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1964, No. 55

An Act to amend the Sale of Liquor Act 1962

[17 November 1964]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Sale of Liquor Amendment Act 1964, and shall be read together with and deemed part of the Sale of Liquor Act 1962 (hereinafter referred to as the principal Act).

Removal of Licences

2. Consideration of application for removal of hotel or tavern or provisional hotel premises licence—Section 74 of the principal Act is hereby amended by adding the following subsections:

“(4) At any public sitting held for the purposes of this section, any application to the Commission for the removal of any hotel or tavern premises licence, or of any provisional hotel premises licence, to any premises situated or proposed to be situated in such locality or place may also be dealt with in accordance with this Act, whether that application was made before or after the commencement of the sitting.

“(5) In determining whether to authorise the issue of any new hotel or tavern premises licence or to grant any such application for removal, or to do both, the Commission, unless it is of opinion that it should neither authorise the issue of a new licence nor grant the application for removal, shall have regard to the desirability of effecting a better distribution of licences throughout New Zealand, in addition to the considerations referred to in section 75 of this Act.”

3. Limitation on removal of licences—(1) Section 138 of the principal Act is hereby amended by omitting from subsection (1) the word “twenty”, and substituting the word “fifty”.

(2) The said section 138 is hereby further amended by adding to subsection (1) the following proviso:

“Provided that the Commission may authorise the removal of a hotel premises licence to premises situated more than fifty miles from the first-mentioned premises, if in the special circumstances of the case the Commission is of opinion that it is desirable to do so.”

4. Objections in respect of removal of hotel or tavern premises licence—Section 141 of the principal Act is hereby amended by inserting in subsection (1), after the words “section 139 of this Act”, the words “or within such further time as the Commission may allow”.

5. Objections in respect of removal of restaurant licence—

The principal Act is hereby amended by inserting, after section 141, the following section:

“141A. (1) Where the application for removal relates to a restaurant licence, an objection to the removal of the licence may be made by any person of or over the age of twenty-one years who is resident in the licensing district or licensing trust district in which the proposed new premises will be situated.

“(2) Every such objection shall be made by notice in writing filed with the Secretary of the Commission within fourteen days after the first publication of the notice of the making of the application, or within such further time as the Chairman of the Commission may allow.

“(3) The ground on which any such objection may be made is that the removal of the restaurant licence to the proposed new premises will have a prejudicial effect on residents in the immediate neighbourhood of those premises.

“(4) Where the proposed new premises will be situated in a licensing trust district, the Licensing Trust of that district may, in accordance with subsection (2) of this section, object to the removal of the licence on the ground that adequate provision is already made or being made by the Trust to meet the requirements of the public in the area or areas from which persons might reasonably be expected to resort to the restaurant if the licence is removed.”

6. Objections in respect of removal of wholesale licence—

The principal Act is hereby further amended by inserting, after section 141A (as inserted by section 5 of this Act), the following section:

“141B. (1) Where the application for removal relates to any wholesale licence, an objection to the removal of the licence may be made by any person of or over the age of twenty-one years who is resident in the licensing district in which the proposed new premises will be situated.

“(2) Every such objection shall be made by notice in writing filed with the Secretary of the Commission within fourteen days after the first publication of the notice of the making of the application, or within such further time as the Chairman of the Commission may allow.

“(3) The ground on which any such objection may be made is that the proposed new premises are or will be in the immediate vicinity of a place of public worship, hospital, or school.”

7. Grant or refusal of application—Section 145 of the principal Act is hereby amended by adding the following subsection:

“(3) Nothing in section 141A or section 141B of this Act shall limit the power of the Commission, in determining whether or not to grant an application, to have regard to such considerations, other than the objections referred to in those sections, as it thinks relevant, or to hear any person in relation thereto.”

8. Removal of provisional hotel premises licence—The principal Act is hereby further amended by inserting, after section 147, the following new section:

“147A. The provisions of sections 136 to 147 of this Act shall extend and apply to the removal of a provisional hotel premises licence as if references in those sections to a hotel premises licence were references to a provisional hotel premises licence.”

