
- (5) The secretary of the licensing authority must also return to the secretary of the licensing committee any application, papers, and exhibits forwarded by the secretary of the licensing committee under section 155(6).

**158 Determination of appeal**

On hearing an appeal, the licensing authority may confirm, modify, or reverse the decision under appeal.

*Appeals to High Court***159 Who may appeal to High Court**

Any party may appeal to the High Court against a decision of the licensing authority if—

- (a) the proceedings concerned commenced in the licensing authority; or
- (b) a licensing committee referred the proceedings concerned to the licensing authority for decision.

Compare: 1989 No 63 s 137(6)–(9)

### **160 Procedure for commencing appeal**

- (1) An appeal under section 159 must be made by the appellant giving notice of appeal to the High Court within 10 working days after the date on which notice of the decision is given to the applicant, licensee, or manager.
- (2) Subject to sections 152 and 153, and 161 to 166, and subsection (3), every appeal under this section must be dealt with in accordance with rules of court.
- (3) Either before or immediately after the filing of the notice of appeal, the appellant must leave a copy with the secretary of the licensing authority.
- (4) As soon as possible after the receipt by the secretary of the licensing authority of a copy of a notice of appeal, the secretary must send to the office of the High Court in which the appeal has been filed—
  - (a) any application and supporting documents filed with the licensing authority, and any written submissions, statements, reports, and other papers relating to the decision appealed against:
  - (b) a copy of any notes made by the chairperson of the evidence given at the hearing:
  - (c) any exhibits in the custody of the licensing authority:
  - (d) a copy of the decision appealed against.

Compare: 1989 No 63 s 138(1)–(6)

### **161 Appeals**

- (1) Every appeal is by way of rehearing.
- (2) However, where any question of fact is involved in any appeal, the evidence taken before the licensing authority bearing on the question must, subject to any special order, be brought before the High Court as follows:
  - (a) as to any evidence given orally, by the production of a copy of the chairperson’s note or of a written statement read by the witness while under oath, or of such other materials as the High Court may consider expedient:
  - (b) as to any evidence taken by affidavit and as to any exhibits, by the production of the affidavits and such of the exhibits as may have been forwarded to the court by the licensing authority, and by the production by the parties to the appeal of such exhibits as are in their custody.
- (3) Despite subsection (2), the High Court may in its discretion rehear the whole or any part of the evidence, and must rehear the evidence of any witness if the court has reason to believe that any note of the evidence of that witness made

by the chairperson of the licensing authority is or may be incomplete in any material particular.

- (4) The court has full discretionary power to hear and receive further evidence on questions of fact, either by oral evidence or by affidavit.
- (5) If the appellant does not appear at the time appointed for hearing the appeal, the appeal must be dismissed.
- (6) If the appellant does not prosecute the appeal with due diligence, any other party to the appeal may apply to the High Court for the dismissal of the appeal.
- (7) On hearing the appeal, the High Court may confirm, modify, or reverse the decision appealed against, and the decision of the court is final and binding on all parties.
- (8) The Registrar of the High Court must transmit to the secretary of the licensing authority a memorandum of the decision of the court, and the decision, in relation to the proceedings appealed against, must be treated as if it had been given by the authority.
- (9) The Registrar must also return to the secretary of the licensing authority any application, papers, and exhibits forwarded by the secretary pursuant to section 160(4).

Compare: 1989 No 63 s 138(7)–(13)

### **162 Appeal against decision of licensing authority on question of law**

- (1) Subject to subsection (3), where any party to any proceedings before the licensing authority (whether the proceedings commenced in a licensing committee or the licensing authority) is dissatisfied with any determination of the licensing authority in the proceedings as being erroneous in point of law, that party may appeal to the High Court on the question of law concerned.
- (2) Subject to sections 152, 153, 161, and 163 to 166, every appeal under this section must be dealt with in accordance with rules of court.
- (3) This section does not apply to a decision by the licensing authority to cancel a licence under section 289 or to cancel a manager's certificate under section 290.

Compare: 1989 No 63 s 139

### **163 Right to appear and be heard on appeals**

- (1) Any party to the proceedings before the licensing authority who wishes to appear and be heard on the hearing of the appeal must, within 7 working days after the date of the service on that party of a copy of the notice of appeal, lodge with the Registrar of the High Court a notice of that party's intention to appear and be heard.
- (2) Any party who gives a notice of intention to appear and be heard and the appellant are parties to the appeal and are entitled—

- (a) to be served with every document later filed or lodged with the Registrar relating to the appeal; and
- (b) to receive a notice of the date set down for the hearing of the appeal.

Compare: 1989 No 63 s 141

#### **164 Orders relating to determination of appeals**

- (1) Subject to subsections (2) and (3), the High Court may, of its own motion or on the application of any party to the appeal, make all or any of the following orders:
  - (a) an order directing the licensing authority to lodge with the Registrar of the High Court any document or other written material or any exhibit in the possession or custody of the licensing authority;
  - (b) an order directing the licensing authority to lodge with the Registrar a report recording, in respect of any matter or issue that the court specifies, any of the findings of fact of the licensing authority that are not set out or fully set out in its determination;
  - (c) an order directing the licensing authority to lodge with the Registrar a report setting out, in respect of any matter or issue that the court specifies, any reasons or considerations of the licensing authority to which the licensing authority had regard that are not set out in its determination.
- (2) An application under subsection (1) must,—
  - (a) in the case of the appellant, be made within 20 working days after the date of the lodging of the notice of appeal; or
  - (b) in the case of any other party to the appeal, within 20 working days after the date of the service on that party of a copy of the notice of appeal.
- (3) The High Court may make an order under subsection (1) only if it is satisfied that a proper determination of the point of law in issue so requires; and the order may be made subject to such conditions as the High Court thinks fit.

Compare: 1989 No 63 s 142

#### **165 Appeal on additional question of law**

- (1) Any party other than the appellant to an appeal under section 162 who wishes to contend at the hearing of the appeal that the determination appealed against is erroneous in point of law in relation to a question of law not set out in the notice of appeal may, within 20 working days after the date of the service on the party of a copy of the notice of appeal, lodge a notice to that effect with the Registrar of the High Court.
- (2) With any necessary modifications, sections 162, 164, and 166 apply to a notice lodged under subsection (1) as if it were a notice of appeal.

Compare: 1989 No 63 s 144

**166 Extension of time**

The High Court or a Judge of the High Court may, on the application of the appellant, or intending appellant, or any other party, extend any time prescribed or allowed under any of the provisions of sections 159 to 165 for the lodging of any notice, application, or other document.

Compare: 1989 No 63 s 145

**167 No review until right of appeal exercised**

No person who has a right of appeal against any decision of the licensing authority or of a licensing committee is entitled to do any of the following unless and until that party exercises that right of appeal and the appeal is finally determined:

- (a) to make an application for review of that decision under the Judicial Review Procedure Act 2016; or
- (b) to institute proceedings seeking any writ or order of, or in the nature of, mandamus, prohibition, or certiorari, or a declaration or injunction, in respect of that decision.

Compare: 1989 No 63 s 148

Section 167(a): amended, on 1 March 2017, by section 24 of the Judicial Review Procedure Act 2016 (2016 No 50).

*Appeals to Court of Appeal***168 Further appeal to Court of Appeal**

- (1) Any party to an appeal under section 162 who is dissatisfied with the determination of the High Court on any point of law may, with leave of the High Court or (if that leave is declined) with special leave of the Court of Appeal, appeal to the Court of Appeal against the determination.
- (2) A party desiring to appeal to the Court of Appeal under this section must, within 15 working days after the determination of the High Court, or within such further time as that court may allow, give notice of the application for leave to appeal in such manner as may be directed by rules of court, and the High Court may grant leave accordingly if in the opinion of that court the question of law involved in the appeal is one that by reason of its general or public importance or for any other reason, ought to be submitted to the Court of Appeal for decision.
- (3) Where the High Court refuses leave to any party to appeal to the Court of Appeal under this section, that party may, within 15 working days after the refusal of the High Court or within such further time as the Court of Appeal may allow, apply to the Court of Appeal, in such manner as may be directed by rules of court, for special leave to appeal to that court, and the Court of Appeal may grant leave accordingly if in the opinion of that court the question of law involved in the appeal is one that by reason of its general or public importance

or for any other reason, ought to be submitted to the Court of Appeal for decision.

- (4) On any appeal to the Court of Appeal under this section,—
  - (a) the Court of Appeal has the power to adjudicate on the proceedings that the High Court had; and
  - (b) judgment is to be entered in the High Court, and execution and other consequences and proceedings follow, as if the decision of the Court of Appeal had been given in the High Court.
- (5) The decision of the Court of Appeal on any application to that court for leave to appeal is final.

Compare: 1989 No 63 s 150

## Subpart 6—Licensing bodies

### *Alcohol Regulatory and Licensing Authority*

#### **169 Alcohol Regulatory and Licensing Authority**

- (1) This section continues in existence an authority to be called the Alcohol Regulatory and Licensing Authority.
- (2) The licensing authority is the body established by section 85(1) of the former licensing Act (and immediately before the commencement of this section called the Liquor Licensing Authority).

#### **170 Functions of licensing authority**

The licensing authority's functions are—

- (a) to consider and determine the following matters when referred to it by licensing committees:
  - (i) applications for licences:
  - (ii) applications by licensees for the renewal or variation of licences:
  - (iii) applications for manager's certificates:
  - (iv) applications for the renewal of manager's certificates; and
- (b) to consider and determine appeals from decisions of licensing committees; and
- (c) to consider and determine appeals against elements of draft local alcohol policies; and
- (d) to consider and determine applications by inspectors and constables for the variation, suspension, or cancellation of licences and manager's certificates; and
- (e) any other functions conferred on it by or under this Act or any other enactment.

**171 Powers of licensing authority**

The licensing authority has all powers conferred on it by or under this Act or any other enactment, and all other powers reasonably necessary to enable it to perform its functions satisfactorily.

Compare: 1989 No 63 s 92

**172 Licensing authority may issue practice directions**

For the purpose of ensuring that the application and administration of this Act is consistent, the licensing authority may from time to time issue, for the guidance of licensing committees, any directions, notes, guidelines, or suggestions (not being inconsistent with this Act) that the licensing authority considers necessary or desirable.

**173 Licensing authority may give directions where licensing committee in doubt**

A person who is in doubt as to the appropriate licensing committee to apply to may apply to the licensing authority for directions; and the authority's directions—

- (a) have effect according to their tenor; and
- (b) override the requirements of this Act as to which licensing committee to apply to.

Compare: 1989 No 63 s 93

**174 Licensing authority may refer matters for investigation**

- (1) The licensing authority may appoint one of its members, or any other qualified person (other than an inspector), to investigate and report to the authority on any matters it refers to that person for the purpose of the proper exercise of its powers or functions under this Act.
- (2) A person who has custody or possession of any books, papers, accounts, or other documents, relevant to any matter to be investigated under this section commits an offence if he or she—
  - (a) fails or refuses to allow the person conducting the investigation to have access to the documents; or
  - (b) obstructs that person in the conduct of the investigation.
- (3) A person who commits an offence against subsection (2) is liable on conviction to a fine of not more than \$2,000.

Compare: 1989 No 63 s 94

**175 Licensing authority may refer matters to licensing committees**

- (1) The licensing authority may ask a licensing committee to inquire into and report to the authority on any matter within the scope of the authority's functions.



- (2) When reporting, the licensing committee—
  - (a) must send to the licensing authority notes of any evidence taken before it in its inquiry, together with any written submissions made to it; and
  - (b) may make any recommendations on the matter it thinks fit.
- (3) On receiving the licensing committee's report, the licensing authority—
  - (a) may make any decision or order as if it had heard the proceedings itself; or
  - (b) may hear further submissions or evidence on the matter before making any decision or order.

Compare: 1989 No 63 s 95

### **176 Licensing authority may give statements to licensing committees**

- (1) The licensing authority may give licensing committees statements setting out its views on—
  - (a) the general administration of this Act; or
  - (b) the policies to be followed in the administration of this Act or any provisions of it; or
  - (c) any information obtained by the authority from any inquiry held by it or from any other source.
- (2) A statement must not relate to a matter that may be a ground for an appeal against a decision of a licensing committee.
- (3) In performing its functions under this Act, a licensing committee must observe every statement issued under this section.

Compare: 1989 No 63 s 96

### **177 Meetings of licensing authority**

- (1) Meetings of the licensing authority may be held at any time and place it or its chairperson decides.
- (2) At all meetings of the licensing authority, 2 members are a quorum.
- (3) If present at a meeting of the licensing authority, its chairperson has a deliberative vote and, in the case of an equality of votes, also has a casting vote.
- (4) A deputy chairperson of the licensing authority does not have a casting vote.
- (5) The decision of the licensing authority on any matter is determined by a majority of the valid votes recorded on it.

Compare: 1989 No 63 s 97

### **178 Annual report**

- (1) Within 6 months after the end of its financial year, the licensing authority must prepare and send to the Minister a report—
  - (a) of the authority's proceedings and operations during the year; and

- (b) on the working of this Act and the desirability or otherwise of amending it.
- (2) The Minister must lay a copy of the report before the House of Representatives within 20 sitting days after the day on which he or she receives it.

Compare: 1989 No 63 s 98

Section 178(1): amended, on 30 November 2022, by section 118 of the Statutes Amendment Act 2022 (2022 No 75).

### **179 Membership of licensing authority**

- (1) The licensing authority comprises the following members, appointed by the Governor-General on the recommendation of the Minister:
- (a) up to 3 District Court Judges:
- (b) any number of other members.
- (2) No person is employed in the service of Her Majesty for the purposes of the Public Service Act 2020 by virtue only of appointment to the licensing authority.

Section 179(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

### **179A Appointment of temporary acting chairperson, deputy chairperson, or member**

- (1) If the chairperson, a deputy chairperson, or a member of the licensing authority becomes incapable of acting by reason of illness, absence, or other sufficient cause, or if the chairperson, a deputy chairperson, or a member of the licensing authority considers it is not proper or not desirable that he or she should adjudicate on a specified matter, the Governor-General, on the recommendation of the Minister, may appoint a suitable person as the acting chairperson, an acting deputy chairperson, or an acting member for the period or purpose stated in the appointment.
- (2) No person may be appointed as the acting chairperson, an acting deputy chairperson, or an acting member unless he or she is eligible for appointment to the relevant position.
- (3) An acting chairperson, acting deputy chairperson, or acting member is, while acting in the position, to be treated as the chairperson, a deputy chairperson, or a member of the licensing authority.
- (4) No appointment of an acting chairperson, acting deputy chairperson, or acting member, no act done by an acting chairperson, acting deputy chairperson, or acting member, and no act done by the licensing authority may be questioned in any proceedings on the ground that the occasion for the appointment had not arisen or had ceased.

Section 179A: inserted, on 14 November 2018, by section 268 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

### **179B Orderly and efficient operation**

The chairperson of the licensing authority is responsible for making any arrangements that are practicable to ensure that he or she and each member perform their functions—

- (a) in an orderly and efficient manner; and
- (b) in a way that achieves the purposes of this Act.

Section 179B: inserted, on 14 November 2018, by section 268 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

### **180 Chairperson and deputy chairperson**

- (1) As the office becomes vacant, a member of the licensing authority who is a District Court Judge must be appointed chairperson of the authority.
- (2) Every other member of the licensing authority who is a District Court Judge must be appointed a deputy chairperson of the authority.
- (3) Appointments must be made by the Governor-General on the recommendation of the Minister; and can be made when the member is appointed a member, or later.
- (4) If there are 2 deputy chairpersons and both are present, the deputy chairperson who was first appointed to the licensing authority serves as acting chairperson in the chairperson's absence.
- (5) A deputy chairperson serving as acting chairperson in the chairperson's absence has all the powers of the chairperson.
- (6) No acts done by a deputy chairperson serving as acting chairperson in the chairperson's absence, and no acts done by the licensing authority while a deputy chairperson is so serving, can in any proceedings be questioned on the ground that the occasion for his or her so serving had not arisen or had ceased.

### **181 Term of office of members**

- (1) A member of the licensing authority holds office for a term, stated when the member is appointed, of up to 5 years and may be reappointed for further terms of up to 5 years.
- (2) A member continues in office despite the expiry of his or her term of office until—
  - (a) the member is reappointed; or
  - (b) the member's successor is appointed; or
  - (c) the member is notified that a replacement member will not be appointed; or
  - (d) the member vacates or is removed from office.
- (3) A member who continues in office for any period under subsection (2), unless he or she was removed from office, may act as a member during that period for the purpose of—

- (a) completing any proceedings partly or wholly heard by the licensing authority before the expiry of his or her term of office:
  - (b) hearing any other proceedings.
- (4) A member who has resigned, or whose successor is appointed or who will not be replaced (unless he or she was removed from office), may continue in office for the purpose of completing any proceedings that are partly or wholly heard.

Section 181(1): amended, on 14 November 2018, by section 269(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 181(2): replaced, on 14 November 2018, by section 269(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 181(3): replaced, on 14 November 2018, by section 269(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 181(4): inserted, on 14 November 2018, by section 269(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

### **182 Resignation or removal from office**

- (1) A member of the licensing authority may resign from office at any time by written notice to the Minister.
- (2) The Governor-General may at any time, on the recommendation of the Minister, remove a member of the licensing authority from office for inability to perform the functions of the office, bankruptcy, neglect of duty, or misconduct, proved to the Governor-General's satisfaction.
- (3) This section overrides section 181(1).

### **183 Fees and allowances**

- (1) A member of the licensing authority who is not a District Court Judge is entitled to receive remuneration not within subsection (2) for services as a member at a rate and of a kind determined by the Minister in accordance with the fees framework.
- (2) Every member of the licensing authority is entitled, in accordance with the fees framework, to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a member.
- (3) For the purposes of this section, **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.

### **184 Officers of licensing authority**

There must be appointed under the Public Service Act 2020 a secretary of the licensing authority, and all other employees necessary for it to carry out its functions efficiently.

Section 184: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

**185 Professional assistance**

With the Minister's authority, the licensing authority may engage, under a contract for services, any professional, technical, or other assistance it thinks necessary to enable it to carry out its functions.

*District licensing committees*

**186 Territorial authorities to appoint district licensing committees**

Each territorial authority must appoint 1 or more licensing committees as, in its opinion, are required to deal with licensing matters for its district.

**187 Functions of licensing committees**

A licensing committee's functions are—

- (a) to consider and determine applications for licences and manager's certificates; and
- (b) to consider and determine applications for renewal of licences and manager's certificates; and
- (c) to consider and determine applications for temporary authority to carry on the sale and supply of alcohol in accordance with section 136; and
- (d) to consider and determine applications for the variation, suspension, or cancellation of special licences; and
- (e) to consider and determine applications for the variation of licences (other than special licences) unless the application is brought under section 280; and
- (f) with the leave of the chairperson for the licensing authority, to refer applications to the licensing authority; and
- (g) to conduct inquiries and to make reports as may be required of it by the licensing authority under section 175; and
- (h) any other functions conferred on licensing committees by or under this Act or any other enactment.

**188 Powers of licensing committees**

A licensing committee has all the powers conferred on it by or under this Act or any other Act, and all powers as may be reasonably necessary to enable it to carry out its functions.

**189 Composition of licensing committees**

- (1) Each licensing committee consists of 3 members appointed by the territorial authority for that territorial authority's district.
- (2) A territorial authority must appoint 1 member as the chairperson and that person must be a member of that territorial authority or a commissioner appointed to the licensing committee.

- (3) A territorial authority may appoint a member of that territorial authority to be deputy chairperson, and act in place of the chairperson if the chairperson is unable to act because of illness or absence from New Zealand, or for other sufficient reason.
- (4) While acting in place of the chairperson, the deputy chairperson is a member of the committee and has all the powers and duties of the chairperson.
- (5) No act done by the deputy chairperson serving as acting chairperson in the chairperson's absence, and no acts done by the committee while the deputy chairperson is so serving, can in any proceedings be questioned on the ground that the occasion for his or her so serving had not arisen or had ceased.
- (6) The other 2 members of each licensing committee must be appointed from the territorial authority's list maintained under section 192.
- (7) For the purposes of subsection (2), a member of a territorial authority means an elected member of a territorial authority and, in relation to the Auckland Council, includes a member of the governing body (as defined in section 4 of the Local Government (Auckland Council) Act 2009) or a member of a local board established under section 10 of that Act.

### **190 Meetings of licensing committees**

- (1) Meetings of a licensing committee may be held at any time and place it or its chairperson decides.
- (2) At a meeting where 3 members are present, the decision of a licensing committee on any matter is determined by a majority of the valid votes recorded on it.

### **191 Quorum**

- (1) Except as provided in subsection (2), at any meeting of a licensing committee, the quorum necessary is 3 members.
- (2) At a meeting to consider and determine an application of a kind listed in subsection (3) where no objection has been filed and no matters of opposition have been raised under section 103, 129, or 141, the quorum necessary is 1 member who must be the chairperson.
- (3) The applications are:
  - (a) an application for a licence:
  - (b) an application for a manager's certificate:
  - (c) an application for renewal of a licence or manager's certificate.

### **192 Territorial authority to establish and maintain list of licensing committee's members**

- (1) A territorial authority must either—

- (a) establish, maintain, and publish its own list of persons approved to be members of the territorial authority's licensing committee or committees; or
  - (b) together with 1 or more other territorial authorities, establish, maintain, and publish a combined list of persons jointly approved by those authorities to be members of the territorial authorities' licensing committees.
- (2) A territorial authority must not approve a person to be included on the list unless that person has experience relevant to alcohol licensing matters.
- (3) A person may be approved for inclusion on the list for a period of up to 5 years and may be approved for any 1 or more further periods of up to 5 years.
- (4) The name of a person must be removed from the list—
- (a) when 5 years have elapsed since the territorial authority approved the person's name on the list unless the approval is renewed under subsection (3); or
  - (b) if the person resigns or is removed under section 194.
- (5) A person must not be included on the list if—
- (a) the territorial authority believes that person has, directly or by virtue of his or her relationship with another person, such an involvement or appearance of involvement with the alcohol industry that he or she could not perform his or her duties without actual bias or the appearance of bias; or
  - (b) the person is a constable, a Medical Officer of Health, an inspector, or an employee of the territorial authority.

### **193 Appointment of commissioners**

- (1) The chief executive of a territorial authority may, on the recommendation of the territorial authority, appoint a commissioner or commissioners to any of the territorial authority's licensing committees and any person so appointed has all the functions, powers, and duties of the chairperson of the licensing committee.
- (2) The chief executive may only appoint a person as a commissioner if that person is of good standing in the community and has the necessary knowledge, skill, and experience relating to matters that are likely to come before the committee.
- (3) A person must not be appointed as a commissioner if—
- (a) the territorial authority believes that person has, directly or by virtue of his or her relationship with another person, such an involvement or appearance of involvement with the alcohol industry that he or she could not perform his or her duties without actual bias or the appearance of bias; or
  - (b) the person is a constable, a Medical Officer of Health, an inspector, or an employee of the territorial authority.

- (4) A commissioner appointed under this section holds office for a term, stated when the commissioner is appointed, of up to 5 years and may be reappointed for 1 or more further periods of up to 5 years.

#### **194 Resignation or removal**

- (1) A member of a licensing committee or a commissioner appointed to a licensing committee may resign from office at any time by written notice to the relevant territorial authority.
- (2) A chairperson of a licensing committee ceases to be a chairperson if he or she ceases to be a member of the licensing committee's territorial authority.
- (3) The territorial authority may at any time remove a member of a licensing committee or a commissioner appointed to a licensing committee for inability to perform the functions of office, bankruptcy, neglect of duty, or misconduct, proved to the territorial authority's satisfaction.

#### **195 Fees and allowances for members**

- (1) A member of a licensing committee is entitled to receive remuneration not within subsection (2) for services as a member at a rate and of a kind determined by the Minister in accordance with the fees framework.
- (2) A member of the licensing committee is entitled, in accordance with the fees framework, to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a member.
- (3) For the purposes of this section, **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.
- (4) A commissioner is to be treated as a member of a licensing committee for the purposes of this section.

#### **196 Secretary of licensing committees**

For the purposes of this Act, the chief executive of the territorial authority is the secretary of its licensing committees.

#### **197 Licensing inspectors**

- (1) For the purposes of this Act, the chief executive of each territorial authority must appoint 1 or more licensing inspectors for its district.
- (2) Inspectors must monitor licensees' compliance with this Act.
- (3) Inspectors have all the other functions, powers, and duties conferred on them by or under this Act.
- (4) Inspectors must act independently when exercising and performing their functions, duties, and powers and each territorial authority must take steps to ensure that its inspector or inspectors are able to act independently.



- (5) If more than 1 inspector is appointed by a territorial authority then the territorial authority must appoint one of the inspectors to be its chief licensing inspector.
- (6) The function of a chief licensing inspector is to foster consistency in enforcement of this Act.

### **198 Delegation of functions, duties, or powers of chief executives**

- (1) While he or she has the territorial authority's general authority to do so, a chief executive may delegate to any person, either generally or particularly, any of the chief executive's functions, powers, and duties under this Act.
- (2) The chief executive must not delegate a general power of delegation.
- (3) A person to whom a chief executive delegates a function, power, or duty under subsection (1) may delegate the function, power, or duty only with the prior written consent of the chief executive.
- (4) A delegation—
  - (a) must be in writing; and
  - (b) may be made subject to any restrictions and conditions that the chief executive thinks fit; and
  - (c) must state each function, power, or duty being delegated; and
  - (d) is revocable at any time, in writing; and
  - (e) does not prevent the performance of a function or duty or exercise of any power by the chief executive.
- (5) Copies of all delegations must be kept in the office of the territorial authority and be available for inspection during ordinary business hours.
- (6) A person to whom any functions, duties, or powers are delegated may perform those functions and duties and exercise those powers in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation.
- (7) Until a delegation is revoked, it continues in force according to its tenor.
- (8) A person who appears to act under a delegation is presumed to be acting in accordance with its terms in the absence of evidence to the contrary.

