

A BILL INTITULED

An Act to amend the Licensing Act 1908

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

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1. Short Title—This Act may be cited as the Licensing Amendment Act 1960, and shall be read together with and deemed part of the Licensing Act 1908* (hereinafter referred to as the principal Act).

PART I

10

CHARTERED CLUBS

2. Power of Commission to suspend club charter—(1) Section 262 of the principal Act is hereby amended by inserting in subsection (4), after the words “to revoke the charter of such club”, the words “or to suspend the charter for any period not exceeding three months”.

(2) The said section 262 is hereby further amended by omitting from subsection (3) the words “the secretary of the club the licensee”, and substituting the words “the club or, if the club is not an incorporated body, the secretary of the club were the licensee”.

(3) Section 266 of the principal Act is hereby amended by adding the following subsection as subsection (2) thereof:

“(2) On being satisfied in respect of any of the matters referred to in subsection (1) of this section, the Commission may, instead of revoking the charter, suspend the charter for a specified period not exceeding three months.”

3. Locking of bars—The principal Act is hereby further amended by inserting, after section 262, the following section:

“262A. (1) Subject to the provisions of this section, the provisions of section 23 of the Licensing Amendment Act 1960 shall apply to every chartered club in all respects as if the club were a hotel within the meaning of that section, and as if the charter of the club were a publican’s licence and the club or, if the club is not an incorporated body, the secretary of the club were the licensee.

*1957 Reprint, Vol. 8, p. 1
Amendments: 1958, No. 76; 1959, No. 87

“(2) Where any room in which liquor is sold in a chartered club is ordinarily used by members of the club for the purposes of the club (other than the consumption of liquor), the said section 23 shall not apply to that room, but the
5 Commission may by notice in writing to the secretary of the club impose such conditions as to the locking away of liquor as the Commission thinks necessary for the purpose of preventing any breach of this Act.

“(3) Any breach of any condition so imposed by the Com-
10 mission shall be deemed to be a contravention of the provisions of the said section 23.

“(4) The provisions of subsections (4) and (5) of section 262 of this Act shall apply to proceedings for any breach of the provisions of the said section 23 or of any such condition
15 as aforesaid.”

4. New sections inserted—The principal Act is hereby further amended by inserting, after section 266, the following sections:

“266A. **Effect of suspension of charter**—While the charter
20 of any club is suspended pursuant to section 262 or section 266 of this Act the club shall be deemed not to be a chartered club, and it shall not be lawful for any person to sell any liquor to any member of the club or guest on the club premises.

25 “266B. **Appeals**—(1) In any case where the Commission revokes or suspends the charter of any club, or refuses to renew the charter, the club may appeal to the Supreme Court against the Commission’s decision on giving notice of appeal within fourteen days after the giving of the decision.

30 “(2) The notice of appeal shall be in writing and shall be filed in the office of the Supreme Court nearest by the most convenient route to the club’s premises. It shall not be necessary to state in the notice the grounds of the appeal. Either before or immediately after the filing of the notice of
35 appeal a copy of the notice shall be delivered or sent to the Secretary of the Commission.

“(3) The operation of the decision appealed against shall be suspended until the final determination of the appeal. If the appeal is not finally determined on or before the expiry
40 of the charter by effluxion of time, the charter shall be deemed to be extended until the final determination of the appeal.

“(4) On any such appeal the Commission, in addition to the appellants, may be represented by counsel.

“(5) The Court may, on hearing the appeal, confirm, modify, or reverse the decision appealed against, and the decision of the Court shall be final and binding on the parties.

“(6) If the appellant does not prosecute its appeal with due diligence, the Commission may apply to the Supreme Court for the dismissal of the appeal.” 5

5. Conditions to be complied with on renewal of annual charter—Section 77 of the Licensing Amendment Act 1948 is hereby amended by adding the following subsection:

“(3) If on any application for the renewal of any charter under this Part of this Act the Commission is not satisfied that all the conditions specified in section 261 of the principal Act and in subsection (2) of this section have been or are being complied with it may in its discretion, instead of then dealing with the application, adjourn it for any period not exceeding six months. During the period of the adjournment and until the application is disposed of the charter shall continue in full force.” 10 15

PART II

THE WINE INDUSTRY

6. Wine makers' licences—(1) Section 23 of the Licensing Amendment Act (No. 2) 1953, as amended by subsection (2) of section 11 and section 13 of the Licensing Amendment Act 1957, is hereby further amended by repealing subsections (1) and (2), and substituting the following subsections: 20 25

“(1) Every wine maker's licence shall authorise the holder thereof to sell wine manufactured by him pursuant to his licence in quantities of not less than one reputed quart to any one person at any one time.