9. Conversion of premises licence on removal—The principal Act is hereby further amended by inserting, after section 147A (as inserted by section 8 of this Act), the following section:

“147B.(1) Where an application is made for the removal of a hotel or provisional hotel premises licence, the applicant may request that, if the application is granted, there shall be granted in respect of the proposed new premises, in place of the licence to which the application for removal relates,—

“(a) In the case of a hotel premises licence, a tavern premises licence; or

“(b) In the case of a provisional hotel premises licence, a hotel premises licence or a tavern premises licence.

“(2) In any such case the Commission, unless it is of opinion that the application for removal should be refused, may in its discretion, instead of granting the application for removal, authorise the grant, in respect of the proposed new premises, of a hotel premises licence or a tavern premises licence, in place of the licence to which the application for removal relates.

“(3) Where any such application for removal is made the Commission, unless it is of opinion that the application should be refused, may of its own motion, and notwithstanding that no such request has been made, exercise any of the powers conferred on it by subsection (2) of this section.

“(4) Where under this section the Commission authorises the grant of any such licence as aforesaid, the provisions of sections 136 to 147 of this Act shall apply as if the application for removal had been made and granted in respect of the kind of licence so authorised.”

Miscellaneous Provisions

10. Commission may delegate to Licensing Committee—Section 16 of the principal Act is hereby amended by omitting from subsection (1) the words “Parts III, V, and XV”, and substituting the words “sections 73 to 79 and Parts V and XV”.

11. Advances for improvement of licensed premises—(1) Section 20 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) Subsection (2) of this section shall extend and apply, with all necessary modifications, to chartered clubs (being clubs that provide or intend to provide accommodation for members) in the same manner as it applies to holders of hotel or tourist-house premises licences, and as if the reference to licensed premises were a reference to club premises and the reference to the public were a reference to club members.”

(2) The said section 20 is hereby further amended by omitting from subsection (5) the words “such owners or occupiers as aforesaid”, and substituting the words “licensees or chartered clubs or other persons to whom subsection (2) of this section applies (whether or not advances are made to them under that subsection)”.

12. Representation of parties—Section 49 of the principal Act is hereby amended by inserting, after the words “any Licensing Committee”, the words “or the Chairman of any Committee”.

13. Member of Committee may sit with Commission in certain cases—Section 52 of the principal Act is hereby amended by repealing paragraphs (c) and (d) of subsection (2).

14. Wholesale licence—Section 67 of the principal Act is hereby amended by adding the following subsection:

“(5) Every holder of a wholesale licence who acts in contravention of or fails to comply with any provision of this section commits an offence and is liable to a fine not exceeding one hundred pounds.”

15. Special provisions as to applications for tourist-house premises licence—(1) Section 100 of the principal Act is hereby amended—

(a) By omitting from subsection (1) the words “The owner of any premises”, and substituting the words “Subject to subsection (1) of section 88 of this Act, any person”:

(b) By omitting from subsection (1) the words “in respect of those premises”.

(2) The said section 100 is hereby further amended by repealing subsection (2), and substituting the following subsection:

“(2) The provisions of subsections (2) to (4) of section 87 and of section 88 of this Act shall apply to the application, so far as they are applicable and with the necessary modifications; and, where the application relates to existing premises, the applicant shall set out particulars of any alterations or additions that he is prepared to make to the premises if the licence is granted.”

16. Applications for wholesale licence, and time for objections thereto—(1) Section 114 of the principal Act is hereby amended by omitting from subsection (4) the words “subsections (2) to (6)”, and substituting the words “subsections (2) to (7)”.

(2) Section 115 of the principal Act is hereby amended by omitting from subsection (2) the words “of the notice that the Committee intends to consider applications for the licence”, and substituting the words “by the applicant of the notice of the making of the application”.