Compare: 1989 No 63 s 104

### **199 Annual report**

- (1) Within 3 months after the end of every financial year, every territorial authority must prepare and send to the licensing authority a report of the proceedings and operations of its licensing committees during the year.
- (2) The licensing authority may specify the form of the annual report and the matters to be included in the report.

- (3) The licensing authority or the licensing committee must, on payment of any reasonable fee it may prescribe, provide a copy of each report to any person who asks for one.
- (4) Every annual report required to be prepared under this section is a public record for the purposes of this Act.
- (5) A copy of every annual report must be made available by the territorial authority for inspection free of charge and be made available on an Internet site maintained by or on behalf of the territorial authority for a period of not less than 5 years.

Compare: 1989 No 63 s 105

## **200 Application of Local Government Official Information and Meetings Act 1987**

- (1) Every licensing committee is a committee of its territorial authority.
- (2) The provisions of the Local Government Official Information and Meetings Act 1987, other than Part 7, apply to every licensing committee.
- (3) Subsection (2) overrides subsection (1).

### *General provisions relating to licensing authority and licensing committees*

## **201 Licensing authority and licensing committees have powers of commissions of inquiry**

- (1) Within the scope of its jurisdiction, the licensing authority and every licensing committee must be treated as being a Commission of Inquiry under the Commissions of Inquiry Act 1908; and that Act, with any necessary modifications, applies accordingly.
- (2) Subsection (1) is subject to this Act.
- (3) The power of the licensing authority or a licensing committee under the Commissions of Inquiry Act 1908 to issue summonses requiring the attendance of witnesses before it or the production of documents, or to do any other act preliminary or incidental to the hearing of any matter by the authority or committee, may be exercised by the chairperson, or by the secretary purporting to act by direction or with the authority of the chairperson.
- (4) In addition to its powers under the Commissions of Inquiry Act 1908, the licensing authority or a licensing committee has power at any time if it thinks fit to rehear any matter that it has determined.

Compare: 1989 No 63 s 110

## **202 Procedure**

- (1) If no objection to an application is filed within the prescribed time, the licensing authority or licensing committee concerned may either grant the application on the papers or convene a public hearing to consider the application.

- (2) With the leave of the chairperson of the licensing authority, a licensing committee may refer the matter to the licensing authority for decision.
- (3) Where an objection is filed within the prescribed time, the licensing authority or licensing committee concerned must convene a public hearing to consider the application, unless—
  - (a) the application is withdrawn; or
  - (b) having considered the application, the authority or committee believes that the objection is vexatious or based on grounds outside the scope of this Act; or
  - (c) the objector does not require a public hearing.
- (4) The licensing authority or licensing committee concerned must give at least 10 working days' notice of the public hearing to—
  - (a) the applicant; and
  - (b) each objector; and
  - (c) the constable, the inspector, and the Medical Officer of Health, to whom a copy of the application has been sent in accordance with this Act.
- (5) The hearing of a matter or any part of it may be conducted by telephone, audio-visual link, or other remote access facility if the licensing authority or the chairperson considers it appropriate and the necessary facilities are available.

Compare: 1989 No 63 s 106

Section 202(5): inserted, on 14 November 2018, by section 270 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

### **203 Proceedings of licensing authority and licensing committees**

- (1) Whenever the licensing authority meets for the purpose of hearing any appeal, or the authority or any licensing committee meets for the purposes of exercising or performing any power or function that it is required by this Act to exercise or perform at a public hearing, the meeting must, except in a case to which section 202(1) applies and subject to the provisions of subsections (3) and (4), be held in public.
- (2) Any other meeting of the authority or of any licensing committee may, in the discretion of the authority or committee, be held in public or in private.
- (3) Whenever the authority or committee holds a public hearing it may in its discretion hold any part of the sitting in private if, having regard to the interests of persons appearing and being heard and to the public interest, it thinks it proper to do so.
- (4) The authority or committee may in any case deliberate in private as to its decision on any matter or as to any question arising in the course of any proceedings.
- (5) The authority or committee may make an order prohibiting the publication of any report or description of any part of the proceedings in any matter before it;

but no such order may be made prohibiting the publication of the names and descriptions of the parties to the matter, or of particulars of any premises affected.

- (6) In considering whether to make an order prohibiting publication, the authority or committee must consider both the public interest in being able to learn of the proceedings of the authority and licensing committees and the privacy of persons whose affairs are before the authority or committee.
- (7) In any proceedings before the authority, any counsel or solicitor engaged by the authority pursuant to this Act may appear and be heard as counsel assisting the authority.
- (8) Any decision, order, direction, certificate, or other document issued by the authority or committee may be signed on its behalf by the chairperson or the secretary.
- (9) Subject to the provisions of this Act and of any regulations made under this Act, the authority or committee may regulate its procedure in such manner as it thinks fit.

Compare: 1989 No 63 s 107

#### **204 Right of certain persons to appear in proceedings**

- (1) This section applies to the following proceedings:
  - (a) an application for a licence under section 99:
  - (b) an application for variation of the conditions of a licence under section 120:
  - (c) an application for the renewal of a licence under section 127:
  - (d) an application for a temporary authority under section 136:
  - (e) an application for a special licence under section 137:
  - (f) an appeal against a decision of a licensing committee to the licensing authority under section 154.
- (2) With the leave of the chairperson of the licensing committee or the licensing authority (as the case may be), any of the following persons may appear and be heard, whether personally or by counsel, in any proceedings stated in subsection (1):
  - (a) an employee, volunteer, or contractor of Fire and Emergency New Zealand authorised to undertake fire safety inspections:
  - (b) a person authorised in that behalf by any territorial authority:
  - (c) any other person who satisfies the licensing committee or the licensing authority that he or she has an interest in the proceedings, apart from any interest in common with the public.

- (3) Any of the following persons may appear and be heard, whether personally or by counsel, and call, examine, or cross-examine witnesses, in any proceedings stated in subsection (1):
- (a) the applicant:
  - (b) an objector:
  - (c) an inspector:
  - (d) a constable:
  - (e) a Medical Officer of Health.

Section 204(2)(a): amended, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

### **205 Right of persons to appear in relation to appeal under section 81**

- (1) The following persons may appear and be heard, whether personally or by counsel, and call, examine, and cross-examine witnesses in an appeal under section 81 (which relates to an appeal to the licensing authority against any element of a local alcohol policy that is a matter relating to licensing):
- (a) the appellant:
  - (b) any person authorised in that behalf by a territorial authority.
- (2) With the leave of the chairperson of the licensing authority, the following persons may appear and be heard, whether personally or by counsel, and call evidence:
- (a) any inspector:
  - (b) any constable:
  - (c) any Medical Officer of Health:
  - (d) any other party who made a submission as part of the special consultative procedure on the draft local alcohol policy:
  - (e) any other person who satisfies the licensing authority that he or she has an interest in the proceedings, apart from any interest in common with the public.

### **206 Right of persons to appear in relation to certain applications for variation, suspension, and cancellation**

- (1) This section applies to the following proceedings:
- (a) an application for the variation, suspension, or cancellation of a licence under section 280:
  - (b) an application for the suspension or cancellation of a licence in respect of certain offences under section 281:
  - (c) an application for the variation, suspension, or cancellation of special licences under section 283:

- (d) an application for the suspension or cancellation of a manager's certificate under section 285:
  - (e) an application for the suspension of a licence for non-compliance with public health or fire precaution requirements under section 286.
- (2) The following persons may appear and be heard, whether personally or by counsel, and call, examine, and cross-examine witnesses:
- (a) the applicant:
  - (b) the respondent.
- (3) With the leave of the chairperson of the licensing committee or the licensing authority (as the case may be), the following persons may appear and be heard, whether personally or by counsel, and call evidence:
- (a) any inspector:
  - (b) any constable:
  - (c) any Medical Officer of Health.

#### **207 Evidence in proceedings before licensing authority or licensing committee**

- (1) The licensing authority or licensing committee concerned may receive as evidence any statement, document, information, or matter that in its opinion may assist it to deal effectually with any matter before it, whether or not the statement, document, or matter would be admissible in a court of law.
- (2) Subject to the foregoing provisions of this section, the Evidence Act 2006 applies to the authority or the committee and to the members of the authority or committee, and to all proceedings before the authority or committee, in the same manner as if the authority or committee were a court within the meaning of that Act.

Compare: 1989 No 63 s 109

#### **208 Licensing authority or licensing committee may waive certain omissions**

Where any person has neglected or omitted to do any act or thing in the precise manner or within the precise time prescribed by this Act, the licensing authority or (as the case may require) the licensing committee or the chairperson, if satisfied that the neglect or omission was not wilful, may waive the same on such terms as they think equitable.

Compare: 1989 No 63 s 111

#### **209 Licensing committee may state case for opinion of licensing authority**

- (1) A licensing committee may state a case for the opinion of the licensing authority on any question of law arising in any proceedings before it.
- (2) The licensing authority may order the removal into the High Court of any case stated under this section; and on removal the High Court has the same power to adjudicate on the proceedings as the licensing authority had.

- (3) The provisions of subpart 8 of Part 6 of the Criminal Procedure Act 2011, so far as they are applicable and with the necessary modifications, apply to any case stated under this section.

Section 209(3): amended, on 4 October 2013, by regulation 3(1) of the Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409).

### **210 Licensing authority may state case for opinion of High Court**

- (1) The licensing authority may state a case for the opinion of the High Court on any question of law arising in any proceedings before it.
- (2) The provisions of subpart 8 of Part 6 of the Criminal Procedure Act 2011, so far as they are applicable and with the necessary modifications, apply to any case stated under this section.

Compare: 1989 No 63 s 112

Section 210(2): amended, on 4 October 2013, by regulation 3(1) of the Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409).

### **211 Decisions to be given in writing**

- (1) The licensing authority and every licensing committee must give its decision on an application in writing, and must state in it—
- (a) the reasons for the decision; and
  - (b) what reports on the application were received; and
  - (c) the attitude towards the application of every report.
- (2) The statement of the attitude towards an application of any report may be in general terms only.
- (3) The licensing authority or licensing committee must give a copy of the decision to—
- (a) the applicant; and
  - (b) each objector who appeared at the hearing; and
  - (c) any other objector who requests a copy; and
  - (d) each person referred to in section 202(4)(c).
- (4) The licensing authority must take all reasonably practicable steps to ensure that copies of its decisions are publicly available.
- (5) Every territorial authority must take all reasonably practicable steps to ensure that copies of all the decisions of its licensing committees are publicly available.
- (6) A decision takes effect on the date stated in the decision (or, if no date is stated, on the date the decision is given).

Compare: 1989 No 63 s 113

### **211A Contempt of licensing authority**

- (1) A person commits an offence if the person—

- (a) wilfully insults or obstructs the licensing authority or any member of it, a witness, or an officer of the licensing authority during a sitting of the licensing authority or while a member, a witness, or an officer is going to, or returning from, a sitting of the licensing authority; or
  - (b) wilfully insults or obstructs any person in attendance at a sitting of the licensing authority; or
  - (c) wilfully interrupts, or otherwise misbehaves at, a sitting of the licensing authority; or
  - (d) wilfully and without lawful excuse disobeys any order or direction of the licensing authority in the course of the hearing of any proceedings.
- (2) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding \$1,000.
  - (3) The licensing authority may order the exclusion from a sitting of the licensing authority of any person whose behaviour, in the opinion of the licensing authority, constitutes an offence against subsection (1), whether or not the person is charged with the offence; and any officer of the licensing authority or constable may take any steps that are reasonably necessary to enforce the exclusion.

Section 211A: inserted, on 14 November 2018, by section 271 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

## Subpart 7—Management of licensed premises

### **212 Appointment of managers: on-licences, off-licences, and club licences**

Every holder of an on-licence (other than an on-licence endorsed under section 37), an off-licence, or a club licence must appoint a manager or managers in accordance with this Part.

Compare: 1989 No 63 ss 26, 49, 71

### **213 Appointment of manager: special licences**

- (1) Every holder of a special licence must appoint at least 1 manager in accordance with this Part.
- (2) The licensing committee may exempt the holder of any special licence from the requirements of subsection (1) if it is satisfied that the licensee, or some other person nominated by the licensee, will manage the conduct of the sale of alcohol pursuant to the licence.

Compare: 1989 No 63 s 84

### **214 Manager to be on duty at all times and responsible for compliance**

- (1) Except as provided in section 215, a manager must be on duty at all times when alcohol is being sold or supplied to the public on any licensed premises.
- (2) A manager on duty on any licensed premises is responsible for—



- (a) the compliance with and enforcement of—
    - (i) the provisions of this Act; and
    - (ii) the conditions of the licence in force for the premises; and
  - (b) the conduct of the premises with the aim of contributing to the reduction of alcohol-related harm.
- (3) At all times while a manager is on duty on any licensed premises, the full name of the manager must be prominently displayed inside the premises so as to be easily read by people using the premises; and the person named as manager at any time is to be treated for the purposes of this Act as the manager at that time.
- (4) At all times when alcohol is being sold or supplied on licensed premises the licensee must take all reasonable steps to enable the manager to comply with this section.

Compare: 1989 No 63 s 115

### **215 Circumstances where section 214 does not apply**

- (1) The requirement to have a manager on duty at all times when alcohol is being sold or supplied to the public on any licensed premises does not apply to—
- (a) premises for which a club licence is held; or
  - (b) premises for which an on-licence endorsed under section 37 is held; or
  - (c) premises for which an off-licence endorsed under section 40 is held; or
  - (d) premises for which an off-licence but no on-licence is held where fruit or vegetable wine or grape wine is made; or
  - (e) premises for which an off-licence but no on-licence is held that are situated on land from which there is harvested produce from which fruit or vegetable wine or grape wine is made.
- (2) At any time, the requirement to have a manager on duty at all times when alcohol is being sold or supplied to the public on any licensed premises does not apply to any premises for which both an off-licence and an on-licence are held if—
- (a) the premises are—
    - (i) premises where fruit or vegetable wine or grape wine is made; or
    - (ii) premises situated on land from which there is harvested produce from which fruit or vegetable wine or grape wine is made; and
  - (b) at that time no alcohol is being sold or supplied to the public for consumption on the premises.
- (3) A manager in respect of those premises is only required to be on duty if it is a condition of the licence or a condition of the endorsement of the licence and only for the days and times that may be specified.

- (4) If it is a condition of the licence or the endorsement of the licence that a manager be on duty at any particular time, section 214(2) to (4) applies to a manager of the premises when he or she is on duty.

### *Manager's certificates*

#### **216 Managers to hold certificate**

- (1) A person may not be appointed as a manager of any licensed premises for the purposes of this Act unless the person is of or over the age of 20, and holds a manager's certificate granted under this Part.
- (2) Subsection (1) does not affect any manager's certificate granted before the commencement of this section to a person under the age of 20.

Compare: 1989 No 63 s 116

#### **217 Manager's certificate**

A manager's certificate authorises the holder to manage any licensed premises.

Compare: 1989 No 63 s 117

#### **218 Manager must hold prescribed qualification**

- (1) The licensing authority or a licensing committee must not issue or renew a manager's certificate on or after the commencement of this section unless the manager holds a prescribed qualification.
- (2) In this section, **prescribed qualification** means—
- (a) a qualification prescribed by regulations made under this Act; or
  - (b) the successful completion of a course of training, the requirements or criteria of which have been prescribed by regulations made under this Act.

Compare: 1989 No 63 s 117A

#### **219 Applications for manager's certificates**

- (1) Every application for a manager's certificate must—
- (a) be made in the name of the person who will hold the certificate if the application is granted; and
  - (b) be made in the prescribed form and manner; and
  - (c) contain the prescribed particulars; and
  - (d) be accompanied by the prescribed fee.
- (2) An application must be filed with the following licensing committee:
- (a) where the applicant intends to be the manager of any particular licensed premises, the licensing committee with which the application for the licence was filed; or

- (b) in any other case, the licensing committee for the district in which the applicant is residing.

Compare: 1989 No 63 s 118

## 220 Reports

- (1) On receiving an application for a manager's certificate, the secretary of the licensing committee concerned must send a copy of it, and of each document filed with it, to—
  - (a) the constable in charge of the police station nearest to—
    - (i) the premises, where the applicant intends to be the manager of any particular premises; or
    - (ii) the secretary's office, where the applicant intends to be the manager of any particular conveyance; or
    - (iii) the applicant's place of residence in any other case; and
  - (b) an inspector.
- (2) The inspector must inquire into and file with the licensing committee a report on the application.
- (3) The Police must inquire into and, if they have any matters in opposition, file a report on the application within 15 working days after receiving the application.
- (4) The licensing committee may assume that, if no report is received from the Police within 20 working days after the application is referred to the Police, they have no matters in opposition to the application.
- (5) The secretary must send to the applicant a copy of any reports filed with the licensing committee under this section.

Compare: 1989 No 63 s 119

## 221 Who decides application for manager's certificate

- (1) A licensing committee may decide any application for a manager's certificate.
- (2) With the leave of the chairperson of the licensing authority, a licensing committee may refer an application for a manager's certificate to the authority for a decision.
- (3) The licensing committee must give the licensing authority the complete file relating to any application to be decided by the licensing authority.
- (4) In this section, **complete file** means—
  - (a) the application and any papers filed in support of it; and
  - (b) any reports made under section 220.

**222 Criteria for manager's certificates**

In considering an application for a manager's certificate, the licensing committee or licensing authority, as the case may be, must consider the following matters:

- (a) the applicant's suitability to be a manager:
- (b) any convictions recorded against the applicant:
- (c) any experience, in particular recent experience, that the applicant has had in controlling any premises for which a licence was in force:
- (d) any relevant training, in particular recent training, that the applicant has undertaken and evidence that the applicant holds the prescribed qualification required under section 218:
- (e) any matters dealt with in any report made under section 220.

Compare: 1989 No 63 s 121

**223 Duration of manager's certificates**

- (1) In this section,—

**end of its currency,—**

- (a) for a manager's certificate that has been renewed before, means the close of the last day of the period for which it was last renewed:
- (b) for a manager's certificate that has not been renewed before, means the close of the day 12 months after the day it was issued

**end of the prospective renewal period,—**

- (a) for a manager's certificate that has been renewed before, means the close of the day 3 years after the last day of the period for which it was last renewed:
- (b) for a manager's certificate that has not been renewed before, means the close of the day 4 years after the day it was issued.

- (2) If no application to renew a manager's certificate has been made before the end of its currency, it expires at the end of its currency.
- (3) A manager's certificate expires as provided in subsection (4) or (5), or continues in force as provided in subsection (6), if—
- (a) an application to renew it has been made before the end of its currency; but
  - (b) it has not been renewed before the end of its currency.
- (4) If a decision to refuse to renew the certificate has been made before the end of the prospective renewal period, it expires on the day stated under section 228(3).

- (5) If no decision on the application to renew the certificate has been made before the end of the prospective renewal period, it expires at the end of the prospective renewal period.
- (6) If a decision to renew the certificate is made before the end of the prospective renewal period, its renewal takes effect (for the period stated under section 228(2)) at the end of its currency.
- (7) This section is subject to the provisions of this Act relating to the suspension, cancellation, and surrender of manager's certificates.

#### **224 Application for renewal of manager's certificates**

- (1) The holder of a manager's certificate may apply in accordance with this section for the renewal of the certificate.
- (2) Every application for the renewal of a manager's certificate must—
  - (a) be filed with—
    - (i) the licensing committee for the district in which the applicant is presently employed as a manager; or
    - (ii) if the applicant is no longer employed as a manager, the licensing committee for the district in which the applicant is residing; and
  - (b) be made before the date of the expiry of the certificate; and
  - (c) be made in the prescribed form and manner; and
  - (d) contain the prescribed particulars; and
  - (e) be accompanied by the prescribed fee.

Compare: 1989 No 63 s 123

#### **225 Reports and applications for renewals**

- (1) On receiving an application for the renewal of a manager's certificate, the secretary of the licensing committee concerned must send a copy of it, and of each document filed with it, to—
  - (a) the constable in charge of the police station nearest to—
    - (i) the premises, where the applicant is the manager of any particular premises; or
    - (ii) the secretary's office, where the applicant is the manager of any particular conveyance; or
    - (iii) the applicant's place of residence, in any other case; and
  - (b) an inspector.
- (2) The inspector must inquire into and file with the licensing committee a report on the application.

- (3) The Police must inquire into and, if they have any matters in opposition, file a report on the application within 15 working days after receiving the application.
- (4) The licensing committee may assume that, if no report is received from the Police within 20 working days after the application is referred to the Police, they have no matters in opposition to the application.
- (5) The secretary must send to the applicant a copy of any reports filed with the licensing committee under this section.

Compare: 1989 No 63 s 124

### **226 Who decides application for renewal of manager's certificates**

- (1) A licensing committee may decide any application for renewal of a manager's certificate.
- (2) With the leave of the chairperson of the licensing authority, a licensing committee may refer an application for a renewal of a manager's certificate to the authority for decision.
- (3) The licensing committee must give the licensing authority the complete file relating to any application for renewal to be decided by the licensing authority.
- (4) In this section, **complete file** means—
  - (a) the application and any papers filed in support of it; and
  - (b) any reports made under section 225.

Compare: 1989 No 63 s 125

### **227 Criteria for renewal**

In considering an application for the renewal of a manager's certificate, the licensing authority or licensing committee concerned must have regard to the following matters:

- (a) the applicant's suitability to be a manager;
- (b) any convictions recorded against the applicant since the certificate was issued or last renewed;
- (c) the manner in which the manager has managed the sale and supply of alcohol pursuant to the licence with the aim of contributing to the reduction of alcohol-related harm;
- (d) any matters dealt with in any report made under section 225.

Compare: 1989 No 63 s 126

### **228 Decision on application for renewal**

- (1) After considering an application for the renewal of a manager's certificate, the licensing committee or the licensing authority must either renew the certificate or refuse to renew it.

- (2) If it renews the certificate, the licensing committee or the licensing authority must specify a date (being no later than 3 years after the date on which the renewal takes effect) on which the certificate expires unless it is again renewed under this section.
- (3) If the committee refuses to renew the certificate, it must state the day on which the certificate expires, and that day must be no later than 3 months after the date of its decision.

Compare: 1989 No 63 s 127

### *Miscellaneous provisions*

#### **229 Temporary manager**

- (1) In any case where a manager is ill or is absent for any reason, or is dismissed, or resigns, the licensee may appoint as a temporary manager a person who is not then the holder of a manager's certificate.
- (2) The appointee must, within 2 working days after the appointment, apply for a manager's certificate; and, if an application is made, the temporary manager must, from the time of the appointment until the application is determined, be deemed for the purposes of this Act to be the holder of a manager's certificate.
- (3) If the appointee does not apply for a manager's certificate within that period of 2 working days, or if the application is refused, the licensee must cease to employ the appointee as a manager.

Compare: 1989 No 63 s 128

#### **230 Acting manager**

- (1) Despite any other provision of this Act, a licensee may appoint an acting manager—
  - (a) for any period not exceeding 3 weeks at any one time where a manager is unable to act because of illness or absence; and
  - (b) for periods not exceeding in the aggregate 6 weeks in each period of 12 months to enable a manager to have a vacation or annual leave.
- (2) Every person appointed as an acting manager in accordance with this section must, while the appointment continues, be deemed for the purposes of this Act to be the holder of a manager's certificate, and it is not necessary for that person to apply for or hold a manager's certificate.

Compare: 1989 No 63 s 129

#### **231 Notice of appointment, etc, of manager, temporary manager, or acting manager**

- (1) A licensee must give notice, in accordance with subsection (2), of the appointment, or the cancellation or termination of the appointment, of any manager, temporary manager, or acting manager.

- (2) Notice is given in accordance with this subsection if the notice is given within 2 working days after the appointment, or the cancellation or termination of the appointment, to—
  - (a) the licensing committee with which the application for the licence was filed; and
  - (b) the constable in charge of the police station nearest to—
    - (i) the premises, where the licence is in force for any premises; or
    - (ii) the office of the licensing committee with which the application was filed, where the licence is in force for a conveyance.
- (3) It is not necessary to comply with subsection (1) in respect of the appointment of a temporary manager or an acting manager for any period not exceeding 48 consecutive hours.
- (4) The licensing committee may, within 5 working days after receiving a notice of the appointment of any temporary manager or acting manager, notify the licensee that it does not approve the appointment, in which case it must give a copy of the notice to the constable referred to in subsection (2)(b).
- (5) On receiving notice under subsection (4), the licensee must terminate the appointment with effect from a date not later than 5 working days after the date of the notice.

Compare: 1989 No 63 s 130

### **232 Licensees to keep record of managers, acting managers, and temporary managers**

- (1) Every licensee required by this Act to appoint a manager or managers for any premises must, in respect of each manager, acting manager, or temporary manager appointed for the premises, record (in a form that is readable or retrievable) the information prescribed by regulations made under this Act for the purposes of this section.
- (2) The licensee must keep the information recorded for at least 2 years after it is recorded.

Section 232 heading: amended, on 26 March 2015, by section 8 of the Sale and Supply of Alcohol Amendment Act 2015 (2015 No 33).

## Subpart 8—Offences and closure of premises

### *Unlicensed persons and unlicensed premises*

#### **233 Sales by unlicensed persons**

- (1) A person who does not hold a licence and sells, or displays or keeps for sale, any alcohol commits an offence.
- (2) A person who commits an offence against subsection (1) is liable on conviction to either—



- (a) a term of imprisonment of not more than 3 months; or
- (b) a fine of not more than \$40,000.