“(2) The holder of a wine maker's licence may sell and deliver wine pursuant to this section, and to the terms of his licence, at any time between the hours of seven o'clock in the morning and six o'clock in the evening of any day, not being a day during which licensed premises are required to be closed, and shall not be entitled to sell or deliver liquor at any other time: 30 35

“Provided that wine may be delivered at any time on any day, not being a day during which licensed premises are required to be closed, to the holder of any publican's, accommodation, tourist house, wholesale, (*wine wholesaler's*) restaurant, or wine reseller's licence, or to any chartered club, or to the Licensing Trust of any licensing Trust district, if the 40

delivery is made at the licensed premises of the holder of that licence, or, as the case may be, at the premises of the club or the Trust premises.”

(2) The said section 23 is hereby further amended by
5 repealing subsection (4), and substituting the following sub-
section:

“(4) Where the place specified in any wine maker’s licence
as the place from which wine may be delivered on sale is
situated in a no-licence district, nothing in section 146 of the
10 principal Act shall prevent the holder from selling and
delivering wine, pursuant to this section and to the terms
of his licence, to any person, whether or not that person
resides within the district.”

(3) The Licensing Amendment Act 1957 is hereby amended
15 by repealing subsection (2) of section 11 and section 13.

7. Wine resellers’ licences—(1) In this section, the term
“wine” means wine, cider, or perry made in New Zealand
from fruit or vegetables grown in New Zealand.

(2) The Committee may from time to time grant to any
20 person a wine reseller’s licence.

(3) A wine reseller’s licence shall authorise the holder
thereof to sell wine in quantities of not less than one reputed
quart to any one person at any one time.

(4) The wine may be sold and delivered from one place
25 only, being premises specified in the licence, and shall not be
consumed on the wine reseller’s premises or at the place so
specified for delivery:

Provided that the holder of a wine reseller’s licence may
arrange for delivery to be made by the holder of a wine
30 maker’s licence granted under Part II of the Licensing Amend-
ment Act (No. 2) 1953 from the place and in the manner
permitted by the last-mentioned licence as if the sale had been
made by the holder of that licence; and where the delivery
is so made the sale and delivery shall be deemed for the
35 purposes of this Act and the principal Act to have been made
by the holder of the wine reseller’s licence from the place and
in the manner specified in the wine reseller’s licence.

(5) The holder of a wine reseller’s licence may sell and
deliver wine pursuant to this section and to the terms of his
40 licence at any time between the hours of seven o’clock in
the morning and six o’clock in the evening of any day, not
being a day during which licensed premises are required to be
closed, and shall not be entitled to sell or deliver wine at any
other time.

(6) A wine reseller's licence may, if the Committee thinks fit, be granted to the holder of any other licence (not being a wholesale licence) under the principal Act:

Provided that in any such case the licence may, if the Committee thinks fit, be granted only in respect of the same premises as are specified in that other licence: 5

New

Provided also that nothing in this subsection shall limit or affect in any way the right of any person who at the passing of this Act is the holder of a wholesale licence and also of any wine seller's licence to apply for and obtain from time to time a renewal of the last-mentioned licence as a wine reseller's licence under this section. 10

(7) No wine reseller's licence shall be granted or renewed in respect of premises which in the opinion of the Committee are not suitable for the storage and sale of wine. 15

(8) Every application for a wine reseller's licence shall be made and dealt with in the prescribed manner, and every such licence shall be in the prescribed form.

(9) The grounds of objection set out in section 91 of the principal Act shall apply to any application for the grant of a wine reseller's licence: 20

Provided that where objection is made on the ground that the licensing of the premises is not required in the neighbourhood the Committee shall have regard to the facilities available, in the locality in which the premises are situated or to be situated, for the sale of the wine of those wine makers whose wine is intended to be sold by the applicant if a licence is granted to him. 25

(10) All references in the principal Act or in any other enactment or in any document to a wine seller's licence shall hereafter be read as references to a wine reseller's licence. 30

(11) This section is in substitution for section 69 of the Licensing Amendment Act 1948, and that section and subsection (1) of section 11 of the Licensing Amendment Act 1957 are hereby repealed. 35

(12) Every wine seller's licence granted under the said section 69 and in force at the commencement of this Part of this Act shall be deemed to be a wine reseller's licence.