17. Objections to renewal of keeper's licence—Section 126 of the principal Act is hereby amended by inserting, after subsection (5), the following subsection:

“(5A) The Hotel Association of New Zealand, Incorporated, may by notice in writing filed with the Clerk object to the renewal of any hotelkeeper's, tourist-house keeper's, or tavernkeeper's licence, on any of the grounds referred to in subsection (6) of this section, and shall be entitled to appear and be heard in support of the objection.”

18. Objections to renewal of manager's certificate—Section 177 of the principal Act is hereby amended by adding the following subsection:

“(5) The Hotel Association of New Zealand, Incorporated, may by notice in writing filed with the Clerk object to the renewal of any manager's certificate (other than that of the manager of a restaurant), on the ground that the holder is not a fit and proper person to be the holder of such a certificate, and shall be entitled to appear and be heard in support of the objection.”

19. Notice of appointment of acting manager—Section 179 of the principal Act is hereby amended by adding to subsection (1) the following proviso:

“Provided that where the period for which an acting manager is appointed does not exceed forty-eight hours it shall not be necessary for the licensee to send any such notice as aforesaid.”

20. Entertainments on licensed premises—Section 202 of the principal Act is hereby amended by omitting from subsection (1) the word “entertainments”, and substituting the words “live entertainments (other than music and lawful games)”.

21. Breach of condition of licence—The principal Act is hereby further amended by inserting, after section 257, the following section:

“257A. Every licensee commits an offence against this Act who contravenes or fails to comply with any condition of his licence.”

22. Supply of liquor to person under twenty-one—Section 259 of the principal Act is hereby amended by omitting from subsection (8) the words “wife of any employee”, and substituting the words “wife or any employee”.

23. Shops within licensed hotels—Section 292 of the principal Act is hereby amended by inserting in subsection (8), after the words “required to be closed”, the words “for the sale of liquor”.

24. Sale of liquor in unchartered clubs—Section 294 of the principal Act is hereby amended—

- (a) By inserting in paragraph (b) of subsection (2), after the word “exercises”, the words “at which refreshments, including liquor, are supplied to members or their guests at the expense of the association, society, or club”:
- (b) By omitting from paragraph (c) of subsection (2) the words “refreshments are supplied to members or their guests”, and substituting the words “refreshments, including liquor, are supplied to members or their guests at the expense of the association”.

25. Provisional hotel premises licences—Section 304 of the principal Act is hereby amended by omitting from subsection (6) the words “and sections 210 to 212”, and substituting the words “paragraph (a) of subsection (2) of section 205, sections 210 to 212, section 279, and section 280”.

26. Grant of hotel premises licence in place of provisional licence—(1) Section 306 of the principal Act is hereby amended by omitting from subsection (2) the words “and when its requirements have been complied with the Commission shall grant the application”.

(2) The said section 306 is hereby further amended by adding the following subsections:

“(3) Where the Commission notifies the applicant of standards to be complied with as aforesaid it may at the same time, or at any time thereafter, fix a period within which its requirements are to be complied with, and may from time to time extend the period as it thinks fit.

“(4) If within the period so fixed, or any such extended period, the said requirements are complied with, the Commission shall grant the application.”

27. Grant of tavern premises licence in place of provisional licence—(1) Section 308 of the principal Act is hereby amended by omitting from subsection (7) the words “and when its requirements have been complied with the Commission shall grant the application”.

(2) The said section 308 is hereby further amended by adding the following subsections:

“(8) Where the Commission notifies the applicant of standards to be complied with as aforesaid it may at the same time, or at any time thereafter, fix a period within which its

requirements are to be complied with, and may from time to time extend the period as it thinks fit.

“(9) If within the period so fixed, or any such extended period, the said requirements are complied with, the Commission shall grant the application.”

28. Commission may grant hotel or tavern premises licence after review—(1) Section 312 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Without limiting the provisions of section 311 of this Act or of this section, where in respect of any premises the Commission forms an opinion in accordance with paragraph (b) of subsection (1) of this section it may, notwithstanding that an application for the grant of a hotel premises licence has been made in respect of those premises under section 306 of this Act, authorise the issue of a tavern premises licence instead of a hotel premises licence if it is satisfied that the occupancy rate in respect of the premises, as determined by the Commission, has not exceeded five per cent during the period of two years preceding the first publication of the notice referred to in subsection (3) of section 310 of this Act.”