Compare: 1989 No 63 s 151

### **234 Allowing unlicensed premises to be used for sale of alcohol**

- (1) A person who is the occupier or one of the occupiers of any unlicensed premises commits an offence if that person allows any other person to sell, or display or keep for sale, any alcohol in those premises.
- (2) A person who commits an offence against subsection (1) is liable on conviction to either—
  - (a) a term of imprisonment of not more than 3 months; or
  - (b) a fine of not more than \$40,000.

Compare: 1989 No 63 s 152

### **235 Use of unlicensed premises as place of resort for consumption of alcohol**

- (1) A person who is the occupier, or has or takes part in the care, management, or control, of any unlicensed premises commits an offence if that person allows those premises to be kept or used as a place of resort for the consumption of alcohol.
- (2) A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$20,000.
- (3) Subsections (1) and (2) do not apply to the consumption of alcohol—
  - (a) by any person on any premises on which that person resides, whether that person is the occupier of the premises or not; or
  - (b) supplied to any person by way of gift by any person who resides on the premises on which the alcohol is consumed.
- (4) A person who acts as, or as if he or she were, an occupier or a person having any part in the care, management, or control of any premises is to be treated as an occupier of the premises, but without affecting the liability of any other person.
- (5) Premises may be treated as being kept or used as a place of resort for the consumption of alcohol even though they are open only for the use of particular people or particular classes of person, and not to all people who wish to use them.

Compare: 1989 No 63 s 153

### **235A Exemption to section 235 for certain race meetings**

- (1) Section 235 does not apply in the following circumstances:
  - (a) the person (A) referred to in section 235(1) is a small racing club; and

- (b) the consumption of alcohol takes place on a day when A is using the unlicensed premises referred to in section 235(1) to hold a race meeting; and
  - (c) A holds either an on-licence or an on-site special licence that applies to an area within the premises for the duration of the race meeting.
- (2) In this section, the following terms have the same meanings as in section 5(1) of the Racing Industry Act 2020:
- (a) **race meeting:**
  - (b) **small racing club.**

Section 235A: inserted, on 13 June 2023, by section 4 of the Sale and Supply of Alcohol (Exemption for Race Meetings) Amendment Act 2023 (2023 No 29).

### **236 People found on unlicensed premises kept as place of resort for consumption of alcohol**

- (1) A person who is not a constable acting in the execution of his or her duty commits an offence if he or she is found on any unlicensed premises kept or used in breach of section 235.
- (2) A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$2,000.
- (3) It is a defence to a charge under subsection (1) if the defendant satisfies the court that he or she—
  - (a) was present on the premises for a lawful purpose; and
  - (b) neither took part nor intended to take part in any unlawful sale, supply, or consumption of alcohol.

Compare: 1989 No 63 s 154

### *Irresponsible promotion of alcohol*

### **237 Irresponsible promotion of alcohol**

- (1) A person commits an offence if, in the course of carrying on a business, that person—
  - (a) does anything that encourages people, or is likely to encourage people, to consume alcohol to an excessive extent, whether on licensed premises or at any other place; or
  - (b) promotes or advertises discounts on alcohol in a way that leads people, or is likely to lead people, to believe that the price is 25% or more below the price at which the alcohol is ordinarily sold (otherwise than—
    - (i) on licensed premises; or
    - (ii) in the catalogue or similar price-list of the holder of an off-licence endorsed under section 40); or

- (c) holds or has on licensed premises a promotion or advertisement of discounts on alcohol that—
    - (i) leads people, or is likely to lead people, to believe that the price is 25% or more below the price at which the alcohol is ordinarily sold; and
    - (ii) can be seen (or, in the case of an audible promotion or advertisement, heard) from outside the premises; or
  - (d) promotes or advertises alcohol that is free of charge (otherwise than—
    - (i) by promoting or advertising the complimentary sampling of alcohol for consumption on premises for which an off-licence is held; or
    - (ii) by a promotion or advertisement within licensed premises that cannot be seen (or, in the case of an audible promotion or advertisement, heard) from outside the premises); or
  - (e) offers (otherwise than by means of an offer made only on licensed premises, and made only in relation to the buying of alcohol on those premises) any goods or services, or the opportunity to obtain any goods or services, or the opportunity to win a prize, on the condition that alcohol is bought; or
  - (f) promotes or advertises alcohol in a manner aimed at, or that has, or is likely to have, special appeal to, minors.
- (2) Subsection (1)(e) does not apply to a loyalty programme that provides rewards or discounts, unless the rewards or discounts apply only or primarily to alcohol.
- (3) A person who commits an offence against this section is liable on conviction,—
- (a) in the case of a licensee, to either or both of the following:
    - (i) a fine of not more than \$10,000;
    - (ii) the suspension of the licensee’s licence for a period of not more than 7 days:
  - (b) in the case of any other person, to a fine of not more than \$10,000.

Compare: 1989 No 63 s 154A

### *Banned and restricted alcohol products*

#### **238 Offences relating to banned and restricted alcohol products**

- (1) Every person commits an offence who—
- (a) imports, manufactures, distributes, or displays for sale, a banned alcohol product; or
  - (b) sells a banned alcohol product to any person; or

- (c) otherwise than in accordance with regulations made under this Act, imports, manufactures, distributes, displays for sale, or sells to any person, a restricted alcohol product.
- (2) A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$20,000.

*Offences relating to minors and people under purchase age*

**239 Sale or supply of alcohol to people under purchase age on or from licensed premises**

- (1) A licensee or manager of any licensed premises who sells or supplies alcohol, or allows alcohol to be sold or supplied, on or from the licensed premises to any person who is under the purchase age commits an offence.
- (2) A person who is not a licensee or a manager of any licensed premises who sells or supplies alcohol on or from the licensed premises to any person who is under the purchase age commits an offence.
- (3) A person who commits an offence against subsection (1) is liable on conviction,—
  - (a) in the case of a licensee, to either or both of the following:
    - (i) a fine of not more than \$10,000;
    - (ii) the suspension of the licensee’s licence for a period of not more than 7 days;
  - (b) in the case of a manager, to a fine of not more than \$10,000.
- (4) A person who commits an offence against subsection (2) is liable on conviction to a fine of not more than \$2,000.
- (5) Subsection (2) applies despite any liability that may attach to the licensee or any manager in respect of the same offence.
- (6) In any proceedings for an offence against subsection (1) or (2) in respect of selling or supplying alcohol, or allowing alcohol to be sold or supplied, to a person (the **customer**), it is a defence if the defendant proves that,—
  - (a) before or at the time of the sale or supply of alcohol concerned, there was produced to the person who sold or supplied the alcohol a document purporting to be an approved evidence of age document; and
  - (b) the person believed on reasonable grounds that the document—
    - (i) was an approved evidence of age document; and
    - (ii) related to the customer; and
    - (iii) indicated that the customer was not under the purchase age; and
  - (c) the person reasonably believed that the customer was not under the purchase age.

- (7) In any proceedings for an offence against subsection (1) or (2) in respect of selling or supplying alcohol, or allowing alcohol to be sold or supplied, to a person (the **customer**), it is a defence if the defendant proves that, before or at the time of the sale or supply of alcohol concerned, the person who sold or supplied the alcohol verified the customer's age using an approved evidence of age system in the approved manner.
- (8) A person does not commit an offence against subsection (1) or (2) by selling or supplying alcohol to a person who then supplies it to a third person who is under the purchase age, unless it is proved that the person knew or had reasonable grounds to believe that the alcohol was intended for a person under the purchase age.

Compare: 1989 No 63 s 155

#### **240 Exemptions in respect of licensed premises**

Section 239(1) and (2) do not apply to the supply of alcohol on licensed premises (other than a restricted area) to a person under the purchase age if—

- (a) the person is accompanied by his or her parent or guardian; and
- (b) the alcohol is supplied by his or her parent or guardian.

Compare: 1989 No 63 s 157

#### **241 Supplying alcohol to minors**

- (1) A person who supplies alcohol to a minor commits an offence.
- (2) A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$2,000.
- (3) It is a defence to a charge under subsection (1) if the person supplying the alcohol (the **supplier**)—
- (a) is a parent or guardian of the minor, and supplies the alcohol in a responsible manner; or
  - (b) believes on reasonable grounds that the minor is not a minor; or
  - (c) believes on reasonable grounds that subsection (7) applies to the minor, and supplies the alcohol in a responsible manner; or
  - (d) believes on reasonable grounds that he or she has the express consent of the parent or guardian of the minor, and supplies the alcohol in a responsible manner.
- (4) When considering for the purposes of subsection (3)(a), (c), or (d) whether alcohol was supplied to any person in a responsible manner, the court may, in relation to the occasion on which the alcohol was supplied, take into account the following:
- (a) the steps taken by the supplier to supervise the consumption of alcohol;
  - (b) whether food was provided with the alcohol;

- (c) whether a choice of low-alcohol or non-alcoholic beverages, or both, was offered:
  - (d) the nature of the occasion:
  - (e) any arrangements for, or provision of, safe transport:
  - (f) the period over which the alcohol was supplied:
  - (g) the strength and volume of the alcohol supplied:
  - (h) the age of the minor:
  - (i) any other matter it thinks relevant in the particular circumstances.
- (5) Subsection (1) applies irrespective of any liability that may attach to the licensee or any manager or other person in respect of the sale or supply of the alcohol.
- (6) A person does not commit an offence against subsection (1) by supplying alcohol to a person who then supplies it to a third person who is a minor, unless it is proved that the person knew or had reasonable grounds to believe that the alcohol was intended for a minor.
- (7) This subsection applies to the minor at any time if he or she is then no longer subject to guardianship by operation of section 28 of the Care of Children Act 2004.

Compare: 1989 No 63 s 160

#### **242 Employment of minors**

- (1) A licensee of any licensed premises who employs a minor in any capacity in any restricted area on the premises while that area is open for the sale of alcohol commits an offence.
- (2) A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$2,000.
- (3) Subsection (1) does not apply to the employment in a restricted area of any person for the purpose of—
- (a) preparing or serving a meal; or
  - (b) cleaning, repairing, maintaining, altering, or restocking the area or any equipment in the area; or
  - (c) removing or replacing any equipment; or
  - (d) stocktaking; or
  - (e) checking or removing cash.

Compare: 1989 No 63 s 161

#### **243 Buying of alcohol by people under purchase age**

- (1) A person under the purchase age who buys alcohol on or from any licensed premises commits an offence and is liable on conviction to a fine of not more than \$2,000.

- (2) Subsection (1) does not apply to a person who buys alcohol on or from any licensed premises at the request of a constable acting in the course of his or her duties.

Compare: 1989 No 63 s 162

#### **244 Minors in restricted areas or supervised areas**

- (1) A minor who is found in a restricted area on any licensed premises commits an offence.
- (2) A minor who is found in a supervised area on any licensed premises commits an offence unless he or she is accompanied by a parent or guardian.
- (3) A person who commits an offence against subsection (1) or (2) is liable on conviction to a fine of not more than \$1,000.
- (4) Subsections (1) and (2) do not apply to a person—
- (a) who is an employee or agent of the licensee, or a person acting under a contract with the licensee or a manager, and who is in the restricted area or supervised area for the purpose of—
    - (i) cleaning, repairing, maintaining, altering, or restocking the area or any equipment in the area; or
    - (ii) removing or replacing any equipment; or
    - (iii) stocktaking; or
    - (iv) checking or removing cash; or
  - (b) who is in the restricted area or supervised area for the purpose of preparing or serving a meal; or
  - (c) who is in the restricted area or supervised area at the request of a constable acting in the course of his or her duties; or
  - (d) who is in the supervised area for the purpose of selling or supplying alcohol.

Compare: 1989 No 63 s 163

#### **245 Permitting minors to be in restricted areas or supervised areas**

- (1) A licensee or manager of any licensed premises who allows a minor to enter or remain in a restricted area or supervised area in contravention of section 244 commits an offence.
- (2) A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$2,000.
- (3) In any proceedings for an offence against subsection (1) in respect of allowing a person (the **customer**) to enter or remain in a restricted area or supervised area, it is a defence if the defendant proves that—

- (a) there was produced to the defendant, or an agent or employee of the defendant, a document purporting to be an approved evidence of age document; and
  - (b) the defendant, agent, or employee believed on reasonable grounds that the document—
    - (i) was an approved evidence of age document; and
    - (ii) related to the customer; and
    - (iii) indicated that the customer was not a minor; and
  - (c) the defendant, agent, or employee reasonably believed that the customer was not a minor; and
  - (d) the defendant satisfies the court that, as soon as the defendant, agent, or employee became aware of the situation, reasonable steps were taken to remove the customer from the restricted area or supervised area.
- (4) In any proceedings for an offence against subsection (1) in respect of allowing a person (the **customer**) to enter or remain in a restricted area or supervised area, it is a defence if the defendant proves that the defendant, or an agent or employee of the defendant, verified the customer's age using an approved evidence of age system in the approved manner.

Compare: 1989 No 63 s 164

## 246 Who is guardian

For the purposes of this Act, a person is a minor's guardian only if he or she is guardian by virtue of the Care of Children Act 2004.

### *Other offences on licensed premises*

## 247 Unauthorised sale or supply

- (1) A person who is the licensee or manager of any licensed premises must take all reasonably practicable steps to ensure that the licensee does not do any of the following things without the authority of this Act:
- (a) sell or supply alcohol on the premises for consumption there; or
  - (b) let people consume alcohol on the premises; or
  - (c) sell or supply alcohol on the premises for consumption somewhere else.
- (2) A person who commits an offence against subsection (1) is liable on conviction,—
- (a) in the case of a licensee, to either or both of the following:
    - (i) a fine of not more than \$20,000;
    - (ii) the suspension of the licensee's licence for a period of not more than 7 days;



(b) in the case of a manager, a fine of not more than \$20,000.

Compare: 1989 No 63 s 165

#### **248 Sale or supply of alcohol to intoxicated people**

(1) The licensee or a manager of any licensed premises who sells or supplies alcohol to an intoxicated person commits an offence.

(2) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of a licensee, to either or both of the following:

(i) a fine of not more than \$10,000:

(ii) the suspension of the licensee's licence for a period of not more than 7 days:

(b) in the case of a manager, a fine of not more than \$10,000.

(3) A person who is not a licensee or manager of licensed premises and who sells or supplies alcohol to an intoxicated person commits an offence.

(4) A person who commits an offence against subsection (3) is liable on conviction to a fine of not more than \$2,000.

(5) Subsection (3) applies irrespective of any liability that may attach to the licensee or any manager in respect of the same offence.

Compare: 1989 No 63 s 166

#### **249 Allowing people to become intoxicated**

(1) The licensee or a manager of any licensed premises who allows any person to become intoxicated on the premises commits an offence.

(2) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of a licensee, to either or both of the following:

(i) a fine of not more than \$10,000:

(ii) the suspension of the licensee's licence for a period of not more than 7 days:

(b) in the case of a manager, a fine of not more than \$10,000.

Compare: 1989 No 63 s 167

#### **250 Manager intoxicated on duty**

(1) A manager of licensed premises who is intoxicated while on duty on the premises commits an offence.

(2) A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$4,000.

**251 Employee intoxicated on duty**

- (1) An employee of the licensee of any licensed premises who is intoxicated while on duty on the premises commits an offence.
- (2) A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$2,000.

**252 Allowing intoxication on licensed premises**

- (1) The licensee or a manager of any licensed premises who allows an intoxicated person to be or remain on the licensed premises commits an offence.
- (2) A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$5,000.
- (3) It is a defence to a charge under subsection (1) if the defendant satisfies the court that, as soon as the defendant or any employee of the licensee became aware of the situation, reasonable steps were taken in respect of the intoxicated person concerned, either—
  - (a) to take the person to a place of safety on the licensed premises; or
  - (b) to remove the person from the licensed premises.

Compare: 1989 No 63 s 168

**253 Allowing disorderly conduct on licensed premises**

- (1) The licensee or a manager of any licensed premises who allows any violent, quarrelsome, insulting, or disorderly conduct to take place on the licensed premises commits an offence.
- (2) A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$10,000.
- (3) It is a defence to a charge under subsection (1) if the defendant satisfies the court that, as soon as the defendant or any employee of the licensee became aware of the situation, reasonable steps were taken in respect of each person involved in the conduct concerned either—
  - (a) to take the person to a place of safety on the licensed premises; or
  - (b) to remove the person from the licensed premises.

Compare: 1989 No 63 s 168

**254 Sales of spirit in vessel exceeding 500 ml**

- (1) The licensee or a manager of any licensed premises, or an employee of the licensee, who sells or supplies any spirit to any person, for consumption on the licensed premises, in a vessel exceeding 500 ml commits an offence.
- (2) A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$2,000.

- (3) Subsection (1) does not apply to the sale or supply of any spirit to a person who is a lodger on the licensed premises for consumption in the part of the licensed premises in which that person lodges.

Compare: 1989 No 63 s 169

### **255 Being on licensed premises outside licensing hours**

- (1) A person commits an offence who on any day is found in any part of any licensed premises, other than club premises, that is 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.
- (2) A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$2,000.
- (3) Subsection (1) does not apply to—
- (a) the licensee;
  - (b) the licensee's spouse, civil union partner, or de facto partner;
  - (c) a manager;
  - (d) a manager's spouse, civil union partner, or de facto partner;
  - (e) a member of the immediate family of the licensee or a manager;
  - (f) an employee of the licensee who does not live on the premises, during the hours he or she is employed to work on the premises, and for 60 minutes after those hours have ended;
  - (g) a person who is the agent of the licensee, or acting under a contract with the licensee or a manager, and has the authority of the licensee or a manager to enter the premises—
    - (i) to clean, repair, or restock the premises (or any equipment in them); or
    - (ii) to check or remove cash;
  - (h) a person who has the authority of the licensee or a manager to enter the premises to remove equipment (for example, band equipment);
  - (i) an employee of the licensee who lives on the premises;
  - (j) a person who lodges on the premises;

- (k) a genuine guest of a person described in paragraph (i) or (j) while that person is on the premises.
- (4) Subsection (1) does not apply in respect of a person who is found on any premises where an on-licence is in force if—
  - (a) a special licence is also in force for those premises at the material time; and
  - (b) that person's presence on the premises at that time is justified in terms of the special licence.

Compare: 1989 No 63 s 170

### **256 Allowing people on licensed premises outside licensing hours**

- (1) A licensee or a manager of any licensed premises who allows a person to be on licensed premises in contravention of section 255 commits an offence.
- (2) A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$10,000.

Compare: 1989 No 63 s 171

### **257 Offences relating to evidence of age documents**

- (1) A person commits an offence who presents to the licensee or a manager of any licensed premises, or to an employee of the licensee,—
  - (a) a document that purports to be an approved evidence of age document but is not; or
  - (b) a genuine approved evidence of age document relating to the person but containing (whether because false information was given to the person issuing it, or information it contained when it was issued was later falsified) false information purporting to relate to the person's age or date of birth; or
  - (c) a genuine approved evidence of age document containing information relating to some other person.
- (2) A person commits an offence who—
  - (a) sells, hires, lends, or gives to any other person a document that purports to be an approved evidence of age document but is not; or
  - (b) falsifies the information on a genuine approved evidence of age document relating to the age or date of birth of the person to whom the document relates.
- (3) A person commits an offence who, without reasonable excuse, sells, hires, lends, or gives to any other person—
  - (a) a genuine approved evidence of age document relating to the other person but containing falsified information purporting to relate to the other person's age or date of birth; or

- (b) a genuine approved evidence of age document containing information relating to a person other than that other person.
- (4) A person who commits an offence against this section is liable on conviction to a fine of not more than \$2,000.

Compare: 1989 No 63 s 172

### **258 Licensee's offences in respect of manager**

- (1) A licensee who fails, without reasonable excuse, to do any of the following commits an offence:
  - (a) appoint a manager as required by section 212 or 213:
  - (b) ensure that section 214 is complied with:
  - (c) comply with section 231.
- (2) A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$5,000.

Compare: 1989 No 63 s 172A

#### *Failure to comply with requirement or restriction*

### **259 Failure to comply with certain requirements and restrictions imposed by or under this Act**

- (1) A person commits an offence who fails or refuses to comply with—
  - (a) any of sections 46 to 63, 150(2), and 231(1); or
  - (b) any requirement or prohibition imposed by regulations of a kind described in section 398(2) or 401 made under section 397(1)(f).
- (2) A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$5,000.

#### *Infringement offences*

### **260 Infringement offences**

In sections 261 to 264,—

**infringement fee**, in relation to an infringement offence, means an amount not exceeding \$1,000, prescribed for the purposes of this section in regulations made under this Act

**infringement offence** means an offence that is—

- (a) an offence against any of sections 243, 244, 245, 250, 251, 254, 257, and 259; or
- (b) an offence against section 258(1)(b) relating to a breach of section 214(3)

**specified infringement offence** means an offence that is—

- (a) an offence against any of sections 250, 254, and 259; or

- (b) an offence against section 258(1)(b) relating to a breach of section 214(3).

Compare: 1989 No 63 s 162A

## **261 Commission of infringement offences**

- (1) A person who is alleged to have committed an infringement offence (other than an offence against section 259) may either—
  - (a) be proceeded against for the alleged offence by the filing of a charging document under the Criminal Procedure Act 2011; or
  - (b) be served with an infringement notice as provided for in section 262.
- (2) A person who is alleged to have committed an offence against section 259 may be served with an infringement notice as provided for in section 262.

Compare: 1989 No 63 s 162B

Section 261(1)(a): amended, on 4 October 2013, by regulation 3(1) of the Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409).

## **262 Infringement notices**

- (1) If a constable observes a person committing an infringement offence, or an inspector observes a person committing a specified infringement offence, or he or she has reasonable cause to believe that such an offence is being or has been committed by that person, an infringement notice in respect of that offence may be served on that person.
- (2) Any constable or inspector (not necessarily the person who issued the notice) may deliver the infringement notice (or a copy of it) to the person alleged to have committed an infringement offence personally or by post addressed to that person's last known place of residence.
- (3) For the purposes of the Summary Proceedings Act 1957, an infringement notice (or a copy of it) sent to a person under subsection (2) is to be treated as having been served on that person when it was posted.
- (4) Every infringement notice must be in the prescribed form and must contain the following particulars:
  - (a) such details of the alleged infringement offence as are sufficient fairly to inform a person of the time, place, and nature of the alleged offence; and
  - (b) the amount of the infringement fee; and
  - (c) the address of the place at which the infringement fee may be paid; and
  - (d) the time within which the infringement fee must be paid; and
  - (e) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and
  - (f) a statement that the person served with the notice has a right to request a hearing; and

- (g) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing; and
  - (h) any other particulars that may be prescribed.
- (5) If an infringement notice has been issued under this section, the procedure under section 21 of the Summary Proceedings Act 1957 may be used in respect of the offence to which the infringement notice relates and, in that case, the provisions of that section apply with all necessary modifications.

Compare: 1989 No 63 s 162C

### 263 Payment of infringement fees

All infringement fees paid in respect of infringement offences must be paid into a Crown Bank Account.

Compare: 1989 No 63 s 162D

### 264 Regulations

- (1) The Governor-General may, by Order in Council made on the advice of the Minister, make regulations for all or any of the following purposes:
- (a) prescribing the infringement fee payable in respect of infringement offences;
  - (b) prescribing the form of infringement notices and reminder notices for infringement offences, and any other particulars to be contained in infringement notices and reminder notices.
- (2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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#### Legislation Act 2019 requirements for secondary legislation made under this section

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 264(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### *Closure of premises*

#### 265 Closure of premises by order

- (1) This section applies if a riot occurs, or there are reasonable grounds for believing that a riot may occur, in any place.
- (2) A District Court Judge or any 2 or more Justices or any 1 or more Community Magistrates may, at the request of a constable for the time being acting in that place, order every licensee in or within a specified distance of that place to close his or her licensed premises for the sale of alcohol during the time speci-

fied in the order, which time must not be later than 24 hours from the end of the day on which the order was made.

- (3) Any constable may use any force that may be necessary for the purpose of closing any licensed premises to which the order applies.
- (4) A licensee or a manager of any licensed premises to which the order applies who keeps the premises open for the sale of alcohol in contravention of the order commits an offence and is liable on conviction,—
  - (a) in the case of a licensee, to either or both of the following:
    - (i) a fine of not more than \$10,000;
    - (ii) the suspension of the licensee's licence for a period of not more than 7 days;
  - (b) in the case of a manager, a fine of not more than \$10,000.
- (5) A person who sells any alcohol on or from any licensed premises to which the order applies at any time while the order is in force commits an offence.
- (6) A person who commits an offence against subsection (5) is liable on conviction to a fine of not more than \$3,000.

Compare: 1989 No 63 s 173

## **266 Closure of licensed premises by Police**

- (1) This section applies in the following circumstances:
  - (a) if a riot is taking place or there are reasonable grounds for believing that a riot may occur on any licensed premises; or
  - (b) if there is fighting or serious disorder or there are reasonable grounds for believing that fighting or serious disorder is about to break out on any licensed premises; or
  - (c) if there is a significant threat to public health or safety; or
  - (d) if the conduct on any licensed premises amounts to a substantial public nuisance; or
  - (e) if there are reasonable grounds for believing offences have been committed on the premises that carry a maximum penalty of 5 years or more and there is a significant risk of further such offences being committed on the premises if the premises remain open.
- (2) A constable may order the closure of any licensed premises or any specified part of any licensed premises for the sale of alcohol until a time stated in the order, which time must not be later than 24 hours from the end of the day on which the order was made, or order any person to leave the premises or that specified part of them.
- (3) Any constable may use any force that may be necessary for the purpose of closing the licensed premises or any part of the licensed premises.