(13) Subject to subsection (10) of this section, the repeal by this section of the said section 69 shall not affect the amendment made by subsection (8) of that section to subsection (1) of section 139 of the principal Act. 40

Struck Out

8. Wine wholesalers' licences—(1) In this section, the term "wine" means wine, cider, or perry made in New Zealand from fruit or vegetables grown in New Zealand.

5 (2) Any Magistrate may from time to time grant to any person a wine wholesaler's licence.

(3) A wine wholesaler's licence shall authorise the holder thereof to sell wine in quantities of not less than two gallons to any one person at any one time.

10 (4) The wine may be sold and delivered from one place only, being premises specified in the licence, and shall not be consumed on the wine wholesaler's premises or at the place so specified for delivery:

15 Provided that the holder of a wine wholesaler's licence may arrange for delivery to be made by the holder of a wine maker's licence granted under Part II of the Licensing Amendment Act (No. 2) 1953 from the place and in the manner permitted by the last-mentioned licence as if the sale had been made by the holder of that licence; and where
20 the delivery is so made the sale and delivery shall be deemed for the purposes of this Act and the principal Act to have been made by the holder of the wine wholesaler's licence from the place and in the manner specified in the wine wholesaler's licence.

25 (5) The holder of a wine wholesaler's licence may sell and deliver wine pursuant to this section and to the terms of his licence at any time between the hours of seven o'clock in the morning and six o'clock in the evening of any day, not being a day during which licensed premises are required to be closed, and shall not be entitled to sell or deliver wine at any
30 other time:

35 Provided that wine may be delivered at any time on any day, not being a day during which licensed premises are required to be closed, to the holder of any publican's, accommodation, tourist house, or wine reseller's licence, or to any chartered club, or to the Licensing Trust of any licensing Trust district, if the delivery is made at the licensed premises of the holder of that licence or, as the case may be, at the premises of the club or the Trust premises.

40 (6) A wine wholesaler's licence may, if the Magistrate thinks fit, be granted to the holder of any other licence under the principal Act:

45 Provided that in any such case the licence may, if the Magistrate thinks fit, be granted only in respect of the same premises as are specified in that other licence.

(7) No wine wholesaler's licence shall be granted or renewed to any applicant who in the opinion of the Magistrate is not a fit person to be the holder of such a licence, or in respect of premises which in the opinion of the Magistrate are not suitable for the storage and sale of wine. 5

(8) Every application for a wine wholesaler's licence shall be made and dealt with in the prescribed manner, and every such licence shall be in the prescribed form.

(9) Section 4 of the principal Act (as amended by paragraph (b) of subsection (1) of section 70 of the Licensing Amendment Act 1948) is hereby amended by inserting, after the definition of the term "wine seller's licence", the following definition: 10

"'Wine wholesaler's licence' means a wine wholesaler's licence granted pursuant to the Licensing Amendment Act 1960:" 15

(10) Section 139 of the principal Act (as amended by subsection (8) of section 69 of the Licensing Amendment Act 1948) is hereby amended by adding the following paragraph: 20

"(j) For a wine wholesaler's licence, one pound."

(11) The Licensing Amendment Act 1910 is hereby amended—

(a) By inserting in section 6, after the words "wholesale licence", the words "wine wholesaler's licence": 25

(b) By inserting in subsection (2) of section 20, after the words "wholesale licence", the words "wine wholesaler's licence".

(12) Subsection (1) of section 110 of the Licensing Amendment Act 1948 is hereby amended by inserting, after the words "wine maker's licence", the words "a wine wholesaler's licence". 30

(13) Section 2 of the Licensing Amendment Act 1953 is hereby amended by adding the following paragraph:

"(e) Wine wholesalers' licences."

9. Sales by wine makers and wine resellers through agents—(1) Section 4 of the Licensing Amendment Act 1955 is hereby amended by inserting, after subsection (3), the following subsection: 35

"(3A) Nothing in the foregoing provisions of this section shall apply to the receiving or forwarding of orders for wine to be supplied by the holder of any wine maker's licence or wine reseller's licence." 40

(2) Subsection (4) of the said section 4 is hereby amended by omitting the word "full-time".