(2) Section 306 of the principal Act is hereby further amended by adding the following subsection:

“(5) This section shall be read subject to subsection (1A) of section 312 of this Act.”

29. Grant of extended hotel premises licence in place of two provisional licences—The principal Act is hereby further amended by inserting, after section 316, the following section:

“316A. (1) This section shall apply in any case where any person is the holder of provisional hotel premises licences in respect of any two separate hotel premises which are so situated that the holder of the licences could, if one of them were a hotel premises licence and the other were a tavern premises licence, have applied to the Commission in accordance with subsection (1) of section 99 of this Act to grant to him an extended hotel premises licence in their place.

“(2) In any case to which this section applies, the holder of such provisional licences as aforesaid may apply to the Commission, in accordance with subsection (1) of section 99 of this Act, to grant to him an extended hotel premises licence in place of those provisional licences.

“(3) Every such application shall state which of the two premises is intended to be the extended premises if the application is granted.

“(4) Where an application is made under this section, the provisions of section 99 of this Act, so far as they are applicable and with all necessary modifications, shall apply as if the licences to which the application relates were respectively a hotel premises licence and a tavern premises licence.”

30. Special polls in Johnsonville area—(1) Section 13 of the Licensing Amendment Act (No. 2) 1953 is hereby amended by repealing subsections (3) and (4), and substituting the following subsections:

“(3) No such further poll as aforesaid shall be taken unless it is authorised by the Licensing Control Commission by notice in the *Gazette*.

“(4) The Commission, having regard to community of interest in the area or any part or parts thereof, may authorise the taking of any such poll in the whole area or in any part thereof defined by the Commission, or may authorise the taking of separate polls in different parts so defined.

“(5) Every poll under this section shall be a poll only on the licensing proposal referred to in subsection (1) of section 8 of this Act, and shall be submitted in the form of voting paper No. 1 in the Fifth Schedule to this Act. The provisions of section 15 of this Act shall extend and apply, with all necessary modifications, to the poll.

“(6) If at any such poll the licensing proposal is carried, the provisions of sections 9A, 9B, 9c, 11, and 14 of the Licensing Amendment Act 1910 (as amended by the Licensing Amendment Act 1963) shall apply, with all necessary modifications, as if the area or part in which the poll was taken were a no-licence district and the result of the poll were the determination of the electors of the district in favour of the restoration of licences.

“(7) Subject to the provisions of this section, the provisions of this Part, except subsections (2) and (4) of section 8 and section 12, shall apply to every such poll, so far as they are applicable and with the necessary modifications.”

(2) The Fifth Schedule to the Licensing Amendment Act (No. 2) 1953 is hereby amended by repealing the form of voting paper No. 2.

31. Transitional provisions—Notwithstanding anything in subsection (3) of section 299 of the principal Act, regulations 51 to 54 of the Sale of Liquor Regulations 1963 shall continue in force until they are expressly revoked.

32. Special provisions as to certain existing licences—
(1) Notwithstanding anything in paragraph (cc) of section 72 of the principal Act (as enacted by section 2 (1) of the Sale of Liquor Amendment Act 1963), where at the passing of this Act any local authority is the holder of a provisional hotel premises licence issued under section 304 of the principal Act in respect of any premises or part of any premises of which the local authority is, and was at the commencement of the principal Act, the owner, being premises situated on any land vested in or under the control of the local authority, the provisional licence shall be deemed to have been lawfully issued; and a hotel premises licence may be issued to the local authority, in accordance with the principal Act, in respect of such licensed premises and may be held by it, subject to the principal Act, so long as it continues to be the owner of such premises.

(2) Nothing in this section shall authorise any local authority to hold any hotelkeeper's licence in respect of any such premises or to be the owner of the business of the licensed premises or to conduct such business.

This Act is administered in the Department of Justice.