- (4) As soon as an order has been given, the licensee or a manager may apply to a District Court Judge or any 2 or more Justices or any 1 or more Community Magistrates for the revocation of the order.
- (5) The Judge or Justices or the Community Magistrate or Magistrates—
  - (a) may revoke the order either unconditionally or subject to any conditions as he or she may think fit to impose; or
  - (b) may refuse to revoke the order.
- (6) A licensee or a manager of any licensed premises to which the order applies who keeps the premises open or the specified part of them open for the sale of alcohol in contravention of the order commits an offence.
- (7) A person who commits an offence against subsection (6) is liable on conviction,—
  - (a) in the case of a licensee, to either or both of the following:
    - (i) a fine of not more than \$10,000;
    - (ii) the suspension of the licensee’s licence for a period of not more than 7 days;
  - (b) in the case of a manager, a fine of not more than \$10,000.
- (8) A person who sells any alcohol on or from the licensed premises or the specified part of the licensed premises at any time while the order is in effect commits an offence.
- (9) A person who commits an offence against subsection (8) is liable on conviction to a fine of not more than \$3,000.

Compare: 1989 No 63 s 174

### *Powers of entry on licensed premises*

#### **267 Powers of entry on licensed premises**

- (1) A constable or an inspector may at any reasonable time enter and inspect any licensed premises, or any part of any licensed premises, to ascertain whether the licensee is complying with the provisions of this Act and the conditions of the licence.
- (2) A constable or an inspector may at any time enter and inspect any licensed premises when he or she has reasonable grounds to believe that any offence against this Act is being committed on those licensed premises.
- (3) For the purposes of exercising the power conferred by this section, a constable or an inspector may—
  - (a) require the production of any licence, or any book, notice, record, list, or other document that is required by this Act to be kept, and examine and make copies of it; and

- (b) require the licensee or manager to provide any information or assistance reasonably required by a constable or an inspector relating to any matter within the duties of the licensee or manager.
- (4) A person commits an offence and is liable on conviction to a fine of not more than \$2,000 who, without reasonable excuse,—
  - (a) refuses or fails to admit to any licensed premises any constable or inspector who demands entry under this section; or
  - (b) delays unreasonably in admitting to any licensed premises any constable or inspector who demands entry under this section.
- (5) A person commits an offence and is liable on conviction to a fine of not more than \$2,000 who, being the licensee or a manager of any licensed premises, without reasonable excuse, refuses or fails—
  - (a) to produce the licence or any document when required to do so under subsection (3)(a); or
  - (b) to provide any assistance or information when required to do so under subsection (3)(b).

Compare: 1989 No 63 s 175

#### **268 Power to seize samples of alcohol**

- (1) This section applies where a constable or inspector has entered and is conducting an inspection of any licensed premises under section 267.
- (2) If a constable or an inspector has reasonable cause to suspect that any person on the premises has committed, is committing, or is attempting to commit any offence against this Act, he or she may seize, without warrant, for the purpose of analysis, any liquid (including the container holding the liquid) in the possession of that person that is suspected of being alcohol.

Compare: 1989 No 63 s 177A

#### **269 Power of Police to demand information**

- (1) A constable who has reasonable cause to suspect that any person has committed or is committing or is attempting to commit any offence against this Act may require the person to provide particulars of his or her name and address and date of birth.
- (2) A constable who believes on reasonable grounds that any particulars provided on requirement under subsection (1) are false may require the person concerned to provide satisfactory evidence of the particulars.
- (3) If any person, without reasonable excuse, refuses or fails to provide any particulars or evidence when required to do so by a constable under this section, and persists in refusing or failing after being cautioned by the constable, he or she may be arrested, without warrant, by any constable.

- (4) A person commits an offence and is liable on conviction to a fine of not more than \$2,000 who, having been required by any constable to provide any particulars or evidence under this section, without reasonable excuse,—
- (a) refuses or fails to provide the particulars or evidence; or
  - (b) provides any particulars or evidence knowing that the particulars or evidence are false in a material respect.

Compare: 1989 No 63 s 176

### *Further powers of Police*

#### **270 Constable may apply for search warrant**

- (1) A constable may apply for a search warrant to search any premises.
- (2) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) may, on an application by a constable in the manner provided in subpart 3 of Part 4 of that Act, issue a search warrant to search any premises if satisfied that there are reasonable grounds for believing that—
  - (a) any alcohol is being sold, or displayed or kept for sale, on any premises in which it may not lawfully be sold, or displayed or kept for sale; or
  - (b) any premises is being kept or used as a place of resort for the consumption of alcohol in contravention of this Act.
- (3) The issuing officer may impose reasonable conditions on the execution of the warrant.

Compare: 1989 No 63 s 177(1), (4)

#### **271 Search and Surveillance Act 2012 to apply**

Part 4 of the Search and Surveillance Act 2012 applies to warrants issued under section 270 and applications for them.

### *Matters of evidence*

#### **272 Matters of proof relating to status of premises**

- (1) In any proceedings for an offence against any of the provisions of this Act in relation to anything done or omitted to be done on any licensed premises, it is not necessary for the prosecution to prove that the premises to which the charge relates are, or were at any material time, licensed premises, unless at least 3 working days before the hearing the defendant puts the question in issue by written notice to that effect served on the prosecution.
- (2) In any proceedings for an offence against any of the provisions of this Act in relation to the sale of any alcohol, or the keeping or displaying of any alcohol for sale, on any unlicensed premises, it is not necessary for the prosecution to prove that the premises are, or were at any material time, unlicensed, unless at

least 3 working days before the hearing the defendant puts the question in issue by written notice to that effect served on the prosecution.

Compare: 1989 No 63 s 178

### **273 Matters of proof relating to content of alcohol**

In any proceedings for an offence against any of the provisions of this Act in relation to any alcohol, it is not necessary for the prosecution to prove that the substance concerned contains 1.15% or more ethanol by volume unless at least 20 working days before the hearing the defendant puts the question in issue by written notice to that effect served on the prosecution.

Compare: 1989 No 63 s 179

### **274 Evidence of sale or consumption of alcohol**

- (1) In any proceedings for an offence against any of the provisions of this Act in relation to the sale or consumption of alcohol on any licensed premises or unlicensed premises, it is not necessary for the prosecution to prove that any money passed or any alcohol was actually consumed, if the court is satisfied that a transaction in the nature of a sale actually took place or that any consumption of alcohol was about to take place.
- (2) In any proceedings for an offence against any of the provisions of this Act in relation to the sale of alcohol on any licensed premises, proof of consumption or intended consumption of alcohol on the premises, or of the carrying away of alcohol from the premises, by some person other than the occupier of the premises or any person employed on them is evidence that the alcohol was sold to that person by or on behalf of the licensee.
- (3) In any proceedings for an offence against any of sections 244, 245, 247, 248, 255, and 256, any element of the offence relating to any person being, at the time of the alleged offence, entitled to have alcohol sold or supplied to him or her, or to consume or procure it or have it in his or her possession on the licensed premises, or to be on the licensed premises or any particular part of the licensed premises, must be treated as having been proved unless at least 20 working days before the hearing the defendant puts the question in issue by written notice to that effect served on the prosecution.
- (4) In any proceedings for an offence against any of sections 239, and 241 to 245,—
  - (a) any element of the offence relating to the age of any person must be treated as having been proved unless at least 20 working days before the hearing the defendant puts the question in issue by written notice to that effect served on the prosecution; and
  - (b) the age of any person may be proved by the production of—
    - (i) a birth certificate (within the meaning of section 4 of the Births, Deaths, Marriages, and Relationships Registration Act 2021) relating to the person; or

- (ii) an approved evidence of age document; or
- (iii) a passport relating to the person.

Compare: 1989 No 63 s 180

Section 274(4)(b)(i): amended, on 15 June 2023, by section 147 of the Births, Deaths, Marriages, and Relationships Registration Act 2021 (2021 No 57).

### *Miscellaneous provisions*

#### **275 Liability of licensees for offences by managers**

The licensee of any licensed premises is not responsible for any offence against this Act committed by any manager of those premises except where the licensee is a party to the offence.

Compare: 1989 No 63 s 181

#### **276 Community Magistrates have jurisdiction in some cases**

A District Court presided over by 1 or more Community Magistrates has jurisdiction in respect of any offence against this Act that is not punishable by imprisonment.

#### **277 Forfeiture**

- (1) A constable may seize and remove any alcohol and the vessels containing it if there are reasonable grounds to suppose that the alcohol is intended for consumption in contravention of this Act.
- (2) On a person's being found guilty of an offence against this Act in respect of any alcohol seized, the alcohol and the vessels containing it are forfeit to the Crown.
- (3) Alcohol and the vessels containing it are forfeit to the Crown if—
  - (a) it is seized by the Police from a minor who is issued with an infringement notice in respect of an offence against this Act alleged to have been committed by the minor's drinking it, or having it in his or her possession or control, in a public place; and
  - (b) the infringement fee is later paid.
- (4) If a person is acquitted of an offence against this Act, alcohol seized under this section in relation to the offence—
  - (a) may be collected from the relevant police station within 28 days of the acquittal by or on behalf of the person or, if the person is under the age of 18 years, by his or her parent or guardian; and
  - (b) if not collected within that time, may be disposed of in any manner the Commissioner of Police directs.

**278 Notice of prosecution or conviction of managers and licensees**

- (1) Any person who files a charging document for an offence against this Act against a manager of any licensed premises must send a copy of the charging document to the licensee.
- (2) On the conviction of a manager of any licensed premises of an offence against this Act, the Registrar of the court by which the conviction is entered must send a notice of the conviction, together with any recommendation made by the court in respect of the manager's certificate, to—
  - (a) the licensee; and
  - (b) the secretary of the licensing authority.
- (3) On the conviction of a licensee or a manager for an offence against this Act, the Registrar of the court by which the conviction was entered must send a notice of the conviction, together with any recommendation made by the court in respect of the licence, to the secretary of the licensing authority, the Police, the inspector, and the Medical Officer of Health.

Compare: 1989 No 63 s 184

Section 278(1): amended, on 4 October 2013, by regulation 3(1) of the Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409).

**Subpart 9—Other enforcement provisions***General enforcement provisions***279 Building Act 2004**

- (1) If an inspector believes that any building or sitework does not comply with the Building Act 2004, the inspector must by notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.
- (2) For the purposes of this section, **building**, **sitework**, and **territorial authority** have the meanings given to them by section 7 of the Building Act 2004.

Compare: 1989 No 63 s 131A

**280 Variation, suspension, or cancellation of licences other than special licences**

- (1) Any constable or any inspector may at any time apply to the licensing authority for an order—
  - (a) varying or revoking any condition of a licence, other than a special licence, imposed by the licensing authority or a licensing committee, or imposing any new condition (relating to any matters specified in section 110(1), 116(1), or 117(1)); or
  - (b) suspending the licence; or
  - (c) cancelling the licence.

- (2) Every application for an order must—
  - (a) be in a form approved by the chief executive after consultation with the chairperson of the licensing authority and be made in the prescribed manner; and
  - (b) contain the prescribed particulars; and
  - (c) be made to the licensing authority.
- (3) The grounds on which an application for an order may be made are as follows:
  - (a) that the licensed premises have been conducted in breach of any of the provisions of this Act or of any conditions of the licence or otherwise in an improper manner:
  - (b) that the conduct of the licensee is such as to show that he or she is not a suitable person to hold the licence:
  - (c) that the licensed premises are being used in a disorderly manner so as to be obnoxious to neighbouring residents or to the public.
- (4) The secretary must—
  - (a) send a copy of the application to the licensee; and
  - (b) fix the earliest practicable date for a public hearing of the application; and
  - (c) give at least 10 working days' notice of the date, time, and place of the hearing to the applicant and the licensee.
- (5) If the licensing authority is satisfied that any of the grounds specified in subsection (3) is established and that it is desirable to make an order under this section, it may, by order,—
  - (a) vary or revoke any condition of the licence imposed by the licensing authority or a licensing committee: or
  - (b) impose any new condition (relating to any matter specified in section 110(1), 116(1), or 117(1)); or
  - (c) suspend the licence for such period not exceeding 6 months as the licensing authority thinks fit; or
  - (d) cancel the licence.
- (6) Instead of making an order under subsection (5), the licensing authority may adjourn the application for any period it thinks fit to give the licensee an opportunity to remedy any matters that the licensing authority may require to be remedied within that period.

Compare: 1989 No 63 s 132

Section 280(2)(a): replaced, on 29 October 2019, by section 272 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

**281 Suspension or cancellation of licences by licensing authority in respect of certain offences**

- (1) This section and section 282 apply in respect of an offence committed—
  - (a) by a licensee or manager against section 237, 239(1), 247, 248(1), or 249; or
  - (b) by a person (not being a licensee or manager) against section 239(2) or 248(3).
- (2) A constable must, immediately after the licensee or manager or person has been convicted of the offence, send a report to the licensing authority.
- (3) The report must include—
  - (a) a certificate of the conviction from the Registrar of the court concerned; and
  - (b) a summary of the evidence on which the conviction was based; and
  - (c) a statement by the Police as to whether or not the licensed premises concerned have been conducted in breach of any other provisions of this Act or of any conditions of the licence or otherwise in an improper manner and, if so, a statement of the circumstances; and
  - (d) a statement by the Police as to whether or not the conduct of the licensee is such as to show that the licensee is not a suitable person to hold the licence and, if so, a statement of the circumstances; and
  - (e) a recommendation by the Police as to whether the licence of the licensee should be suspended or cancelled; and
  - (f) the reasons for the recommendation.
- (4) Immediately after receiving the report, the licensing authority must consider it.
- (5) If, after considering the report, the licensing authority considers that it should hold a public hearing into whether the licence held by the licensee should be suspended or cancelled, the secretary must—
  - (a) advise the licensee accordingly; and
  - (b) send a copy of the report of the Police to the licensee; and
  - (c) fix the earliest practicable date for a public hearing of the matter; and
  - (d) give at least 10 working days' notice of the date, time, and place of the hearing to the Police and the licensee.

Compare: 1989 No 63 s 132A(1)–(5)

**282 Hearing for suspension or cancellation under section 281**

- (1) A certificate of the conviction included in the report of the Police under section 281(3)(a) is conclusive evidence that the licensee or manager or person committed the offence referred to in the certificate.



- (2) At the conclusion of the hearing, the licensing authority may make an order under subsection (3) if—
  - (a) it is satisfied of either or both of the following matters:
    - (i) that the licensed premises concerned have been conducted in breach of the provisions of this Act or of any conditions of the licence or otherwise in an improper manner:
    - (ii) the licensee is not a suitable person to hold a licence; and
  - (b) it is also satisfied that it is desirable to make an order under that subsection.
- (3) An order made under this subsection is an order to—
  - (a) suspend the licence for any period, not exceeding 6 months, as the licensing authority thinks fit; or
  - (b) cancel the licence.
- (4) Instead of making an order under subsection (3), the licensing authority may adjourn the hearing for any period it thinks fit to give the licensee an opportunity to remedy any matters that the licensing authority may require to be remedied within the period.

Compare: 1989 No 63 s 132A(5)–(10)

### **283 Variation, suspension, or cancellation of special licences**

- (1) A constable or any inspector may at any time apply to a licensing committee for an order—
  - (a) varying or revoking any condition of a special licence imposed by the committee, or imposing any new condition (relating to any matters specified in section 147); or
  - (b) suspending the licence; or
  - (c) cancelling the licence.
- (2) Every application for an order must—
  - (a) be made in the prescribed form and manner; and
  - (b) contain the prescribed particulars; and
  - (c) be made to the licensing committee that issued the licence.
- (3) The grounds on which an application for an order under this section may be made are as follows:
  - (a) that the licensed premises have been conducted in breach of any of the provisions of this Act or of any conditions of the licence or otherwise in an improper manner:
  - (b) that the conduct of the licensee is such as to show that he or she is not a suitable person to hold the licence:

- (c) that the licensed premises are being used in a disorderly manner so as to be obnoxious to neighbouring residents or to the public.
- (4) The secretary must—
  - (a) send a copy of the application to the licensee; and
  - (b) fix the earliest practicable date for a public hearing of the application; and
  - (c) give at least 10 working days' notice of the date, time, and place of the hearing to the applicant and the licensee.

Compare: 1989 No 63 s 133(1), (2), (3), and (4)

#### **284 Hearing for variation, suspension, or cancellation of special licences under section 283**

- (1) If the licensing committee is satisfied that any of the grounds specified in section 283(3) is established and that it is desirable to make an order under this section, it may, by order,—
  - (a) vary or revoke any condition of the licence imposed by the committee; or
  - (b) impose any new condition (relating to any matter specified in section 147); or
  - (c) suspend the licence for any period the committee thinks fit; or
  - (d) cancel the licence.
- (2) Instead of making an order under subsection (1), the licensing committee may adjourn the application for any period it thinks fit to give the licensee an opportunity to remedy any matters that the committee may require to be remedied within that period.
- (3) If the licensing committee makes an order under this section, the secretary must send a copy to the secretary of the licensing authority.

Compare: 1989 No 63 s 133(5)–(8)

#### **285 Suspension or cancellation of manager's certificates**

- (1) Any constable or any inspector may at any time apply in accordance with this section for an order by the licensing authority—
  - (a) suspending a manager's certificate; or
  - (b) cancelling a manager's certificate.
- (2) Every application for an order under this section must—
  - (a) be in a form approved by the chief executive after consultation with the chairperson of the licensing authority and be made in the prescribed manner; and
  - (b) contain the prescribed particulars; and
  - (c) be made to the licensing authority.

- (3) The grounds on which an application for an order under this section may be made are as follows:
  - (a) that the manager has failed to conduct any licensed premises in a proper manner;
  - (b) that the conduct of the manager is such as to show that he or she is not a suitable person to hold the certificate.
- (4) The secretary of the licensing authority must—
  - (a) send a copy of the application to the manager and to the licensee of any licensed premises to which any allegations against the manager relate; and
  - (b) fix the earliest practicable date for a public hearing of the application; and
  - (c) give at least 10 working days' notice of the public hearing to the applicant and the manager.
- (5) If the licensing authority is satisfied that either of the grounds specified in subsection (3) is established and that it is desirable to make an order under this section, it may, by order,—
  - (a) suspend the certificate for such period not exceeding 6 months as the licensing authority thinks fit; or
  - (b) cancel the certificate.
- (6) Instead of making an order under subsection (5), the licensing authority may adjourn the application for any period it thinks fit to give the manager an opportunity to remedy any matters that the licensing authority may require to be remedied within that period.

Compare: 1989 No 63 s 135

Section 285(2)(a): replaced, on 29 October 2019, by section 273 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

## **286 Suspension of licence for non-compliance with public health or fire precaution requirements**

- (1) A Medical Officer of Health or any person appointed as a FENZ inspector under section 166 of the Fire and Emergency New Zealand Act 2017 may apply to the licensing committee for the suspension of the licence if he or she has reason to believe that, because of the failure of the holder of any on-licence or club licence to comply with any requirements described in subsection (2), the health of persons using the premises is likely to be injured or their safety is likely to be endangered.
- (2) The requirements are those relating to public health or to the escape of people in the event of fire (whether in accordance with an evacuation scheme for public safety which meets the requirements of section 76 of the Fire and Emer-

gency New Zealand Act 2017 or by other means) other than requirements under the Building Act 2004.

- (3) The licensing committee must give notice in writing to the licensee calling upon the licensee to appear before the committee at a time and place to be specified in the notice, being not earlier than 7 working days after the giving of the notice, to show cause why the licence should not be suspended.
- (4) If, after hearing the licensee (if he or she appears), the licensing committee is satisfied that the licensee has failed to comply with any requirement referred to in subsection (2), it may order the licensee to do all such things as may be necessary to meet those requirements within any reasonable time it may specify, and, in the case of default, may suspend the licence until those requirements have been met.
- (5) Despite subsection (3), if, in any case to which that subsection applies, the licensing committee is satisfied that, because of the licensee's failure to comply with any requirement referred to in subsection (2), the health of people using the premises to which the application relates is likely to be injured, or their safety is likely to be endangered, the committee must suspend the licence until it is satisfied that all things necessary or desirable to remedy the default have been done.
- (6) Without limiting subsection (3) and despite subsection (4), the licensing committee may, instead of suspending the licence, order the closure of any part of the premises accordingly for the undertaking of the necessary work if, in any case to which subsection (4) applies, the committee is satisfied—
  - (a) that the risk to the health or the danger to the safety of people using the premises has arisen from any circumstances beyond the control of the licensee or manager; or
  - (b) that the risk or danger can be averted by ordering the closure of part only of the premises.
- (7) If the work is not completed to the satisfaction of the committee within any period as the committee may allow, the committee must suspend the licence under subsection (4).
- (8) While any licence is suspended the premises must be treated as not being licensed premises.

Compare: 1989 No 63 s 134

Section 286(1): amended, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

Section 286(2): amended, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

**287 Automatic suspension of licence for non-payment of annual fee**

A licence for which the annual fee prescribed by regulations made under this Act is not paid within 30 days after the day on which it is due is suspended for the period—

- (a) beginning on the day 31 days after the day on which it is due; and
- (b) ending on the day on which it, and all penalties payable in respect of its late payment, are fully paid.

*Cancellation of licences and manager's certificates for repeat offending or breaches*

**288 Holdings giving rise to cancellation of licence and manager's certificate**

- (1) Sections 289 and 290 apply to a finding (a **holding**) of the licensing authority that a person who is a licensee or a manager of any licensed premises has, after the commencement of this section,—
  - (a) done anything that encouraged people, or was likely to encourage people, to consume alcohol to an excessive extent; or
  - (b) promoted or advertised discounts on alcohol in a way that lead people, or was likely to lead people, to believe that the price was 25% or more below the price at which the alcohol was ordinarily sold (otherwise than—
    - (i) on the premises; or
    - (ii) in the catalogue or similar price-list of the holder of an off-licence endorsed under section 40); or
  - (c) held or had on the premises a promotion or advertisement of discounts on alcohol that—
    - (i) led people, or was likely to lead people, to believe that the price was 25% or more below the price at which the alcohol was ordinarily sold; and
    - (ii) could be seen (or, in the case of an audible promotion or advertisement, heard) from outside the premises; or
  - (d) promoted or advertised alcohol that was free of charge (otherwise than—
    - (i) by promoting or advertising the complimentary sampling of alcohol for consumption on premises for which an off-licence was held; or
    - (ii) by a promotion or advertisement within licensed premises that could not be seen (or in the case of an audible promotion or advertisement, heard) from outside the premises); or
  - (e) offered (otherwise than by means of an offer made only on licensed premises, and made only in relation to the buying of alcohol on those premises) any goods or services, or the opportunity to obtain any goods

- or services, or the opportunity to win a prize, on the condition that alcohol was bought; or
- (f) promoted a competition that required or enabled people to enter it by buying alcohol (otherwise than—
    - (i) by offering (by means of an offer made only on licensed premises, and made only in relation to the buying of alcohol on those premises) any goods or services, or the opportunity to obtain any goods or services, or the opportunity to win a prize, on the condition that alcohol is bought; or
    - (ii) by simply stocking, displaying, and selling the alcohol concerned); or
  - (g) promoted or advertised alcohol in a manner aimed at, or that had, or was likely to have, special appeal to, minors; or
  - (h) sold or supplied any alcohol on or from the premises to a person who was under the purchase age; or
  - (i) allowed any alcohol to be sold or supplied on or from the premises to a person who was under the purchase age; or
  - (j) sold or supplied alcohol to a person at a time when the licensee was not authorised by the licence or this Act to sell or supply alcohol to the person; or
  - (k) sold or supplied alcohol to an intoxicated person.
- (2) In sections 289 and 290, **negative holding** means a holding to which subsection (1) applies.

### **289 Cancellation of licence after 3 holdings within 3 years**

- (1) A constable or an inspector (as the case may be) must make an application for an order by the licensing authority cancelling the licensee's licence if—
- (a) an application has been made for a finding that, if proven, will result in a negative holding; and
  - (b) 2 negative holdings have been made in relation to the licensee in respect of incidents occurring during the period of 3 years ending immediately before the day on which the incident giving rise to the application referred to in paragraph (a) occurred; and
  - (c) the application and the 2 previous holdings all relate to the same premises.
- (2) The licensing authority may cancel the licensee's licence if—
- (a) the licensing authority makes a negative holding that is the subject of the application referred to in subsection (1)(a) in relation to the licensee; and
  - (b) 2 other negative holdings have been made in relation to the licensee in respect of incidents occurring during the period of 3 years ending imme-

diately before the day on which the incident giving rise to the negative holding referred to in paragraph (a) occurred; and

- (c) all the negative holdings relate to the same premises.
- (3) A cancellation of a licence takes effect on the date specified in the order, which date must not be more than 3 months after the date of the third holding.
- (4) A decision by the licensing authority to cancel a licence under this section may not be appealed against to the High Court.

### **290 Cancellation of manager's certificate after 3 holdings within 3 years**

- (1) The licensing authority must make an order cancelling a manager's certificate if—
  - (a) the court or the licensing authority makes a negative holding in relation to the manager concerned; and
  - (b) 2 other negative holdings have been made in relation to the manager concerned in respect of incidents occurring during the period of 3 years ending immediately before the day on which the incident giving rise to the negative holding referred to in paragraph (a) occurred.
- (2) A cancellation under this section takes effect immediately.
- (3) A decision by the licensing authority to cancel a manager's certificate under this section may not be appealed against to the High Court.

### **291 Procedure for applications for cancellation of licence**

- (1) An application for cancellation of a licence under section 289 must be made in the form and manner prescribed under section 285(2).
- (2) The licensing authority must—
  - (a) send a copy of the application to the licensee; and
  - (b) fix the earliest practicable date for a public hearing of the application; and
  - (c) give at least 10 days' notice of the hearing to the applicant and the licensee.
- (3) The applicant and the licensee are entitled to appear and be heard at the hearing, whether personally or by counsel, and to call, examine, and cross-examine any witnesses.
- (4) The evidence of any witnesses, and any submissions made, must be limited to whether the grounds for cancellation (specified in section 289(2)) can be established.

### **292 Restrictions on person whose licence has been cancelled**

- (1) This subsection applies to a person whose licence has been cancelled under section 289 if less than 5 years has passed since the date of the cancellation of the licence.

- (2) The licensing authority must not grant an application for a licence to a person to whom subsection (1) applies in respect of premises to which the holdings relate.

**293 Restriction on person whose manager’s certificate has been cancelled**

- (1) This subsection applies to a person whose manager’s certificate has been cancelled under section 290 if less than 5 years has passed since the third holding.
- (2) The licensing authority must not issue a manager’s certificate to a person to whom subsection (1) applies.
- (3) A person to whom subsection (1) applies must not be appointed as a temporary manager or an acting manager under section 229 or 230.
- (4) A purported appointment at any time of a person to whom subsection (1) applies as a temporary manager or an acting manager under section 229 or 230 is void (and in the case of a purported appointment of an acting manager under section 230, section 230(2) does not apply to him or her), whether or not the licensee concerned then knows that subsection (1) applies to the person.
- (5) Subsections (2) to (4) override sections 222 to 231.

**294 Licensing authority may cancel manager’s certificate after making finding**

If the licensing authority makes a finding to which section 290 applies but fails at that time to make an order cancelling the relevant manager’s certificate, it may, at any time after making the finding, make an order cancelling the manager’s certificate.

*Agencies’ duty to collaborate*

**295 Duty to collaborate**

The Police, inspectors, and Medical Officers of Health within each territorial authority’s district must—

- (a) establish and maintain arrangements with each other to ensure the ongoing monitoring of licences and the enforcement of this Act; and
- (b) work together to develop and implement strategies for the reduction of alcohol-related harm.

*Licensing authority to keep and maintain list*

**296 List of licensees and managers who hold licences or manager’s certificates**

- (1) The secretary of the licensing authority must keep and maintain a list of licensees and managers who hold licences or manager’s certificates.
- (2) The list must include the following information in respect of a licensee or manager:
- (a) the licensee’s or manager’s name:



- (b) the licence or manager's certificate number, as the case may be;
- (c) any holdings to which section 288 applies made against the licensee or manager.

**297 Removal of entry relating to holding**

The secretary of the licensing authority must remove an entry on the list relating to a holding on the date that is 4 years after the date on which the incident giving rise to that holding occurred.

**298 Purpose of list**

The purpose of the list is to ensure the accurate enforcement of the cancellation of licences and manager's certificates where a licensee or a manager has been repeatedly convicted of offences or the licensing authority has made findings against a licensee or manager in respect of offences and contraventions of the Act listed in section 288.

**299 List to be made available to constables and inspectors only**

- (1) The secretary of the licensing authority must make the list available to constables and inspectors.
- (2) The list must not be made available to any other person and does not form part of the register maintained by the secretary under section 65.
- (3) A constable or inspector may only use or access the list for the purpose set out in section 298.

### **Part 3**

#### **Licensing trusts, community trusts, and other matters**

##### **Subpart 1—Licensing trusts**

###### *Establishment of licensing trusts*

**300 Licensing trust established by Order in Council**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, establish a licensing trust for any area if that area does not overlap (wholly or partly) the district of any other licensing trust.
- (2) The Order in Council may do all or any of the following things in relation to the licensing trust:
  - (a) prescribe its name;
  - (b) define its district in accordance with subsection (4);
  - (c) prescribe the number of members;
  - (d) prescribe the number of members for a quorum at a meeting of the trust:

- (e) divide (in accordance with subsection (4)) the district of the trust into wards for the election of members, and prescribe the names and boundaries of the ward and the number of members for each ward:
  - (f) make any other necessary provision for establishing the trust in accordance with this Part.
- (3) The Order in Council must—
- (a) appoint the date for the first election of the members of the trust; and
  - (b) nominate a person to chair the first meeting of the members for the election of the president of the trust.
- (4) The boundaries of the licensing trust district and any wards must coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes.
- (5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 63 s 185(1), (3)

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**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 300(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

**301 When Minister must recommend establishment of licensing trust**

The Minister must recommend the making of an order establishing a licensing trust for an area on the request in writing of at least 15% of the residential electors of the area.

Compare: 1989 No 63 s 185(2)

**302 Licensing trust is body corporate**

- (1) A licensing trust is a body corporate having perpetual succession.
- (2) A licensing trust must have a seal.

Compare: 1989 No 63 s 186

**303 Existing licensing trusts continue in existence**

- (1) This section applies to a licensing trust constituted under the Sale of Liquor Act 1989 and in existence immediately before the commencement of this Act (in this section called an **existing licensing trust**).
- (2) The existing licensing trusts are the trusts listed in Parts 1 and 2 of Schedule 1.

- (3) An existing licensing trust continues in existence as if it were a trust established under this Act except that the next election of its members must be held on the day on which the next succeeding triennial general election of members of territorial authorities is held under the Local Electoral Act 2001.

Compare: 1989 No 63 s 241(1)

### 304 Alteration of trust boundaries

- (1) The Governor-General may, by Order in Council made on the advice of the Minister, alter the boundaries of licensing trusts to coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes (**meshblocks**).
- (2) The Minister may give the advice referred to in subsection (1) only on the recommendation of the Local Government Commission (the **Commission**) made in accordance with subsection (3).
- (3) The Commission may from time to time review the boundaries of 1 or more licensing trusts and, after consulting with affected persons (including the members of each trust, any affected licensees, and the trust's electoral officer), may recommend their alteration to coincide with meshblocks.
- (4) The monopoly provisions in section 350 do not apply to any existing licensed premises in any new area of the trust district after alteration.
- (5) The alteration of the boundaries of a trust district must not have the effect of disqualifying a member of the trust at the date of alteration whose residence falls outside the new boundaries of the trust district, but this subsection does not affect the ineligibility of any such person to vote or stand as a candidate in later elections of members of the trust.
- (6) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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#### Legislation Act 2019 requirements for secondary legislation made under this section

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 304(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 305 Functions of licensing trust

- (1) The functions of a licensing trust are to—
- (a) sell and supply alcohol; and
  - (b) establish and operate premises for—
    - (i) the sale and supply of alcohol; and

- (ii) the provision of accommodation for travellers; and
    - (iii) the sale and supply of food and refreshments; and
  - (c) carry on any other business that, in the trust's opinion, can be conveniently carried on in conjunction with the functions set out in paragraphs (a) and (b).
- (2) For the purpose of performing its functions, a licensing trust may—
- (a) do anything that a natural person may do; and
  - (b) issue debt securities.

Compare: 1989 No 63 s 187; 2004 No 115 ss 17, 18

### **306 Licensing trust liable to taxes**

A licensing trust is liable to income tax, rates, and all other taxes and duties, as if it were a body corporate formed for private pecuniary gain.

Compare: 1989 No 63 s 188

### **307 How licensing trust may spend profits**

A licensing trust may spend or distribute the net profit that it makes in performing its functions for all or any of the following purposes:

- (a) the promotion, advancement, or encouragement of education, science, literature, art, physical welfare, and other cultural and recreational purposes:
- (b) building, laying out, maintaining, or repairing buildings or places intended to further any of the purposes described in paragraph (a):
- (c) any other philanthropic purposes.

Compare: 1989 No 63 s 189

## *Elections*

### **308 Election of members**

The members of a licensing trust are elected in accordance with sections 309 to 314.

Compare: 1989 No 63 s 190

### **309 Qualification to be elected or appointed member**

A person is qualified to be elected or appointed a member of a licensing trust if he or she is not disqualified under section 322, and—

- (a) in the case of a trust district not divided into wards, is qualified to vote under section 312(1); or

- (b) in the case of a trust district divided into wards, is qualified under section 312(2) to vote in the ward to which the election or appointment relates.

Compare: 1989 No 63 s 200(1)(a)

### **310 First election of members**

- (1) The first election of members of a licensing trust established under section 300 must be held on the day appointed by the Order in Council establishing the trust.
- (2) The electoral officer for the election is the electoral officer of the territorial authority in whose district the licensing trust is situated.

Compare: 1989 No 63 s 191

### **311 Second and later elections**

- (1) If the first election of members of a licensing trust is not held on the same day as a triennial general election,—
- (a) the second election must be held on the day of a triennial general election that is at least 4 years after the first election; and
- (b) all later elections must be held on the same days as later triennial general elections.
- (2) If the first election of members is held on the same day as a triennial general election, all later elections must be held on the same days as later triennial general elections.
- (3) The electoral officer for the second and later elections is the electoral officer of the territorial authority in whose district the licensing trust is situated.

Compare: 1989 No 63 s 192

### **312 Who is qualified to vote in election of members of licensing trust**

- (1) Subject to subsection (2), a person is qualified to vote in the election of members of a licensing trust if that person is qualified as a residential elector of a territorial authority in whose district the trust is situated and resides in the trust district.
- (2) If the trust district is divided into wards, a person who is qualified as a residential elector of the territorial authority on the basis of a residential address within that ward—
- (a) is qualified to vote in the election of the member or members for that ward; and
- (b) is not qualified to vote in the election of any other member.

Compare: 1989 No 63 s 193

**313 Conduct of election**

Subject to this Part and any regulations made under this Act, the election of the members of a licensing trust must be conducted under the Local Electoral Act 2001 as an election under that Act.

Compare: 1989 No 63 s 194(1)

**314 Electoral roll**

- (1) The electoral roll of a licensing trust is,—
  - (a) if the trust district is contained within the district of a territorial authority, the electoral roll of residential electors of that territorial authority who reside in the trust district; and
  - (b) in any other case, the electoral rolls for residential electors of the territorial authorities whose districts the trust district overlaps who reside in the trust's district.
- (2) The electoral officer of a territorial authority whose district contains or overlaps a trust district must indicate on the electoral roll for the residential electors of that territorial authority—
  - (a) the names of the persons qualified to vote at elections of members of the licensing trust; and
  - (b) if the trust district is divided into wards, for each person who is qualified to vote at elections of members of the licensing trust, the ward in which that person is qualified to vote.
- (3) The electoral officer may indicate the names of persons qualified to vote by appropriate words, abbreviations, or marks.

Compare: 1989 No 63 s 194

**315 Governor-General may appoint members to make up required number**

- (1) The Governor-General may appoint as many members of a licensing trust as are required if at any election of members for the trust—
  - (a) no members are elected; or
  - (b) fewer members are elected than the required number.
- (2) A person appointed under this section holds office as if that person had been duly elected at the election.

Compare: 1989 No 63 s 195

**316 Term of office**

- (1) The members of a licensing trust hold office until their successors are appointed or elected at the next triennial general election of members.
- (2) An individual member ceases to hold office if he or she vacates his or her office.
- (3) A member is eligible for re-election.

### *Members*

#### **317 Election of president of trust**

- (1) At the first meeting of a licensing trust after an election of members, the members must elect one of themselves as president of the trust.
- (2) For the purposes of electing the president, the meeting must be chaired,—
  - (a) in the case of the election of the president following the first election of members, by the person nominated for the purpose by the Order in Council establishing the trust; and
  - (b) in all other cases, by the secretary of the trust.
- (3) If the votes for president are tied, the election must be decided by the candidates drawing lots as directed by the members.
- (4) The president comes into office on election and holds office until the election of a successor, and may stand for re-election as president.

Compare: 1989 No 63 s 196(1)–(5)

#### **318 Vacancy in office of president**

- (1) The office of president becomes vacant on—
  - (a) the written resignation of the president delivered to the secretary of the trust;
  - (b) the president's ceasing to be a member of the trust.
- (2) Where a vacancy occurs, the secretary must convene a meeting of the trust for the election of a successor as president.

Compare: 1989 No 63 s 196(5), (6)

#### **319 Deputy president**

- (1) The members of a licensing trust may appoint one of themselves as deputy president.
- (2) The deputy president must act as president of the trust during the temporary absence or incapacity of the president and in that capacity may do anything that the president could have done.
- (3) The exercise or performance by the deputy president of any power, duty, or function of the president is conclusive evidence of his or her authority to exercise or perform that power, duty, or function.

Compare: 1989 No 63 s 197

#### **320 Minister may appoint deputy of member**

- (1) This section applies where the Minister is satisfied that a member of a licensing trust is unable through illness, absence, or some other adequate reason to perform his or her duties.

- (2) In any case to which this section applies, the Minister may appoint a person to act as deputy for the member, and the person appointed must be a person nominated by the trust or, if the trust fails to nominate a person, a person selected by the Minister at his or her discretion.
- (3) There may not be more than 1 deputy in respect of a licensing trust at any one time.
- (4) A person appointed as a deputy under this section and acting in that capacity is treated for all purposes as if he or she were a member of the trust.
- (5) The validity of the appointment of a person as deputy, and the acts of that person as deputy and of the trust while that person is acting in that capacity, must not be challenged in any proceeding on the basis that—
  - (a) there was no ground for making the appointment; or
  - (b) the ground for making the appointment had come to an end.

Compare: 1989 No 63 s 198

### **321 Remuneration**

A licensing trust may pay the president and each member of the trust fees, travelling allowances, and expenses in accordance with the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies.

Compare: 1989 No 63 s 199

### *Disqualification and vacancies*

### **322 Disqualification from election or appointment as member of licensing trust**

- (1) A person is disqualified from election or appointment as a member of a licensing trust if he or she—
  - (a) is not a residential elector of the trust district or, in the case of the election or appointment of any member for a ward of a divided trust district, is not a residential elector entitled to vote at elections of members for that ward;
  - (b) has (directly or by virtue of his or her relationship with another person) such an involvement or appearance of involvement with the alcohol industry that he or she could not perform the duties of a member of a licensing trust without actual bias or the appearance of bias.
- (2) If the effect of the alteration of the boundaries of a trust district or ward on the recommendation of the Local Government Commission under section 304 or 337 is to disqualify a person under subsection (1)(a), he or she is to be treated as if he or she were not disqualified under that subsection for the purposes of the 2 next following triennial general elections of members, unless he or she changes his or her residential address during that period.

Compare: 1989 No 63 s 200(1), (1A)



**323 Disqualification from continuing to be member of licensing trust**

- (1) A member of a licensing trust is disqualified from continuing to be a member of the trust if he or she would be disqualified under section 322 from election or appointment as a member.
- (2) However, where an order is made under section 30 of the Protection of Personal and Property Rights Act 1988 in respect of a member of a licensing trust,—
  - (a) the member is not disqualified from continuing as a member of the trust by reason only of the order; but
  - (b) while the order remains in force, the member is deemed to have been granted leave of absence and is not capable of acting as a member of the trust.

Compare: 1989 No 63 s 201(2)

**324 Offence of acting as member of licensing trust while disqualified**

A person who, while disqualified under section 322 or 323, does any act as a member of a licensing trust commits an offence and is liable on conviction to a fine of not more than \$1,000.

Compare: 1989 No 63 s 200(4)

**325 Vacation of office by members**

A member of a licensing trust vacates his or her office if he or she—

- (a) dies; or
- (b) becomes disqualified under section 322; or
- (c) resigns by notice in writing to the president or the secretary of the trust; or
- (d) is removed under section 328; or
- (e) is absent without the leave of the trust from 4 consecutive meetings of the trust.

Compare: 1989 No 63 s 201(1)

**326 Extraordinary vacancies**

- (1) An extraordinary vacancy in the office of a member of a licensing trust occurs when a member vacates office under section 325.
- (2) An extraordinary vacancy must be filled by an election under the applicable provisions of the Local Electoral Act 2001.
- (3) However, if the extraordinary vacancy is a vacancy in the office of an elected member that occurs 12 months or less than 12 months before the date fixed for the next triennial general election of members, either—
  - (a) the vacancy must remain unfilled until the next triennial general election of members; or

- (b) the trust may by resolution appoint a person that is qualified to be elected as a member to fill the vacancy, in which case the person appointed is treated for all purposes as if he or she had been elected.
- (4) A person elected or appointed to fill an extraordinary vacancy holds office only for the remainder of the previous member's term.
- Compare: 1989 No 63 s 202

### *Removal from office*

#### **327 District Court may issue removal summons**

- (1) The office of the District Court in the district of a licensing trust may issue a removal summons if evidence is produced in that court by affidavit or in some other form that a member of the trust is or has become, under this or another Act, disqualified from continuing in office or otherwise incapable of holding office.
- (2) For the purpose of this section, a **removal summons** is a summons in the prescribed form requiring the member in question to appear before the District Court and give reasons why he or she should not be removed from office on the ground of disqualification or other incapacity referred to in subsection (1).

Compare: 1989 No 63 s 203(1)

Section 327(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

#### **328 District Court may remove member from office**

- (1) The office of the District Court that has issued a removal summons under section 327 may remove the member in question if, on the day and at the time appointed for the member's appearance, the court is satisfied that—
- (a) the summons has been served on the member; and
- (b) on the basis of affidavit evidence or oral evidence on oath, the member is or has become, under this or another Act, disqualified from continuing in office or otherwise incapable of holding office.
- (2) In proceedings under this section,—
- (a) the District Court may exercise all the powers that it may exercise in its ordinary jurisdiction in civil cases; and
- (b) the procedure of the District Court applies as far as applicable.
- (3) The District Court must not under this section hear any matter in relation to a disputed election of a member of a licensing trust.

Compare: 1989 No 63 s 203(2)–(5)

Section 328(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

*Conduct of business*

**329 First meeting of trust**

The first meeting of a licensing trust established under section 300 must be held at the time and place appointed by the person nominated by the Order in Council establishing the trust to chair the first meeting.

Compare: 1989 No 63 s 204(1)

**330 Procedure at meetings**

- (1) Subject to section 331(1), meetings of a licensing trust must be held at such times and places as the trust decides.
- (2) The president must chair all meetings of the trust at which the president is present.
- (3) Each question to be decided at a meeting must be decided by a majority of the valid votes recorded on the question.
- (4) The person chairing the meeting may vote in his or her own right as a member, and as chair has a casting vote if the voting is tied.

Compare: 1989 No 63 s 204(2)–(5)

**331 Trusts may determine own procedure**

- (1) Subject to subsection (2), a licensing trust may regulate as it thinks fit—
  - (a) its meetings and proceedings; and
  - (b) the general conduct of its business.
- (2) Subsection (1) is subject to—
  - (a) this Part; and
  - (b) any regulations made under this Act; and
  - (c) the Local Government Official Information and Meetings Act 1987.

Compare: 1989 No 63 s 205

**332 Financial year**

The financial year of a licensing trust begins on 1 April in each year and ends on 31 March in the following year.

**333 Accounting records**

- (1) The members of a licensing trust must ensure that there are kept at all times accounting records that—
  - (a) correctly record the transactions of the licensing trust; and
  - (b) will enable the members to ensure that the financial statements of the licensing trust comply with this Act; and
  - (c) will enable the financial statements of the licensing trust to be readily and properly audited.

- (1A) The members of a licensing trust must establish and maintain a satisfactory system of control of the accounting records.
- (1B) The accounting records must be kept—
- (a) in written form in English; or
  - (b) in a form or manner in which they are easily accessible and convertible into written form in English.
- (2) If the members fail to comply with this section, each member commits an offence and is liable on conviction to the penalty set out in section 374(2) of the Companies Act 1993 but subject to section 376 of that Act, which applies as if the members were the board of a company.

Section 333 heading: replaced, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 333(1): replaced, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 333(1A): inserted, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 333(1B): inserted, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 333(2): amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

### **334 Financial statements**

- (1) The members of a licensing trust must ensure that, within 5 months after the end of each financial year, financial statements are prepared for the trust for the financial year.
- (2) The financial statements must be prepared in accordance with generally accepted accounting practice.
- (3) The financial statements must be audited by the Auditor-General.
- (4) The audited financial statements must, as soon as practicable after the completion of their audit, be publicly notified in accordance with regulations made under this Act.
- (5) If the members fail to comply with the requirements of this section, each member commits an offence and is liable on conviction to the penalty set out in section 374(2) of the Companies Act 1993 but subject to section 376 of that Act, which applies as if the members were the board of a company.

Section 334(1): amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

### **335 Annual meeting of electors**

- (1) A licensing trust must hold a meeting of electors within 2 months after the annual financial statements have been audited by the Auditor-General.
- (2) The trust must give the electors public notice of the meeting not less than 10 working days before the meeting.

- (3) At the meeting of electors, the president and members of the trust must—
- (a) present a report (the **annual report**) to the electors on the trust's operations in the immediate past financial year; and
  - (b) provide a reasonable opportunity for electors at the meeting to ask questions about, and to discuss or comment on, those operations.
- (4) The annual report must—
- (a) include the financial statements for the immediate past financial year; and
  - (b) show separately for that financial year—
    - (i) the total remuneration paid to the members of the licensing trust; and
    - (ii) for employees or former employees who were paid remuneration and other benefits of \$100,000 per annum or more as employees, the number of those employees broken down into bands of \$10,000; and
    - (iii) a list of all grants made by the licensing trust.

Compare: 1989 No 63 s 207A

### **336 Power to compromise with creditors**

A licensing trust has the power to enter into a compromise or arrangement with its creditors as if it were a company incorporated under the Companies Act 1993, and that Act applies, with any necessary modifications, to that compromise or arrangement.

Compare: 1989 No 63 s 208

#### *Variation of licensing trust*

### **337 Variation of establishment of licensing trust**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, in respect of a licensing trust,—
- (a) vary the number of members:
  - (b) vary the number of members required for a quorum at a meeting of the trust:
  - (c) divide the trust district into wards for the election of members:
  - (d) for each ward prescribe—
    - (i) its name:
    - (ii) its boundaries in accordance with subsections (2) and (3):
    - (iii) the number of members:
  - (e) alter the boundaries of a ward in accordance with subsections (2) and (3), or wholly redivide the trust district into wards:

- (f) rename a ward:
  - (g) alter the number of members for a ward:
  - (h) abolish all the wards of the trust district.
- (2) The boundaries of any ward must coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes (**meshblocks**).
  - (3) In relation to a variation under subsection (1)(d)(ii) or (1)(e), the Minister must give the requisite advice only on the recommendation of the Local Government Commission (the **Commission**) made in accordance with subsection (4).
  - (4) The Commission may from time to time review the boundaries of wards or proposed wards of a licensing trust and, after consulting with affected persons (including the members of each trust, any affected licensees, and the trust's electoral officer), may recommend,—
    - (a) in the case of existing wards, their alteration to coincide with meshblocks; or
    - (b) in the case of proposed wards, new boundaries to coincide with meshblocks.
  - (5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 63 s 209

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**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 337(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

**338 Creation, alteration, or abolition of wards takes effect at next triennial general election of members**

- (1) This section applies when—
  - (a) an undivided trust district is divided into wards; or
  - (b) a trust district divided into wards is wholly redivided; or
  - (c) all the wards of a divided trust district are abolished.
- (2) The creation, alteration, or abolition of a ward referred to in subsection (1) takes effect only at the next triennial general election of members, except to the extent that is necessary for holding that election.

Compare: 1989 No 63 s 210(1)

**339 Alteration of number of members for ward takes effect at next triennial general election of members**

Where the number of members for a ward of a divided trust district is altered, the alteration takes effect only at the next triennial general election of members, except to the extent that is necessary for holding that election.

Compare: 1989 No 63 s 210(2)

*Amalgamation of licensing trusts*

**340 Amalgamation of licensing trusts**

Two or more licensing trusts may be amalgamated into 1 new trust in accordance with sections 341 to 345.

Compare: 1989 No 63 s 211(1)

**341 Notice of amalgamation proposal**

- (1) Where 2 or more licensing trusts propose to amalgamate, each trust must give public notice of the amalgamation proposal.
- (2) The notice must refer to the right of electors to request a meeting under section 342 and the right of electors to request a poll under section 343.
- (3) The amalgamation proposal—
  - (a) must include—
    - (i) the names of the people who are to be first members of the new licensing trust; and
    - (ii) the proposed name of the new licensing trust; and
  - (b) may include any other information the licensing trusts concerned think necessary or desirable to inform electors properly of the proposal.

Compare: 1989 No 63 s 211(2)

**342 Meeting to discuss amalgamation proposal**

- (1) The electors of the trusts concerned may, within 20 working days of publication of a notice under section 341, by written notice to the trust of which they are individually electors request that trust to hold a public meeting to discuss the amalgamation proposal.
- (2) If 50 or more electors request a meeting, the trust must hold a public meeting within 20 working days after it receives the required number of requests.

Compare: 1989 No 63 s 211(3)

**343 Poll on amalgamation proposal**

- (1) The electors of the trusts concerned may, within 40 working days of publication of a notice under section 341, by written notice to the trust of which they are individually electors request a poll of electors to be held on the amalgamation proposal.

- (2) The trust must arrange for a poll to be held if 15% or more of electors request it.
- (3) A poll required to be held under subsection (2) must be conducted in accordance with regulations made under this Act.
- (4) The amalgamation proposal is approved if a majority of the number of valid votes recorded is in favour of the proposal.

Compare: 1989 No 63 s 211(4), (5)

### 344 Amalgamation by Order in Council

- (1) If an amalgamation proposal is approved under section 343(4) or if no poll is required to be held, the amalgamating trusts must, if they proceed with the amalgamation, submit to the Minister—
  - (a) the proposal; and
  - (b) copies of the latest audited financial statements of each trust.
- (2) On the recommendation of the Minister tendered at the request of each of the amalgamating trusts, the Governor-General may, by Order in Council,—
  - (a) amalgamate 2 or more licensing trusts into 1 new trust; and
  - (b) define the district of the new trust in conformity with the appropriate meshblocks.
- (3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 63 s 211(6), (7)

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#### Legislation Act 2019 requirements for secondary legislation made under this section

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 344(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 345 Effect of Order in Council

- (1) An Order in Council under section 344(2) must specify a date not less than 14 days after the date of the making of the order for the provisions in subsection (2) to apply.
- (2) On the date specified in the order,—
  - (a) the amalgamating trusts are dissolved;
  - (b) all real and personal property (including all licences under this Act) belonging to each of the amalgamating trusts vests in the new trust;
  - (c) all money payable to the amalgamating trusts is payable to the new trust;



- (d) all liabilities, contracts, engagements, rights, and authorities of each of the amalgamating trusts are liabilities, contracts, engagements, rights, and authorities of the new trust:
  - (e) all proceedings by or against the amalgamating trusts may be carried on or prosecuted by or against the new trust.
- (3) Nothing authorised or effected under this section—
- (a) places the amalgamating trusts in breach of, or default under, any contract, or in breach of trust, or in breach of confidence, or otherwise makes them guilty of a civil wrong; or
  - (b) gives rise to a right for a person to—
    - (i) terminate, cancel, or modify a contract or an agreement; or
    - (ii) enforce or accelerate the performance of an obligation; or
    - (iii) require the performance of an obligation not otherwise arising for performance; or
  - (c) places the amalgamating trusts in breach of any enactment, rule of law, or contractual provision prohibiting, restricting, or regulating the assignment, transfer, or issue of any property or the disclosure of any information; or
  - (d) releases a surety wholly or in part from an obligation; or
  - (e) releases or discharges a contract or security; or
  - (f) entitles any employee to receive any payment or other benefit by reason that he or she ceased, as a result of this Act, to be an employee of an amalgamating trust.

Compare: 1989 No 63 s 211(8)

### *Voluntary administration and liquidation*

#### **346 Voluntary administration and liquidation under Companies Act 1993**

- (1) Parts 15A, 16, and 17 of the Companies Act 1993 apply, with any necessary modifications, to a licensing trust as if it were a company incorporated under that Act.
- (2) However, section 241(2)(a) and (b) of the Companies Act 1993 does not apply to the liquidation of a licensing trust, and instead a liquidator may be appointed by a resolution of the members.

Compare: 1989 No 63 s 212

#### **347 Distribution of assets**

- (1) Any net surplus (whether or not in money) of a licensing trust in liquidation must be distributed to the territorial authority in whose district the trust is situated.

- (2) If the trust district overlaps 2 or more territorial authority districts, the surplus must be distributed in shares to be determined by the High Court in proportion to the number of residents of each territorial authority district who are electors of the licensing trust.
- (3) For the purposes of subsection (2), the number of residents who are electors is to be counted as at the date of the last triennial general election of members.

Compare: 1989 No 63 s 213

*Special provisions relating to existing district and suburban trusts*

**348 Application of sections 349 and 350**

Sections 349 and 350 apply to each of the district and suburban licensing trusts named in Part 1 of Schedule 1.

Compare: 1989 No 63 s 214

**349 Poll may be held on competition proposal**

- (1) In respect of a licensing trust to which this section applies, a poll of residential electors in the trust district may be held on a competition proposal.
- (2) For the purposes of this section, **competition proposal** means a proposal that—
  - (a) the trust give up its present exclusive right to hold on-licences for hotels and taverns, and off-licences for any premises other than certain club premises and premises on which wine is sold or any kind of alcohol is made, within the trust district; and
  - (b) in return for giving up that right, gain the right to carry on any business outside as well as within the district.
- (3) Subject to subsection (5), a poll must be held on a competition proposal if—
  - (a) the licensing trust so resolves; or
  - (b) at least 15% of the residential electors in the trust district so request in writing.
- (4) The poll must be conducted in accordance with regulations made under this Act.
- (5) If the competition proposal is not carried, no further poll must be held under this section in respect of that licensing trust until a period of 3 years has expired.

Compare: 1989 No 63 s 215

**350 Monopoly provisions continue to apply**

- (1) Unless and until a competition proposal is carried in respect of a licensing trust to which this section applies, then, despite any of the other provisions of this Act,—

- (a) an on-licence must not be issued to any person other than the licensing trust for any hotel or tavern in the trust district:
  - (b) an off-licence must not be issued for any premises in the trust district, except—
    - (i) to the licensing trust; or
    - (ia) for premises for which a licence to which subsection (4) applies is held; or
    - (ii) for any premises on which any kind of alcohol is made:
  - (c) a licence must not be issued for any premises outside the trust district, or for any conveyance operated in whole or in part outside the trust district, to—
    - (i) the licensing trust; or
    - (ii) any person on behalf of the licensing trust or in respect of any premises in which the licensing trust has any estate or interest; or
    - (iii) any company in which the licensing trust holds any of the issued shares (other than shares that carry no right to participate beyond a specified amount in the distribution of either profits or capital); or
    - (iv) any company in which the licensing trust has the power to appoint any director; or
    - (v) any trustee or trustees of a trust in respect of which the licensing trust has the power to appoint any trustee; or
    - (vi) any other person, body corporate, or trustee, if the licensing committee or the licensing authority is satisfied that the application by that person, body corporate, or trustees is made pursuant to an arrangement designed to enable the trust to evade the prohibitions set out in subparagraphs (i) to (v):
  - (d) the licensing trust must not spend or distribute any of its net profits under section 307 outside the trust district.
- (2) Every off-licence issued under subsection (1)(b)(ia) must be issued subject to a condition that alcohol must not be sold or delivered on or from the premises for which the licence is held unless it is alcohol of a kind that, immediately before the commencement of the Sale of Liquor Act 1989, could have been sold or delivered under a wine reseller's licence granted under the Sale of Liquor Act 1962.
- (3) A licence must, if renewed, be renewed subject to a condition that alcohol must not be sold or delivered on or from the premises for which the licence is held unless it is alcohol of a kind that, immediately before the commencement of the Sale of Liquor Act 1989, could have been sold or delivered under a wine reseller's licence granted under the Sale of Liquor Act 1962, if it is—

- (a) an off-licence issued under subsection (1)(b)(ia) of this section or section 216(b)(iii) of the Sale of Liquor Act 1989; or
  - (b) a licence to which subsection (4) applies.
- (4) This subsection applies to a licence if—
- (a) it was granted as a wine reseller’s licence under the Sale of Liquor Act 1962; or
  - (b) it is an off-licence granted in substitution for a wine reseller’s licence granted under the Sale of Liquor Act 1962.

Section 350(1)(b)(ia): inserted, on 5 December 2013, by section 5(1) of the Sale and Supply of Alcohol Amendment Act 2013 (2013 No 131).

Section 350(2): inserted, on 5 December 2013, by section 5(2) of the Sale and Supply of Alcohol Amendment Act 2013 (2013 No 131).

Section 350(3): inserted, on 5 December 2013, by section 5(2) of the Sale and Supply of Alcohol Amendment Act 2013 (2013 No 131).

Section 350(4): inserted, on 5 December 2013, by section 5(2) of the Sale and Supply of Alcohol Amendment Act 2013 (2013 No 131).

## Subpart 2—Community trusts

### *Conversion of licensing trust to community trust*

#### **351 Resolution to convert licensing trust to community trust**

- (1) The members of a licensing trust may resolve that the trust be converted to a community trust.
- (2) The members must not, within 12 months after any poll held under section 356, pass a resolution for conversion of the licensing trust to a community trust.

Compare: 1989 No 63 s 219A

#### **352 Public notice of resolution**

- (1) Within 10 working days after passing a resolution under section 351 for conversion, the licensing trust must give public notice of the resolution.
- (2) The notice must refer to the right of electors of the licensing trust to request a meeting to be called under section 353 and to require a poll to be held under section 355.

Compare: 1989 No 63 s 219B

#### **353 Electors may request meeting**

- (1) Electors of the licensing trust may, by written notice, request the licensing trust to hold a public meeting to discuss the resolution for conversion.
- (2) If 50 or more electors request a meeting, the trust must hold a public meeting within 20 working days after it receives the required number of requests.

Compare: 1989 No 63 s 219C

**354 Meeting to discuss resolution**

- (1) A licensing trust must give not less than 5 working days' public notice of a meeting of electors to discuss a resolution passed under section 351.
- (2) The meeting may resolve by a majority of votes to confirm or revoke the resolution.
- (3) If the meeting confirms the resolution, then, subject to the result of a poll held under section 355, the trust must be converted to a community trust.
- (4) If the meeting revokes the resolution, the trust must not pass another resolution under section 351 before 1 year or more elapses after the date of the resolution.

Compare: 1989 No 63 s 219D

**355 Poll on resolution**

- (1) Electors of the licensing trust may, by notice in writing, request the trust to hold a poll on a resolution passed under section 351.
- (2) The trust must hold a poll on the resolution, in accordance with regulations made under this Act, if—
  - (a) 15% or more of the electors request a poll on the resolution; and
  - (b) the trust receives the required number of requests within 40 working days after public notice of the resolution is given.
- (3) The trust—
  - (a) does not have to hold a poll if the resolution has been revoked under section 354(2):
  - (b) must hold a poll even though the resolution has been confirmed under section 354(2):
  - (c) does not have to hold a poll if, within 12 months before receiving a request for a poll, the trust held a poll under section 356.
- (4) If on the poll the majority of electors who vote are in favour of the resolution, then the trust must be converted to a community trust.
- (5) If on the poll the majority of electors who vote are not in favour of the resolution, the trust must not pass another resolution under section 351 within 12 months after the date of the poll.

Compare: 1989 No 63 s 219E

**356 Electors may request poll on conversion at any time**

- (1) At any time electors of a licensing trust may, by notice in writing, request the trust to hold a poll on whether the trust should be converted to a community trust.
- (2) The trust—
  - (a) must hold a poll on the issue, in accordance with regulations made under this Act, if 15% or more of the electors request a poll:

- (b) need not hold a poll under this section if the trust held a poll under section 355 within 12 months before receiving a request under subsection (1).
  - (3) If on the poll the majority of electors who vote are in favour of conversion, then the trust must be converted to a community trust.
  - (4) If on the poll the majority of electors who vote are against conversion, the trust must not hold another poll under this section within 3 years after the date of the poll.
- Compare: 1989 No 63 s 219F

### **357 Establishment of community trust**

- (1) A licensing trust that is required by section 354(3), 355(4), or 356(3) to be converted to a community trust must, as soon as practicable, establish a community trust.
  - (2) A community trust is established when the licensing trust executes a trust deed that provides for the matters specified in section 366.
  - (3) The trust deed must be notified in the *Gazette* as soon as practicable after its execution.
- Compare: 1989 No 63 s 219G

### **358 Order in Council vesting licensing trust's undertaking in community trust**

- (1) The Governor-General may, by Order in Council made on the advice of the Minister given at the request of the licensing trust concerned, specify a date on which the licensing trust's undertaking is vested in the community trust established by the licensing trust.
- (2) The date specified in the Order in Council must be not less than 20 working days after the date on which the order is made.
- (3) On the date specified in the Order in Council,—
  - (a) the licensing trust is dissolved:
  - (b) all real and personal property of the licensing trust, including all licences under this Act, vests in the community trust:
  - (c) all money payable to or by the licensing trust is payable to or by the community trust:
  - (d) all liabilities, contracts (including employment contracts), and engagements, and all rights and authorities, of the licensing trust are the liabilities, contracts, engagements, rights, and authorities of the community trust:
  - (e) all proceedings by or against the licensing trust may be carried on or prosecuted by or against the community trust.

- (4) To avoid doubt, in the case of a licensing trust to which sections 349 and 350 apply, subsection (3)(d) does not apply to the exclusive right referred to in section 349(2).
- (5) Nothing authorised or effected under this section—
- (a) places the licensing trust or the community trust in breach of, or default under, any contract, or in breach of trust, or in breach of confidence, or otherwise makes it guilty of a civil wrong; or
  - (b) gives rise to a right for a person to—
    - (i) terminate, cancel, or modify a contract or an agreement; or
    - (ii) enforce or accelerate the performance of an obligation; or
    - (iii) require the performance of an obligation not otherwise arising for performance; or
  - (c) places the licensing trust or the community trust in breach of any enactment, rule of law, or contractual provision prohibiting, restricting, or regulating the assignment, transfer, or issue of any property or the disclosure of any information; or
  - (d) releases a surety wholly or in part from an obligation; or
  - (e) releases or discharges a contract or security; or
  - (f) entitles any employee to receive any payment or other benefit by reason that he or she ceased, as a result of this Act, to be an employee of the licensing trust.
- (6) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 63 s 219H

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**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 358(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

*Status, name, region, and functions of community trust*

**359 Community trust is body corporate**

- (1) A community trust is a body corporate having perpetual succession.
- (2) A community trust must have a seal.

- (3) The common seal of a community trust must be judicially noticed in all courts and for all purposes.

Compare: 1989 No 63 s 219I(1), (3)

### **360 Existing community trust continues in existence**

Each of the trusts listed in Part 3 of Schedule 1 continues in existence as if it were established under this Act except that the next election of its trustees must be held on the day on which the next succeeding triennial general election of members of territorial authorities is held under the Local Electoral Act 2001.

Section 360: amended, on 17 December 2016, by section 91 of the Statutes Amendment Act 2016 (2016 No 104).

### **361 Name of community trust**

- (1) A community trust must have a name and that name must include the words “Community Trust”.
- (2) A community trust may change its name, subject to subsection (1) and its trust deed.

Compare: 1989 No 63 s 219J

### **362 Region of community trust**

The region of a community trust is the same as the district of the licensing trust immediately before it was converted to a community trust.

Compare: 1989 No 63 s 219K

### **363 Alteration of community trust boundaries**

- (1) The Governor-General may, by Order in Council made on the advice of the Minister, alter the boundaries of community trusts to coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes (**meshblocks**).
- (2) The Minister may give the advice referred to in subsection (1) only on the recommendation of the Local Government Commission (the **Commission**) made in accordance with subsection (3).
- (3) The Commission may from time to time review the boundaries of 1 or more community trusts and, after consulting with affected persons (including the trustees of each community trust, any affected licensees, and the community trust’s electoral officer), may recommend their alteration to coincide with meshblocks.
- (4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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#### **Legislation Act 2019 requirements for secondary legislation made under this section**

**Publication** PCO must publish it on the legislation website and notify it in the *Gazette* LA19 s 69(1)(c)



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<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 363(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 364 Functions of community trust

- (1) For the purpose of performing its functions, a community trust may—
  - (a) do anything that a natural person may do; and
  - (b) issue debt securities.
- (2) A community trust is authorised, but not required, to hold 1 or more licences under this Act and to carry on the business of selling or supplying (or selling and supplying) alcohol.

Compare: 1989 No 63 s 219I(2)

### 365 How community trust may spend profits

- (1) A community trust must apply the net profit that it makes in performing its functions to charitable, cultural, philanthropic, recreational, and other purposes that are beneficial exclusively or principally to the community in the region of the community trust.
- (2) However, a community trust may, instead of applying all of its net profit as required by subsection (1), retain so much of its net profit as it thinks prudent for the purposes of its activities (including any proposed activities).

Compare: 1989 No 63 s 219M

### *Trust deed*

### 366 Contents of trust deed

The trust deed of a community trust must specify—

- (a) the trust's name;
- (b) the trust's functions;
- (c) the general activities to be undertaken by the trust;
- (d) the minimum and maximum number of trustees;
- (e) the procedure for meetings of trustees, including the frequency of meetings, how they are called, voting, and the number of trustees necessary for a quorum;
- (f) the trustees' remuneration;
- (g) how a trustee may resign office as trustee;
- (h) how a vacancy in the office of trustee must be filled;

- (i) matters relating to the appointment of officers, employees, managers, and agents:
- (j) the trustees' powers of investment:
- (k) the trustees' powers to spend or use the trust's capital and income:
- (l) how accounts must be kept:
- (m) how the trust deed may be varied (consistently with section 367):
- (n) any other matter that the licensing trust or community trust concerned considers appropriate.

Compare: 1989 No 63 s 219N(1)

### **367 Variation of trust deed**

- (1) The trustees of a community trust may vary the trust deed of the trust by executing a deed of variation.
- (2) A variation of the trust deed must be notified in the *Gazette* as soon as practicable after the variation is made.

Compare: 1989 No 63 s 219O

### **368 Trust deed must be consistent with Act**

- (1) The provisions of the trust deed of a community trust must be consistent with this Act.
- (2) A provision in a trust deed of a community trust that is not consistent with this Act is unenforceable and has no effect.
- (3) In this section, **trust deed** includes a variation of a trust deed.

Compare: 1989 No 63 s 219P

## *Trustees*

### **369 First trustees**

The first trustees of a community trust are the members of the licensing trust immediately before it is converted to the community trust.

Compare: 1989 No 63 s 219Q

### **370 Election of trustees**

- (1) Except for the first trustees, the trustees of a community trust are elected in accordance with sections 371 to 373.
- (2) Elections of trustees must be held on the same days as triennial general elections of members of territorial authorities are held under the Local Electoral Act 2001.

Compare: 1989 No 63 s 219R

**371 Who is qualified to vote in election of trustees of community trust**

- (1) A person is qualified to vote in the election of the trustees of a community trust if that person is qualified as a residential elector of a territorial authority in whose district the trust is situated and resides in the trust district.
- (2) If the trust district is divided into wards, a person who is qualified as a residential elector of the territorial authority on the basis of a residential address within that ward—
  - (a) is qualified to vote in the election of the trustee or trustees for that ward; and
  - (b) is not qualified to vote in the election of any other trustee.

Compare: 1989 No 63 s 219S

Section 371(1): amended, on 26 March 2015, by section 9 of the Sale and Supply of Alcohol Amendment Act 2015 (2015 No 33).

**372 Conduct of election of trustees**

Subject to this Part and any regulations made under this Act, the election of the trustees of a community trust must be conducted under the Local Electoral Act 2001 as an election under that Act; and the electoral officer for the election is the electoral officer of the territorial authority in whose district the trust is situated.

Compare: 1989 No 63 s 219T(1)

**373 Electoral roll for election of trustees**

- (1) The electoral roll for a community trust is,—
  - (a) if the trust region is contained within the district of a territorial authority, the electoral roll for residential electors of that territorial authority;
  - (b) in any other case, the electoral rolls for residential electors of the territorial authorities whose districts the trust region overlaps.
- (2) The electoral officer of a territorial authority whose district contains or overlaps a trust region must indicate on the electoral roll for residential electors of that territorial authority—
  - (a) the names of the persons qualified to vote at elections of the trustees of the community trust; and
  - (b) if the trust region is divided into wards, for each person who is qualified to vote at elections of trustees of the community trust, the ward in which that person is qualified to vote.
- (3) The electoral officer may indicate the names of persons qualified to vote by appropriate words, abbreviations, or marks.

Compare: 1989 No 63 s 219T(2)–(4)

**374 Governor-General may appoint trustees to make up required number**

- (1) The Governor-General may appoint as many trustees of a community trust as are required if at any election of trustees for the trust—
  - (a) no trustees are elected; or
  - (b) fewer trustees are elected than the required number.
- (2) A person appointed under this section holds office as if that person had been duly elected at the election.

Compare: 1989 No 63 s 219U

**375 Trustees' term of office**

- (1) The trustees of a community trust hold office until their successors are appointed or elected.
- (2) An individual trustee ceases to hold office if he or she vacates his or her office.
- (3) A trustee is eligible for re-election.

Compare: 1989 No 63 s 219V(1), (2)

**376 Disqualification from election or appointment as trustee**

A person is disqualified from election or appointment or from holding office as a trustee of a community trust if he or she—

- (a) is an undischarged bankrupt; or
- (b) has been convicted within the last 3 years of a criminal offence punishable by imprisonment and—
  - (i) the time for appealing against the conviction has expired; or
  - (ii) if an appeal has been brought, the appeal has been determined and dismissed; or
- (c) is subject to an order under section 383 of the Companies Act 1993; or
- (d) is the subject of an order under section 30 or 31 of the Protection of Personal and Property Rights Act 1988.

Compare: 1989 No 63 s 219W

**377 Disqualification from continuing to hold office as trustee**

- (1) A trustee of a community trust is disqualified from continuing to hold office as a trustee if he or she would be disqualified under section 376 from election or appointment as a trustee.
- (2) However, where an order under section 30 of the Protection of Personal and Property Rights Act 1988 is made in respect of a trustee of a community trust,—
  - (a) the trustee is not disqualified from continuing to hold office as a trustee by reason only of the order; but

- (b) while the order remains in force, the trustee is deemed to have been granted leave of absence and is not capable of acting as a trustee of the community trust.

Compare: 1989 No 63 s 219V(4A)

### **378 Vacation of office by trustees**

A trustee of a community trust vacates his or her office if he or she—

- (a) dies; or
- (b) becomes disqualified under section 376 or 377; or
- (c) resigns in the manner prescribed in the trust deed; or
- (d) is removed under section 380; or
- (e) is absent without the leave of the trust from 4 consecutive meetings of the trust.

Compare: 1989 No 63 s 219V(3), (6)

### **379 Extraordinary vacancies**

- (1) An extraordinary vacancy in the office of a trustee of a community trust occurs when a trustee vacates office under section 378.
- (2) An extraordinary vacancy must be filled by an election under the applicable provisions of the Local Electoral Act 2001.
- (3) However, if the extraordinary vacancy is a vacancy in the office of an elected trustee that occurs 12 months or less than 12 months before the date fixed for the next triennial general election of trustees, either—
  - (a) the vacancy must remain unfilled until the next triennial general election of trustees; or
  - (b) the trust may by resolution appoint a person to fill the vacancy, in which case the person appointed is treated for all purposes as if he or she had been elected.
- (4) A person who fills an extraordinary vacancy holds office only for the remainder of the previous trustee's term.

Compare: 1989 No 63 s 219V(6)

### **380 Removal of trustee from office**

The Minister may, by notice in writing, remove a trustee from office if the Minister is satisfied on reasonable grounds that the trustee—

- (a) is unable to perform his or her duties adequately; or
- (b) has neglected his or her duties; or
- (c) is guilty of misconduct; or

- (d) has acted or is acting in a manner prejudicial, or likely to be prejudicial, to the interests of the community trust.

Compare: 1989 No 63 s 219V(5)

### *Conduct of business*

#### **381 Financial year**

The financial year of a community trust begins on 1 April in each year and ends on 31 March in the following year.

Compare: 1989 No 63 s 219X(1)

#### **382 Accounting records**

- (1) The trustees of a community trust must ensure that there are kept at all times accounting records that—
- (a) correctly record the transactions of the community trust; and
  - (b) will enable the trustees to ensure that the financial statements of the community trust comply with this Act; and
  - (c) will enable the financial statements of the community trust to be readily and properly audited.
- (1A) The trustees of a community trust must establish and maintain a satisfactory system of control of the accounting records.
- (1B) The accounting records must be kept—
- (a) in written form in English; or
  - (b) in a form or manner in which they are easily accessible and convertible into written form in English.
- (2) If the trustees fail to comply with this section, each trustee commits an offence and is liable on conviction to the penalty set out in section 374(2) of the Companies Act 1993 but subject to section 376 of that Act, which applies as if the trustees were the board of a company.

Section 382 heading: replaced, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 382(1): replaced, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 382(1A): inserted, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 382(1B): inserted, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 382(2): amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

### 383 Financial statements

- (1) The trustees of a community trust must ensure that, within 5 months after the end of each financial year, financial statements are prepared for the trust for the financial year.
- (2) The financial statements must be prepared in accordance with generally accepted accounting practice.
- (3) The financial statements must be audited by the Auditor-General.
- (4) The audited financial statements must, as soon as practicable after the completion of their audit, be publicly notified in accordance with regulations made under this Act.
- (5) If the trustees fail to comply with the requirements of this section, each trustee commits an offence and is liable on conviction to the penalty set out in section 374(2) of the Companies Act 1993 but subject to section 376 of that Act, which applies as if the trustees were the board of a company.

Section 383(1): amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

### 384 Annual meeting of electors

- (1) A community trust must hold a meeting of electors within 2 months after the annual financial statements have been audited by the Auditor-General.
- (2) The trust must give the electors public notice of the meeting not less than 10 working days before the meeting.
- (3) At the meeting of electors, the trustees of the community trust must—
  - (a) present a report (the **annual report**) to the electors on the trust's operations in the immediate past financial year; and
  - (b) provide a reasonable opportunity for electors at the meeting to ask questions about, and to discuss or comment upon, those operations.
- (4) The annual report must—
  - (a) include the financial statements for the immediate past financial year; and
  - (b) show separately for that financial year—
    - (i) the total remuneration paid to the trustees of the community trust; and
    - (ii) for employees or former employees who were paid remuneration and other benefits of \$100,000 per annum or more as employees, the number of those employees broken down into bands of \$10,000; and
    - (iii) a list of all grants made by the community trust.

- (5) A community trust is not required to comply with this section in the year in which it is converted to a community trust if, in that year before conversion to a community trust, the licensing trust concerned complied with section 335.

Compare: 1989 No 63 s 219Y

### *Amalgamation of community trusts*

#### **385 Amalgamation of community trusts**

Two or more community trusts may be amalgamated into 1 new trust in accordance with sections 386 to 390.

Compare: 1989 No 63 s 219Z(1)

#### **386 Notice of amalgamation proposal**

- (1) Where 2 or more community trusts propose to amalgamate, each trust must give public notice of the amalgamation proposal.
- (2) The notice must refer to the right of electors to request a meeting under section 387 and the right of electors to request a poll under section 388.
- (3) The amalgamation proposal must include—
- (a) the names of the persons who are to be the first trustees of the new community trust; and
  - (b) the trust deed of the new community trust.

Compare: 1989 No 63 s 219Z(2), (3)

#### **387 Meeting to discuss amalgamation proposal**

- (1) The electors of the community trusts concerned may, within 20 working days of publication of a notice under section 386, by written notice to the trust of which they are individually electors, request that trust to hold a public meeting to discuss the amalgamation proposal.
- (2) If 50 or more electors request a meeting, the trust must hold a public meeting within 20 working days after it receives the required number of requests.

Compare: 1989 No 63 s 219Z(4)

#### **388 Poll on amalgamation proposal**

- (1) The electors of the community trusts concerned may, within 40 working days after publication of a notice under section 386, by written notice to the trust of which they are individually electors, request a poll of electors to be held on the amalgamation proposal.
- (2) The trust must arrange for a poll to be held if 15% or more of electors request it.
- (3) A poll required to be held under subsection (2) must be conducted in accordance with regulations made under this Act.



- (4) The amalgamation proposal is approved if a majority of the number of valid votes recorded is in favour of the proposal.

Compare: 1989 No 63 s 219Z(5), (6)

### 389 Amalgamation by Order in Council

- (1) If an amalgamation proposal is approved under section 388(4) or if no poll is required to be held, the amalgamating trusts must, if they proceed with the amalgamation, submit to the Minister—

- (a) the proposal; and
- (b) copies of the latest audited financial statements of each trust.

- (2) On the recommendation of the Minister tendered at the request of each of the amalgamating trusts, the Governor-General may, by Order in Council,—

- (a) amalgamate 2 or more community trusts into 1 new community trust; and
- (b) define the region of the new community trust in conformity with the appropriate meshblocks.

- (3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 63 s 219Z(7), (8)

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#### Legislation Act 2019 requirements for secondary legislation made under this section

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 389(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 390 Effect of Order in Council

- (1) An Order in Council under section 389(2) must specify a date not less than 14 days after the date of the making of the order for the provisions in subsection (2) to apply.

- (2) On the date specified in the order,—

- (a) the amalgamating trusts are dissolved;
- (b) all real and personal property (including all licences under this Act) belonging to each of the amalgamating trusts vests in the new trust;
- (c) all money payable to the amalgamating trusts is payable to the new trust;
- (d) all liabilities, contracts, engagements, rights, and authorities of the amalgamating trusts are liabilities, contracts, engagements, rights, and authorities of the new trust;

- (e) all proceedings by or against the amalgamating trusts may be carried on or prosecuted by the new trust:
  - (f) the trustees of the new trust are the persons named as the first trustees of the trust in the amalgamation proposal:
  - (g) the trust deed of the new trust is the trust deed included in the amalgamation proposal.
- (3) Nothing authorised or effected under this section—
- (a) places the amalgamating trusts in breach of, or default under, any contract, or in breach of trust, or in breach of confidence, or otherwise makes them guilty of a civil wrong; or
  - (b) gives rise to a right for a person to—
    - (i) terminate, cancel, or modify a contract or an agreement; or
    - (ii) enforce or accelerate the performance of an obligation; or
    - (iii) require the performance of an obligation not otherwise arising for performance; or
  - (c) places the amalgamating trusts in breach of any enactment, rule of law, or contractual provision prohibiting, restricting, or regulating the assignment, transfer, or issue of any property or the disclosure of any information; or
  - (d) releases a surety wholly or in part from an obligation; or
  - (e) releases or discharges a contract or security; or
  - (f) entitles any employee to receive any payment or other benefit by reason that he or she ceased, as a result of this Act, to be an employee of an amalgamating trust.

Compare: 1989 No 63 s 219Z(9), (10)

### *Voluntary administration and liquidation*

#### **391 Voluntary administration and liquidation under Companies Act 1993**

- (1) Parts 15A, 16, and 17 of the Companies Act 1993 apply, with any necessary modifications, to a community trust as if it were a company incorporated under that Act.
- (2) However, section 241(2)(a) and (b) of the Companies Act 1993 do not apply to the liquidation of a community trust, and instead a liquidator may be appointed by a resolution of the trustees.

Compare: 1989 No 63 s 219ZA

#### **392 Distribution of assets**

- (1) Any net surplus (whether or not in money) of a community trust in liquidation must be distributed to each territorial authority whose district overlaps wholly or partly the trust region.

- (2) If the trust region overlaps 2 or more territorial authority districts, the surplus must be distributed in shares to be determined by the High Court in proportion to the number of residents in each territorial authority district who are electors of the community trust.

Compare: 1989 No 63 s 219ZB

### *Miscellaneous*

#### **393 Liability of community trust to taxes**

- (1) A community trust is liable to income tax, rates, and all other taxes and duties as if it were a body corporate formed for private pecuniary gain.
- (2) For the purposes of the Inland Revenue Acts (as defined in section 3 of the Tax Administration Act 1994),—
- (a) a community trust and the licensing trust that was converted into the community trust are, in relation to all assets and liabilities that, by this Act, become the assets and liabilities of the community trust, treated as the same person:
- (b) all transactions entered into by, and all acts of, a licensing trust before conversion to a community trust, in relation to all assets and liabilities that, by this Act, become assets and liabilities of the community trust, are treated as having been entered into or performed by the community trust on the date on which they were entered into or performed by the licensing trust.

Compare: 1989 No 63 s 219ZC

#### **394 Application of Trusts Act 2019**

The Trusts Act 2019 applies to a community trust.

Section 394: replaced, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

#### **395 Application of Local Authorities (Members' Interests) Act 1968**

For the purposes of the Local Authorities (Members' Interests) Act 1968, a community trust is treated as if it were a territorial authority and that Act applies accordingly.

Compare: 1989 No 63 s 219ZE

#### **396 Application of Local Government Official Information and Meetings Act 1987**

For the purposes of Parts 1 to 4 of the Local Government Official Information and Meetings Act 1987, a community trust is treated as if it were a territorial authority and that Act applies accordingly.

Compare: 1989 No 63 s 219ZF

## Subpart 3—Other matters

*Regulations***397 Regulations**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for any or all of the following purposes:
  - (a) prescribing the procedure to be followed in respect of applications, objections, and reports to, and proceedings before, the licensing authority or district licensing committees:
  - (b) prescribing fees payable to the licensing authority in relation to the performance of its functions:
  - (c) prescribing fees payable to territorial authorities in relation to—
    - (i) the performance of the functions of their licensing committees; or
    - (ii) the performance of the functions of their inspectors; or
    - (iii) the undertaking of enforcement activities:
  - (d) for the purpose only of any investigations to be undertaken in relation to the possibility of introducing minimum pricing schemes for alcohol, requiring persons who sell alcohol to give the chief executive information relating to the quantities of alcohol they have sold over any period and the prices at which they have sold it:
  - (e) prescribing the form in which information required to be given by regulations under paragraph (d) must be given:
  - (f) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.
- (2) Regulations under subsection (1)(d)—
  - (a) may apply differently to different sales, depending on whether they are made by people in their capacity as manufacturer, wholesaler, holder of an off-licence, or holder of an on-licence or club licence:
  - (b) may apply differently to different kinds of alcohol:
  - (c) may—
    - (i) create offences for failing or refusing to comply with their requirements; and
    - (ii) prescribe penalties (being fines not exceeding \$20,000) for committing the offences.
- (3) Regulations made under subsection (1)(f) for the purposes of the definition in section 5(1) of public notice may prescribe different requirements for different matters, by reference to either or both of the following:
  - (a) the kind of licence to which the notice relates:

- (b) the kind of person required to give the notice.
- (4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 397(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

**398 Regulations regulating sale of alcohol containing less than 15% ethanol (other than beer, mead, and wine)**

- (1) This subsection applies to alcohol that—
- (a) is not alcohol of one of the following kinds:
- (i) beer:
  - (ii) fruit or vegetable wine:
  - (iii) grape wine:
  - (iv) mead; and
- (b) contains less than 15% ethanol by volume measured at 20°C.
- (2) Regulations made under section 397 may regulate or prohibit the sale on licensed premises of alcohol to which subsection (1) applies.
- (3) The regulations may apply to all alcohol to which subsection (1) applies, or alcohol of that kind of a stated description.
- (4) The description may be stated by reference to any or all of the following characteristics:
- (a) the volume of the vessel in which the alcohol is sold:
  - (b) the proportion by volume (at 20°C) of ethanol in the alcohol:
  - (c) the amount by volume (at 20°C) of ethanol in the alcohol.
- (5) The regulations may apply to all licensed premises, or premises for which a licence of a stated description is held.

**399 Consultation on regulations regulating sale of alcohol containing less than 15% ethanol (other than beer, mead, and wine)**

Before recommending the making of regulations regulating or prohibiting the sale on licensed premises of alcohol to which section 398(1) applies, the Minister must, to the extent that is reasonably practicable having regard to the circumstances of the particular case, consult the persons the Minister has reason

to believe are representative of interests likely to be substantially affected by the regulations.

#### **400 Regulations banning or restricting certain alcohol products**

- (1) Regulations made under section 397 may do any or all of the following things:
  - (a) declare any product containing ethanol to be a banned alcohol product or a restricted alcohol product:
  - (b) declare products of any described kind containing ethanol to be banned alcohol products or restricted alcohol products:
  - (c) regulate or control the distribution, importation, manufacture, or sale of restricted alcohol products (or regulate or control any or all of those things):
  - (d) regulate, control, or prohibit the advertising, display for sale, labelling, packaging, or promotion of restricted alcohol products (or regulate, control, or prohibit any or all of those things).
- (2) A product may be declared to be a banned alcohol product or a restricted alcohol product by reference to its name or trade name.
- (3) A kind of product may be described by reference to any or all of the following characteristics:
  - (a) its ethanol content as a proportion:
  - (b) its ethanol content described in terms of a standard drink (as defined in the regulations concerned):
  - (c) its content of any ingredient or ingredients other than ethanol:
  - (d) the proportions of any of its ingredients (whether or not including ethanol):
  - (e) the lack of any ingredient or ingredients:
  - (f) the capacity of the container in which it is sold or supplied:
  - (g) the state in which it is sold or supplied.
- (4) Subsection (3)(f) does not prevent the description of a kind of product not (or not necessarily) sold or supplied in containers.
- (5) Before recommending the making of regulations of a kind described in subsection (1), the Minister must, to the extent that is reasonably practicable having regard to the circumstances of the particular case, consult the persons the Minister has reason to believe are representative of interests likely to be substantially affected by the regulations.
- (6) This subsection applies to regulations—
  - (a) declaring any product containing ethanol to be a banned alcohol product;  
or

- (b) declaring products of any described kind containing ethanol to be banned alcohol products.
- (7) The Minister must not recommend the making of regulations to which subsection (6) applies unless satisfied, after consultation with the Minister of Health, that the product or kind of product concerned—
  - (a) is particularly dangerous to health; or
  - (b) has special appeal to young people because of—
    - (i) its nature; or
    - (ii) any advertising, display for sale, labelling, packaging, or promotion.
- (8) The Minister must not recommend the making of regulations of a kind described in subsection (1) that come into force sooner than the day 3 months after the date of their publication under the Legislation Act 2019 unless satisfied, after consultation with the Minister of Health, that there exists or is about to exist a situation serious enough to justify urgent action.

Section 400(8): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

#### **401 Point-of-sale information regulations**

Regulations made under section 397 may require licensees to display at or near points of sale (as defined in the regulations), in accordance with the regulations, information relating to either or both of the following:

- (a) the ethanol content of alcohol of different kinds:
- (b) the potential harmful effects of consuming alcohol (on people in general, people of particular kinds, people in particular situations, or 2 or all of them).

#### **402 Content of fees regulations**

- (1) Regulations under section 397(1)(b) or (c)—
  - (a) may do anything reasonably necessary to ensure that, so far as is practicable, the total costs of the licensing authority are recovered out of the fees paid to it under this Act:
  - (b) may do anything reasonably necessary to ensure that, so far as is practicable, the following are recovered out of the fees paid to territorial authorities under this Act:
    - (i) the total costs to territorial authorities of the performance by their district licensing committees of their functions:
    - (ii) the total costs to territorial authorities of inspectors employed or contracted by them (or, where inspectors employed or contracted by them perform both the functions of an inspector and other

- functions, the appropriate proportion of the total costs of those inspectors):
- (iii) the total costs to territorial authorities (in addition to those referred to in subparagraph (ii)) of their undertaking (directly or by agents or contractors) of enforcement activities under this Act:
- (c) may provide for different fees to be payable in respect of the performance of the same functions in relation to different premises, on the basis of factors such as—
- (i) the kinds of premises involved (whether premises for which licences of different kinds are held, premises of different kinds or descriptions for which licences of the same kind are held, or both); and
  - (ii) the kinds of licence held for the premises involved; and
  - (iii) the capacity and likely patronage of the premises; and
  - (iv) the trading hours (or intended trading hours) of the premises; and
  - (v) any actual or proposed activities, arrangements, or systems that may reduce the risk of alcohol-related harm arising from the operation of the premises; and
  - (vi) the previous conduct or performance of the licensee or proposed licensee (or any person involved or likely to be involved in the operation of the premises with or on behalf of the licensee or proposed licensee), whether in relation to the premises concerned or in relation to other premises:
- (d) may prescribe maximum or minimum fees or both:
- (e) may provide for full or partial refunds of fees in the case of clerical error, or a change in the level of fees prescribed by regulation:
- (f) may prescribe annual fees:
- (g) may prescribe a penalty fee (of not more than half the annual fee concerned) for the late payment of any annual fee:
- (h) may provide for the full or partial waiver of fees (or fees of particular kinds) in the case of particular financial hardship of the persons required to pay them:
- (i) may prescribe the manner in which fees are to be collected or paid (either generally, or in particular circumstances).
- (2) Subparagraphs (i) to (vi) of paragraph (c) of subsection (1) do not limit or affect the generality of that paragraph.
- (3) Subsection (1) does not limit or affect the generality of section 397(1)(b) or (c).



#### **403 Consultation on proposed fees regulations**

Before recommending the making of regulations under section 397(1)(b) or (c), the Minister must, to the extent that is reasonably practicable having regard to the circumstances of the particular case, consult the persons the Minister has reason to believe are representative of interests likely to be substantially affected by the regulations.

#### **404 Fees to be reviewed every 5 years**

- (1) Not later than 5 years after the commencement of this section, and not later than 5 years after the most recent review, the chief executive must—
  - (a) undertake and complete a review of all regulations made under section 397(1)(b) or (c) in force when the review begins; and
  - (b) report to the Minister on whether regulations amending or replacing them should be made.
- (2) Not later than 3 months after receiving a report under subsection (1)(b), the Minister must consider whether to recommend to the Governor-General the making of regulations amending or replacing the regulations to which it relates.

#### *Fee-setting by territorial authorities*

#### **405 Fee-setting by territorial authorities**

- (1) The Governor-General may, by Order in Council, authorise territorial authorities to prescribe by bylaw fees for any matter for which fees payable to territorial authorities can be prescribed by regulations under this Act.
- (2) While an order under subsection (1) is in force,—
  - (a) if a territorial authority has in force a bylaw prescribing a fee payable to it for a matter stated in the order,—
    - (i) the fee for the matter is the fee prescribed by the bylaw; and
    - (ii) every reference in this Act to the fee prescribed for the matter by regulations under this Act is a reference to the fee for the matter prescribed by the bylaw:
  - (b) if a territorial authority does not have in force a bylaw prescribing a fee for a matter stated in the order, the fee for the matter is the fee (if any) prescribed by regulations under this Act.
- (3) Section 403, with any necessary modifications, applies to the making of bylaws as if it were the making of regulations.
- (4) Before making a bylaw prescribing fees for any matter for which fees payable to territorial authorities can be prescribed by regulations under this Act a territorial authority must, to the extent that is reasonably practicable having regard to the circumstances of the particular case, consult the persons the authority has

reason to believe are representative of interests likely to be substantially affected by the bylaw.

- (5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 405(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

*Transitional matters*

**406 Disposal of certain applications made within 6 months after day of assent**

- (1) This section applies to an application made under the 1989 Act for a licence, the cancellation, renewal, or suspension of a licence, or a variation of a licence, if it was filed before the day 6 months after the day of assent.
- (2) An application to which this section applies must be dealt with by the licensing authority or District Licensing Agency—
- under the 1989 Act; and
  - as if this Act had not been enacted.
- (3) If the application for it was made after the day of assent, a licence granted (by virtue of subsection (2)) under the 1989 Act has effect as a temporary licence only, and if not earlier renewed, expires 12 months after it is issued.
- (4) The person who made an application to which this section applies may ask the licensing authority or District Licensing Agency (as the case requires) to consider it under section 407 instead of this section, and in that case, it must be dealt with under that section as if it were an application to which that section applies, but not before the day that is 6 months after the day of assent.
- (5) Subsections (3) and (4) override subsection (2).
- (6) In this section and sections 407 and 408,—

**1989 Act** means the Sale of Liquor Act 1989

**day of assent** means the day on which this Act received the Royal assent

**District Licensing Agency** means the appropriate District Licensing Agency under the 1989 Act.

**407 Disposal of applications made between 6 and 12 months after day of assent**

- (1) This section applies to an application made under the 1989 Act for a licence, the cancellation, renewal, or suspension of a licence, or a variation of a licence, if it was filed—
  - (a) after the day 6 months after the day of assent; but
  - (b) before the day 12 months after the day of assent.
- (2) An application to which this section applies must be dealt with by the licensing authority or District Licensing Agency under the 1989 Act, but—
  - (a) as if such of the new provisions stated below as have corresponding provisions in the 1989 Act had effect in place of those corresponding provisions; and
  - (b) as if such of the new provisions stated below (if any) as do not have corresponding provisions in the 1989 Act were provisions of the 1989 Act; and
  - (c) as if references in the new provisions stated below to a licensing committee were references to the appropriate District Licensing Agency; and
  - (d) otherwise as if this Act (other than this section) had not been enacted.
- (3) This section, the 1989 Act, and the new provisions stated below must be given such fair, large, and liberal interpretation as is necessary to enable applications to which this section applies to be dealt with fairly and disposed of efficiently.
- (4) In this section, the **new provisions stated below**—
  - (a) means sections 3, 4, 5, 102, 103, 105, 106, 128, 129, 131, 132, 140, 141, and 142; and
  - (b) includes any part of any of those sections.

**408 Certain otherwise ineligible applications may be granted for limited period**

- (1) This section applies to an application if—
  - (a) it is an application for an off-licence for premises for which an off-licence cannot be issued under this Act but could have been granted under the 1989 Act; or
  - (b) it is an application for the renewal of an off-licence for premises for which an off-licence cannot be issued under this Act; or
  - (c) it is an application for a licence of a kind that (in the opinion of the licensing authority or District Licensing Agency, reached after considering all the particular circumstances),—
    - (i) by virtue of the criteria stated in this Act for the issue of licences of that kind, would not be, or would be unlikely to be, issued if the application had been made under this Act; but
    - (ii) can appropriately be issued under the 1989 Act; or

- (d) it is an application for the renewal of a licence of a kind that (in the opinion of the licensing authority or District Licensing Agency, reached after considering all the particular circumstances),—
  - (i) by virtue of the criteria stated in this Act for the renewal of licences of that kind, would not be, or would be unlikely to be, renewed if the application had been made under this Act; but
  - (ii) could appropriately be renewed under the 1989 Act if the criteria for renewal included the manner in which the applicant has sold alcohol.
- (2) Where this section applies to an application,—
  - (a) the licence concerned may be granted or renewed; but
  - (b) the grant or renewal must be for a period that ends no more than 2 years after the day of assent.
- (3) This section is subject to section 406.

#### **409 Existing licences continue in force**

- (1) Every on-licence, off-licence, club licence, and special licence granted under the former licensing Act that was in force immediately before the commencement of this section, continues in force as if it is a licence of that kind issued under this Act; but—
  - (a) it expires in accordance with this Act, as if this Act had been in force when it was granted; and
  - (b) it can be renewed only by application made and considered under this Act.
- (2) Despite subsection (1), the trading hours permitted for premises to which a licence continued by that subsection applies—
  - (a) are the default maximum national trading hours stated by section 43 for the relevant kind of licence, in any case where, immediately before the commencement of this section, the same or longer trading hours were permitted for those premises;
  - (b) in every other case, are the shorter trading hours permitted under that licence.
- (2A) The trading hours permitted for premises to which an off-licence endorsed to indicate that section 51 of the Sale of Liquor Act 1989 applies to it—
  - (a) are the default maximum national trading hours stated by section 43 for an on-licence, in any case where, immediately before the commencement of this section, the same or longer trading hours were permitted for those premises; and
  - (b) are the shorter trading hours permitted under the licence, in every other case.

(2B) Subsection (2A) overrides subsection (2).

(3) Subsection (1) is subject to section 406.

Section 409(2A): inserted, on 5 December 2013, by section 6 of the Sale and Supply of Alcohol Amendment Act 2013 (2013 No 131).

Section 409(2B): inserted, on 5 December 2013, by section 6 of the Sale and Supply of Alcohol Amendment Act 2013 (2013 No 131).

#### **410 Transitional provision relating to BYO restaurants and managers**

(1) This section applies to the holder of an on-licence endorsed under section 28 of the Sale of Liquor Act 1989 at the commencement of this section who applies under this Act for a renewal of the licence or a variation of conditions.

(2) If the licence is endorsed under this Act with a condition that a manager or managers be appointed, the holder of the licence need not comply with the condition before the expiry of 6 months after the date of the endorsement.

#### **411 Transitional provision for certain manager's certificates**

(1) Every person is deemed to hold a manager's certificate who, immediately before the commencement of this section, holds a current club manager's certificate or general manager's certificate under the Sale of Liquor Act 1989.

(2) The certificate that the person is deemed to hold under subsection (1) continues in force until its expiry under the Sale of Liquor Act 1989.

(3) On the expiry of the certificate, a district licensing committee may issue a limited renewal certificate that is valid for 1 year.

(4) On the expiry of the limited renewal certificate, the licensing committee may deem it to be a manager's certificate issued under this Act if it is satisfied that its holder meets the qualifications prescribed in section 218.

#### **412 Existing members of licensing authority continue in office**

(1) Every member of the licensing authority holding office immediately before the commencement of this section continues in office as if appointed under this Act, but only for the rest of the term for which he or she was appointed.

(2) The person holding office immediately before the commencement of this section as chairperson of the licensing authority continues in office as if appointed chairperson under this Act.

#### **413 Interpretation of documents constituting certain existing bodies corporate**

(1) In subsection (2), **existing body** means a company or other body corporate incorporated before the commencement of section 28.

(2) For the purposes of section 28(1),—

(a) a restriction in the constitution of an existing body that prevents it from selling liquor must be treated as a restriction that prevents it from selling alcohol:

- (b) a restriction in the constitution of an existing body that prevents it from holding a licence under a former licensing Act must be treated as a restriction that prevents it from holding a licence under this Act:
- (c) a restriction in the constitution of an existing body that prevents it from holding a licence of a particular kind under a former licensing Act must be treated as a restriction that prevents it from holding a licence of that kind (or, as the case may be, a licence of a corresponding kind) under this Act:
- (d) an existing body (other than a company) that is authorised to sell liquor must be treated as being authorised to sell alcohol:
- (e) an existing body (other than a company) that is authorised to hold a licence under a former licensing Act must be treated as being authorised to hold a licence under this Act:
- (f) an existing body (other than a company) that is authorised to hold a licence of a particular kind under a former licensing Act must be treated as being authorised to hold a licence of that kind (or, as the case may be, a licence of a corresponding kind) under this Act.

#### **414 Permanent club charters unaffected**

- (1) A permanent club charter that (by virtue of section 238 of the Sale of Liquor Act 1989) was in force immediately before the commencement of this section continues in force despite the enactment of this Act; and its holder may continue to sell and supply alcohol in accordance with it without needing a licence.
- (2) The provisions of this Act relating to the following matters apply to the holder of a permanent club charter and to the club premises as if the club were the holder of a club licence:
  - (a) the appointment of managers and the management of licensed premises:
  - (b) the keeping of records and the filing of returns:
  - (c) the payment of annual or other fees.
- (3) Every provision of this Act creating an offence, section 267, and sections 268 and 269, apply to the holder of a permanent club charter and to the club premises as if—
  - (a) the club concerned were the holder of a club licence for the premises; and
  - (b) the premises were the premises for which the club licence were held.
- (4) So long as a permanent club charter is in force, it authorises the existence of the club concerned.
- (5) Notwithstanding subsections (1) to (4), the holder of a permanent club charter may, with the approval of the licensing authority, surrender the charter and obtain a club licence instead.

#### **415 Matters not completed by District Licensing Agencies**

- (1) A matter before a District Licensing Agency that has not been completed before the Agency goes out of existence (whether a matter relating to licensing or a matter relating to a manager’s certificate) may be completed by the appropriate district licensing committee; and the committee has all powers necessary to complete it.
- (2) Subsection (1) is subject to sections 406 and 407.

#### **415A Application of amendments to section 360 and Schedule 1**

This Act must be read as if the amendments to section 360 and Schedule 1 made by Part 25 of the Statutes Amendment Act 2016 had come into force on 18 December 2013.

Section 415A: inserted, on 17 December 2016, by section 92 of the Statutes Amendment Act 2016 (2016 No 104).

#### *Amendment to Children, Young Persons, and Their Families Act 1989*

#### **416 Jurisdiction of Youth Court**

- (1) This section amends the Children, Young Persons, and Their Families Act 1989.
- (2) Section 272(3) is amended by omitting “imprisonment—” from paragraph (c) and substituting “imprisonment; or” and by adding the following paragraph:
  - (d) an infringement offence against the Sale and Supply of Alcohol Act 2012 or the Summary Offences Act 1981, or section 239A of the Local Government Act 2002.
- (3) Section 272(5) is amended by—
  - (a) inserting “or (d)” after “(3)(c)”; and
  - (b) inserting “or an infringement offence referred to in subsection (3)(d)” after “imprisonment”.

#### *Consequential amendments and repeals*

#### **417 Consequential amendments**

- (1) The enactments stated in Schedule 2 are amended in the manner indicated in that schedule.
- (2) The regulations stated in Schedule 3 are amended in the manner indicated in that schedule.

#### **418 Repeals**

- (1) Sections 85 to 98 of the Sale of Liquor Act 1989 are repealed.

- (2) Sections 4, 10, 11, 13, 19, 20, 22(a), (c), and (d), 32, 33, 35, 42, 43, 45(a), (c), and (d), 56, 57, 59, 65, 66, 68(a), (c), and (d), and 77 to 79 of the Sale of Liquor Act 1989 are repealed.
- (3) The Sale of Liquor Act 1989 is repealed.



## **Schedule 1**

### **Existing licensing and community trusts**

ss 303(2), 360

#### **Part 1**

#### **District and suburban trusts**

Ashburton Licensing Trust  
Birkenhead Licensing Trust  
Clutha Licensing Trust  
Geraldine Licensing Trust  
Invercargill Licensing Trust  
Masterton Licensing Trust  
Mataura Licensing Trust  
Oamaru Licensing Trust  
Portage Licensing Trust  
Waitakere Licensing Trust

#### **Part 2**

#### **Local licensing trusts**

Cheviot Licensing Trust  
Flaxmere Licensing Trust  
Hawarden Licensing Trust  
Mt Wellington Licensing Trust  
Rimutaka Licensing Trust  
Te Kauwhata Licensing Trust  
Wiri Licensing Trust

Schedule 1 Part 2 Parakai Licensing Trust: repealed, on 17 December 2016, by section 93(1) of the Statutes Amendment Act 2016 (2016 No 104).

#### **Part 3**

#### **Community trusts**

Parakai Community Trust  
Porirua Community Trust

Schedule 1 Part 3 Parakai Community Trust: inserted, on 17 December 2016, by section 93(2) of the Statutes Amendment Act 2016 (2016 No 104).

## Schedule 2

### Consequential amendments to other enactments

s 417(1)

#### **Alcohol Advisory Council Act 1976 (1976 No 143)**

Section 2(1): insert in its appropriate alphabetical order:

**liquor** means alcohol within the meaning of section 5(1) of the Sale and Supply of Alcohol Act 2012

Section 8(1)(g): omit “Sale of Liquor Act 1989” and substitute “Sale and Supply of Alcohol Act 2012”.

#### **Alcoholism and Drug Addiction Act 1966 (1966 No 97)**

Section 2: insert in its appropriate alphabetical order:

**alcohol** has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012:

Definition of **alcoholic** in section 2: omit “alcoholic liquor” and substitute “alcohol”.

Section 20(2): omit “alcoholic liquor” and substitute “alcohol”.

Section 27 and the heading to that section: omit “liquor” in each place where it appears and substitute in each case “alcohol”.

Section 27: omit “intoxicating liquor” and substitute “alcohol”.

#### **Armed Forces Discipline Act 1971 (1971 No 53)**

Section 2(1): insert in its appropriate alphabetical order:

**alcohol** has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012

Heading above section 51: omit “*alcoholic liquor*” and substitute “*alcohol*”.

Section 52(1) and the heading to that section: omit “alcoholic liquor” and substitute “alcohol”.

Section 52(2): omit “liquor” and substitute “alcohol”.

#### **Auckland Domain Act 1987 (1987 No 7)**

Section 11(1)(d): omit “intoxicating liquor” and substitute “alcohol (within the meaning of section 5 of the Sale and Supply of Alcohol Act 2012)”.

#### **Auctioneers Act 1928 (1928 No 29)**

Section 4(a): omit “Sale of Liquor Act 1989” and substitute “Sale and Supply of Alcohol Act 2012”.

#### **Broadcasting Act 1989 (1989 No 25)**

Definition of **liquor** in section 2(1): repeal.

**Broadcasting Act 1989 (1989 No 25)**—*continued*

Section 2(1): insert in its appropriate alphabetical order:

**alcohol** has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012

Section 21(1)(e)(v): omit “liquor” and substitute “alcohol”.

**Civil Aviation Act 1990 (1990 No 98)**

Section 65I(3): omit “an intoxicating liquor, or” and substitute “alcohol (within the meaning of section 5(1) of the Sale and Supply of Alcohol Act 2012) or an intoxicating”.

Section 96: repeal and substitute:

**96 Sale of alcohol at international airports**

- (1) Alcohol may be sold at any international airport to any passenger on an aircraft departing from or arriving in New Zealand if—
  - (a) in the case of alcohol bought for consumption off the airport premises, the passenger is of or over the age stated in section 5 of the Sale and Supply of Alcohol Act 2012; and
  - (b) in the case of alcohol bought for consumption on the airport premises, the passenger is of or over the age stated in section 5 of the Sale and Supply of Alcohol Act 2012.
- (2) Unless alcohol sold under the authority of subsection (1) has been entered by the passenger concerned for home consumption in accordance with the Customs and Excise Act 1996, a person must not deliver it by or on behalf of the buyer to any other person within New Zealand, or consume it within New Zealand.
- (3) The Governor-General may, from time to time, by Order in Council, make regulations for either or both of the following purposes:
  - (a) prescribing the circumstances and conditions relating to the control of the sale of alcohol at international airports to passengers on aircraft departing from or arriving in New Zealand who are of or over the age referred to in subsection (1)(a) or (b) (as the case requires):
  - (b) prescribing offences in respect of the contravention of or non-compliance with any provision of any regulations made under this section, and prescribing fines, not exceeding \$1,000, that may, on conviction, be imposed in respect of any such offence.
- (4) A person commits an offence who—
  - (a) sells alcohol at any international airport to any passenger on an aircraft departing from or arriving in New Zealand who is under the age referred to in subsection (1)(a) or (b) (as the case requires); or
  - (b) fails to comply with subsection (2).

**Civil Aviation Act 1990 (1990 No 98)**—*continued*

- (5) A person who commits an offence against subsection (4) is liable on conviction to a fine not exceeding \$1,000.
- (6) Nothing in the Sale and Supply of Alcohol Act 2012 applies to the sale of alcohol under the authority of this section or of any regulations made under it.

**Corrections Act 2004 (2004 No 50)**

Section 45(1)(d): repeal and substitute:

- (d) alcohol; or

**Customs and Excise Act 1996 (1996 No 27)**

Paragraph (c)(ii) of the definition of **manufacture** in section 2(1): omit “Sale of Liquor Act 1989” and substitute “Sale and Supply of Alcohol Act 2012”.

**Defence Act 1990 (1990 No 28)**

Heading to section 89: omit “**liquor**” and substitute “**alcohol**”.

Section 89(1): omit “alcoholic liquor” in each place where it appears and substitute in each case “alcohol”.

Section 89(1)(c): omit “liquor” and substitute “alcohol”.

Section 89(2)(c): omit “liquor” in each place where it appears and substitute in each case “alcohol”.

Section 89(5): omit “liquor” in each place where it appears and substitute in each case “alcohol”.

Section 89: insert after subsection (5):

- (5A) In this section, **alcohol** has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012.

**Electoral Act 1993 (1993 No 87)**

Section 155(3): omit “Sale of Liquor Act 1989” and substitute “Sale and Supply of Alcohol Act 2012”.

Section 155(3): omit “liquor” in the second place where it appears and substitute “alcohol (within the meaning of section 5(1) of the Sale and Supply of Alcohol Act 2012)”.

Section 217(3): omit “intoxicating liquor” and substitute “alcohol (within the meaning of section 5(1) of the Sale and Supply of Alcohol Act 2012)”.

**Electricity Industry Reform Act 1998 (1998 No 88)**

Section 90(g): omit “Sale of Liquor Act 1989” and substitute “Sale and Supply of Alcohol Act 2012”.

### **Gambling Act 2003 (2003 No 51)**

Section 4(1): insert in its appropriate alphabetical order:

**approved evidence of age document** has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012

Paragraph (b)(iva) of the definition of **key person** in section 4(1): repeal and substitute:

- (iva) any other person whom the Secretary reasonably believes to have a significant interest in the management, ownership, or operation of a venue operator, except for the following persons holding office, elected, or appointed under the Sale and Supply of Alcohol Act 2012:
- (A) a member of a licensing trust elected in accordance with sections 308 to 314 of that Act or appointed under section 315 of that Act; or
  - (B) a trustee of a community trust holding office under section 369 of that Act or elected in accordance with sections 370 to 373 of that Act or appointed under section 374 of that Act:

Section 4(2): repeal.

Section 173: repeal and substitute:

#### **173 On-licences under Sale and Supply of Alcohol Act 2012**

Despite the Sale and Supply of Alcohol Act 2012, an on-licence granted under that Act for a licensed casino must be treated as authorising the sale of alcohol for consumption in the casino while the casino is lawfully operated.

### **Health Act 1956 (1956 No 65)**

Section 80(4): omit “Sale of Liquor Act 1989” and substitute “Sale and Supply of Alcohol Act 2012”.

### **Hotel Association of New Zealand Act 1969 (1969 No 139)**

Section 2: insert in its appropriate alphabetical order:

**alcohol** has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012:

Section 2: omit “liquor” in each place where it appears and substitute in each case “alcohol”.

Section 3(2)(c): omit “general”.

Section 3(2): omit “Sale of Liquor Act 1989” and substitute “Sale and Supply of Alcohol Act 2012”.

Section 3(3): omit “general”.

**Hotel Association of New Zealand Act 1969 (1969 No 139)**—*continued*

Section 10(1): omit “Sale of Liquor Act 1989” and substitute “Sale and Supply of Alcohol Act 2012”.

Section 20: omit “District Licensing Agency” and substitute “licensing committee”.

**Innkeepers Act 1962 (1962 No 140)**

Section 2: omit “Sale of Liquor Act 1989” in each place where it appears and substitute in each case “Sale and Supply of Alcohol Act 2012”.

**Local Electoral Act 2001 (2001 No 35)**

Section 126(2): omit “Sale of Liquor Act 1989” and substitute “Sale and Supply of Alcohol Act 2012”.

**Local Government (Rating) Act 2002 (2002 No 6)**

Notes to Part 2 of Schedule 1: omit “Sale of Liquor Act 1989” and substitute “Sale and Supply of Alcohol Act 2012”.

**Maori Community Development Act 1962 (1962 No 133)**

Section 2: insert in its appropriate alphabetical order:

**liquor** means alcohol within the meaning of section 5(1) of the Sale and Supply of Alcohol Act 2012

**Misuse of Drugs Amendment Act 2005 (2005 No 81)**

Section 31: insert in its appropriate alphabetical order:

**alcohol** has the meaning given to it by section 5(1) of the Sale and Supply of Alcohol Act 2012

Paragraph (b)(vii) of the definition of **substance** in section 31: repeal and substitute:

(vii) alcohol:

Section 37(2)(a): omit “(within the meaning of section 2A of the Sale of Liquor Act 1989)”.

Section 37: insert after subsection (4):

(5) In this section, **approved evidence of age document** has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012.

Section 40(2)(a): omit “(within the meaning of section 2A of the Sale of Liquor Act 1989)”.

Section 40: insert after subsection (4):

(5) In this section, **approved evidence of age document** has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012.

Section 62(1)(b)(ii): omit “liquor” and substitute “alcohol”.

Section 62(1)(l)(i): omit “liquor” and substitute “alcohol”.

**New Zealand Railways Corporation Act 1981 (1981 No 119)**

Section 115(1)(e): omit “intoxicating liquor” in each place where it appears and substitute in each case “alcohol”.

Section 115: insert after subsection (2):

(3) In this section, **alcohol** has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012.

**Policing Act 2008 (2008 No 72)**

Section 45(b): omit “Liquor Licensing Authority, a District Licensing Agency” and substitute “Alcohol Regulatory and Licensing Authority, a licensing committee”.

**Private Security Personnel and Private Investigators Act 2010 (2010 No 115)**

In section 10(b) replace “Sale of Liquor Act 1989” with “Sale and Supply of Alcohol Act 2012”.

In section 18(b) replace “Sale of Liquor Act 1989” with “Sale and Supply of Alcohol Act 2012”.

**Public Audit Act 2001 (2001 No 10)**

Schedule 1: omit “Part 9A of the Sale of Liquor Act 1989” and substitute “Part 3 of the Sale and Supply of Alcohol Act 2012”.

Item relating to licensing trusts in Schedule 1: omit and substitute:

Licensing trusts constituted by section 234 of the Sale and Supply of Alcohol Act 2012 or specified in Schedule 1 of that Act.

**Racing Act 2003 (2003 No 3)**

Definition of **evidence of age document** in section 63(6): repeal and substitute:

**approved evidence of age document** has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012.

**Referenda (Postal Voting) Act 2000 (2000 No 48)**

Section 72(3): omit “liquor” in the first place where it appears and substitute “alcohol”.

Section 72(3): omit “Sale of Liquor Act 1989” and substitute “Sale and Supply of Alcohol Act 2012”.

**Reserves Act 1977 (1977 No 66)**

Section 106(1)(f): omit “intoxicating liquor” and substitute “alcohol (within the meaning of section 5(1) of the Sale and Supply of Alcohol Act 2012)”.

**Residential Tenancies Act 1986 (1986 No 120)**

Section 5(j): omit “Sale of Liquor Act 1989” and substitute “Sale and Supply of Alcohol Act 2012”.

**Search and Surveillance Act 2012 (2012 No 24)**

Replace the item in the Schedule relating to the Sale of Liquor Act 1989 with:

Sale and Supply of Alcohol Act 2012	270	Constable may obtain and execute search warrant if issuing officer is satisfied that there are reasonable grounds for believing that certain contraventions of Sale and Supply of Alcohol Act 2012 are occurring	All
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**Shop Trading Hours Act Repeal Act 1990 (1990 No 57)**

Definition of **goods** in section 2: omit and substitute:

**goods** includes all personal chattels other than alcohol (within the meaning of the Sale and Supply of Alcohol Act 2012), money, and things in action

**Smoke-free Environments Act 1990 (1990 No 108)**

Definition of **licensed premises** in section 2(1): omit and substitute:

**licensed premises** means any premises, or any part of any premises, on which alcohol is sold pursuant to a licence under the Sale and Supply of Alcohol Act 2012

Section 2(1): insert in its appropriate alphabetical order:

**approved evidence of age document** has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012

Section 30(2A): omit “(within the meaning of section 2A of the Sale of Liquor Act 1989)”.

Section 30AA(3): omit “(within the meaning of section 2A of the Sale of Liquor Act 1989)”.

Section 36A(4): omit “(within the meaning of section 2A of the Sale of Liquor Act 1989)”.

Schedule 2: amended, on 4 October 2013, by regulation 3(1) of the Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409).



## Schedule 3 Consequential amendments to regulations

s 417(2)

### **Amusement Devices Regulations 1978 (SR 1978/294)**

Regulation 21: omit paragraph (c) and substitute the following:

- (c) while he is intoxicated (within the meaning of section 5 of the Sale and Supply of Alcohol Act 2012): or

### **Food Hygiene Regulations 1974 (SR 1974/169)**

Regulation 2(1): omit the definition of **liquor** and substitute:

**liquor** means alcohol (within the meaning of section 5 of the Sale and Supply of Alcohol Act 2012

Definition of **wine** in regulation 2(1): omit “section 2 of the Sale of Liquor Act 1989” and substitute “section 5 of the Sale and Supply of Alcohol Act 2012”.

Regulation 4(4)(g): omit “section 2 of the Sale of Liquor Act 1962” and substitute “section 5 of the Sale and Supply of Alcohol Act 2012”.

Definition of **licensed premises** in regulation 28: omit “section 2 of the Sale of Liquor Act 1962” and substitute “section 5 of the Sale and Supply of Alcohol Act 2012”.

Definition of **occupier** in regulation 28: omit “Sale of Liquor Act 1962” and substitute “Sale and Supply of Alcohol Act 2012”.

### **Gambling (Prohibited Property) Regulations 2005 (SR 2005/299)**

Regulation 4(b): revoke and substitute:

- (b) alcohol (within the meaning of section 5 of the Sale and Supply of Alcohol Act 2012):

### **New Zealand Railways Corporation (Staff) Regulations 1982 (SR 1982/46)**

Regulation 2(1): insert in its appropriate alphabetical order:

**alcohol** has the meaning given by section 5 of the Sale and Supply of Alcohol Act 2012

Regulation 93: omit “alcoholic liquor” in every place where it appears and substitute in each place “alcohol”.

Regulation 95(2): omit “alcoholic liquor” in both places where it appears and substitute in each place “alcohol”.

### **Ticketing (Public Bar) Notice 1982 (SR 1982/180)**

Clause 3: omit “Sale of Liquor Act 1962” and substitute “Sale and Supply of Alcohol Act 2012”.

## Schedule 4

### Rugby World Cup 2023 extended trading hours: game details

s 45B(1)

Schedule 4: inserted, on 27 July 2023, by section 5 of the Sale and Supply of Alcohol (Rugby World Cup 2023 Extended Trading Hours) Amendment Act 2023 (2023 No 39).

**Notes**

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

**CEST** means Central European Summer Time.

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

Time in New Zealand	Time in France	Game
<i>Pool games</i>		
Sat 9 Sep, 7.15 NZST	Fri 8 Sep, 21.15 CEST	<b>France v New Zealand</b>
Sat 9 Sep, 23.00 NZST	Sat 9 Sep, 13.00 CEST	Italy v Namibia
Sun 10 Sep, 1.30 NZST	Sat 9 Sep, 15.30 CEST	Ireland v Romania
Sun 10 Sep, 4.00 NZST	Sat 9 Sep, 18.00 CEST	Australia v Georgia
Sun 10 Sep, 7.00 NZST	Sat 9 Sep, 21.00 CEST	England v Argentina
Sun 10 Sep, 23.00 NZST	Sun 10 Sep, 13.00 CEST	Japan v Chile
Mon 11 Sep, 3.45 NZST	Sun 10 Sep, 17.45 CEST	South Africa v Scotland
Mon 11 Sep, 7.00 NZST	Sun 10 Sep, 21.00 CEST	Wales v Fiji
Fri 15 Sep, 7.00 NZST	Thurs 14 Sep, 21.00 CEST	France v Uruguay
Sat 16 Sep, 7.00 NZST	Fri 15 Sep, 21.00 CEST	<b>New Zealand v Namibia</b>
Sun 17 Sep, 1.00 NZST	Sat 16 Sep, 15.00 CEST	Samoa v Chile
Sun 17 Sep, 3.45 NZST	Sat 16 Sep, 17.45 CEST	Wales v Portugal
Sun 17 Sep, 7.00 NZST	Sat 16 Sep, 21.00 CEST	Ireland v Tonga
Mon 18, 1.00 NZST	Sun 17 Sep, 15.00 CEST	South Africa v Romania
Mon 18 Sep, 3.45 NZST	Sun 17 Sep, 17.45 CEST	Australia v Fiji
Mon 18 Sep, 7.00 NZST	Sun 17 Sep, 21.00 CEST	England v Japan
Thurs 21 Sep, 3.45 NZST	Wed 20 Sep, 17.45 CEST	Italy v Uruguay
Fri 22 Sep, 7.00 NZST	Thurs 21 Sep, 21.00 CEST	France v Namibia
Sat 23 Sep, 3.45 NZST	Fri 22 Sep, 17.45 CEST	Argentina v Samoa
Sun 24 Sep, 0.00 NZST	Sat 23 Sep, 14.00 CEST	Georgia v Portugal

*(New Zealand transitions from NZST to NZDT on Sun 24 Sep at 02.00 NZST)*

Time in New Zealand	Time in France	Game
Sun 24 Sep, 4.45 NZDT	Sat 23 Sep, 17.45 CEST	England v Chile
Sun 24 Sep, 8.00 NZDT	Sat 23 Sep, 21.00 CEST	South Africa v Ireland
Mon 25 Sep, 4.45 NZDT	Sun 24 Sep, 17.45 CEST	Scotland v Tonga
Mon 25 Sep, 8.00 NZDT	Sun 24 Sep, 21.00 CEST	Wales v Australia
Thurs 28 Sep, 4.45 NZDT	Wed 27 Sep, 17.45 CEST	Uruguay v Namibia
Fri 29 Sep, 8.00 NZDT	Thurs 28 Sep, 21.00 CEST	Japan v Samoa
Sat 30 Sep, 8.00 NZDT	Fri 29 Sep, 21.00 CEST	<b>New Zealand v Italy</b>
Sun 1 Oct, 2.00 NZDT	Sat 30 Sep, 15.00 CEST	Argentina v Chile
Sun 1 Oct, 4.45 NZDT	Sat 30 Sep, 17.45 CEST	Fiji v Georgia
Sun 1 Oct, 8.00 NZDT	Sat 30 Sep, 21.00 CEST	Scotland v Romania
Mon 2 Oct, 4.45 NZDT	Sun 1 Oct, 17.45 CEST	Australia v Portugal
Mon 2 Oct, 8.00 NZDT	Sun 1 Oct, 21.00 CEST	South Africa v Tonga
Fri 6 Oct, 8.00 NZDT	Thurs 5 Oct, 21.00 CEST	<b>New Zealand v Uruguay</b>
Sat 7 Oct, 8.00 NZDT	Fri 6 Oct, 21.00 CEST	France v Italy
Sun 8 Oct, 2.00 NZDT	Sat 7 Oct, 15.00 CEST	Wales v Georgia
Sun 8 Oct, 4.45 NZDT	Sat 7 Oct, 17.45 CEST	England v Samoa
Sun 8 Oct, 8.00 NZDT	Sat 7 Oct, 21.00 CEST	Ireland v Scotland
Mon 9 Oct, 0.00 NZDT	Sun 8 Oct, 13.00 CEST	Japan v Argentina
Mon 9 Oct, 4.45 NZDT	Sun 8 Oct, 17.45 CEST	Tonga v Romania
Mon 9 Oct, 8.00 NZDT	Sun 8 Oct, 21.00 CEST	Fiji v Portugal
<i>Quarter-finals</i>		
Sun 15 Oct, 4.00 NZDT	Sat 14 Oct, 17.00 CEST	<b>Winner Pool C v Runner-up Pool D</b>
Sun 15 Oct, 8.00 NZDT	Sat 14 Oct, 21.00 CEST	<b>Winner Pool B v Runner-up Pool A</b>
Mon 16 Oct, 4.00 NZDT	Sun 15 Oct, 17.00 CEST	<b>Winner Pool D v Runner-up Pool C</b>
Mon 16 Oct, 8.00 NZDT	Sun 15 Oct, 21.00 CEST	<b>Winner Pool A v Runner-up Pool B</b>
<i>Semi-finals</i>		
Sat 21 Oct, 8.00 NZDT	Fri 20 Oct, 21.00 CEST	<b>Winner QF1 v Winner QF2</b>
Sun 22 Oct, 8.00 NZDT	Sat 21 Oct, 21.00 CEST	<b>Winner QF3 v Winner QF4</b>

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<b>Time in New Zealand</b>	<b>Time in France</b>	<b>Game</b>
<i>Finals</i>		
Sat 28 Oct, 8.00 NZDT	Fri 27 Oct, 21.00 CEST	<b>Bronze Medal Match</b>
Sun 29 Oct, 8.00 NZDT	Sat 28 Oct, 21.00 CEST	<b>Final</b>

#### **Schedule 4**

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

*[Repealed]*

s 45B(1)

Schedule 4: repealed, on 4 November 2019, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Act 2019 (2019 No 47).

#### **Schedule 4**

### **Rugby World Cup 2015 extended trading hours: game details**

*[Repealed]*

s 45B(1)

Schedule 4: repealed, on 2 November 2016, by section 6 of the Sale and Supply of Alcohol (Rugby World Cup 2015 Extended Trading Hours) Amendment Act 2015 (2015 No 69).

## Notes

### 1 *General*

This is a consolidation of the Sale and Supply of Alcohol Act 2012 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### 2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### 3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### 4 *Amendments incorporated in this consolidation*

Natural and Built Environment Act 2023 (2023 No 46): section 805(1)

Sale and Supply of Alcohol (Rugby World Cup 2023 Extended Trading Hours) Amendment Act 2023 (2023 No 39)

Sale and Supply of Alcohol (Exemption for Race Meetings) Amendment Act 2023 (2023 No 29)

Statutes Amendment Act 2022 (2022 No 75): Part 38

Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14): wehenga 7/section 7

Births, Deaths, Marriages, and Relationships Registration Act 2021 (2021 No 57): section 147

Secondary Legislation Act 2021 (2021 No 7): section 3

Public Service Act 2020 (2020 No 40): section 135

Statutes Amendment Act 2019 (2019 No 56): Part 37

Sale and Supply of Alcohol (Rugby World Cup 2019 Extended Trading Hours) Amendment Act 2019 (2019 No 47)

Trusts Act 2019 (2019 No 38): section 161

Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51): Part 1 subpart 18

Fire and Emergency New Zealand Act 2017 (2017 No 17): section 197

Statutes Amendment Act 2016 (2016 No 104): Part 25

Sale and Supply of Alcohol (Display of Low-alcohol Beverages and Other Remedial Matters) Amendment Act 2016 (2016 No 101)

Judicial Review Procedure Act 2016 (2016 No 50): section 24

District Court Act 2016 (2016 No 49): section 261

Sale and Supply of Alcohol (Anzac Day Trading Hours for Licensed RNZRSA Clubs) Amendment Act 2016 (2016 No 15)

Sale and Supply of Alcohol (Rugby World Cup 2015 Extended Trading Hours) Amendment Act 2015 (2015 No 69)

Sale and Supply of Alcohol Amendment Act 2015 (2015 No 33)

Food Act 2014 (2014 No 32): section 447

Auctioneers Act 2013 (2013 No 148): section 28(3)

Sale and Supply of Alcohol Amendment Act 2013 (2013 No 131)

Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102): section 126

Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409): regulation 3(1)

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150