PART III

MISCELLANEOUS PROVISIONS

10 **10. Functions of Licensing Control Commission**—(1) The
5 Licensing Amendment Act 1948 is hereby amended by repeal-
ing section 13, and substituting the following section:

“13. (1) The principal functions of the Commission shall
be—

10 “(a) To prescribe standards to be complied with in the
provision of accommodation, services, and other
facilities for the public and for lodgers, guests,
or employees in licensed premises, whether in res-
pect of licensed premises generally or any class or
classes of licensed premises or any particular
licensed premises; and to give directions to licensees
15 as to compliance with such standards:

“ (b) To control the Licensing Fund:

“ (c) To review from time to time the distribution of publi-
cans’, accommodation, tourist house, and wholesale
licences throughout New Zealand:

20 “ (d) To determine what publicans’, accommodation, tourist
house, and wholesale licences are unnecessary, and
the amount of compensation to be paid in respect of
the cancellation thereof:

25 “ (e) To determine the number of new publicans’, tourist
house, and wholesale licences to be issued in each
licensing district and, subject to the provisions of
this Act, the situation of the premises in respect of
which such licences are to be granted:

30 “ (f) To determine the fair price to be paid in respect of new
publicans’, tourist house, and wholesale licences,
and in respect of the removal of such licences:

“ (g) Generally to supervise the activities of Licensing
Committees in the performance of their functions:

“ (h) To grant and renew club charters:

35 “ (i) To conduct inquiries into any matters at the request
or with the approval of the Minister, and to make
recommendations to the Minister as to the expedi-
ency of amending the Licensing Acts.

40 “ (2) The Commission shall have such other functions as
are conferred or imposed on it by this Act or by any other
Act.”

(2) Section 15 of the Licensing Amendment Act 1948 is hereby amended as follows:

- (a) By omitting from subsection (1) the words "licensed houses", and substituting the words "premises in respect of which publicans, tourist house, and accommodation licences are granted or in force": 5
- (b) By omitting from subsection (2) the words "licensed houses", wherever those words occur, and substituting in each case the words "licensed premises":
- (c) By omitting from subsection (5) the words "licensed houses", and substituting the words "licensed premises": 10

11. Appeal to Land Valuation Court on Commission's determination as to compensation—(1) The Licensing Amendment Act 1948 is hereby amended by inserting, after section 65A (as inserted by subsection (1) of section 28 of the Licensing Amendment Act (No. 2) 1953), the following section: 15

"65B. (1) Notwithstanding anything in this Act, where the Commission determines under section 38 of this Act the amount of compensation payable to any person on the cancellation or surrender of a licence, any person being the licensee or the owner of the licensed premises or a lessee, sublessee, or tenant thereof or a mortgagee within the meaning of section 46 of this Act, or any other person having any estate or interest in the licensed premises, may appeal to the Land Valuation Court against the Commission's decision on giving notice of appeal within fourteen days after the giving of the decision. 20 25

"(2) Notwithstanding anything in this section, the Court, on the application by motion of any person having a right of appeal under this section, may grant leave to that person to give notice of appeal after the expiration of the time prescribed by this section, and within such time as the Court thinks fit, where in the opinion of the Court there was reasonable cause for the failure or inability of that person to give notice within the time prescribed by this section. 30 35

"(3) The notice of appeal shall be in writing and shall be filed in the office of the Court nearest to the licensed premises. It shall not be necessary to state in the notice the grounds of the appeal. Either before or immediately after the filing of the notice of appeal, a copy of the notice shall be delivered or sent to the Secretary of the Commission. 40

“(4) Notwithstanding anything in the Land Valuation Court Act 1948, the appeal shall be heard and determined by the Court, and shall not be referred to a Land Valuation Committee.

5 “(5) Every appeal under this section shall be by way of rehearing of the original proceedings, in like manner as if the proceedings had been properly and duly commenced in the Court. On any such appeal the Commission may be represented by counsel. The Court may, on hearing the appeal,
10 confirm or increase the amount of compensation awarded, and the decision of the Court shall be final and binding on all parties.

“(6) If the appellant does not prosecute his appeal with due diligence, the Commission may apply to the Court for the
15 dismissal of the appeal.”

(2) Subsection (1) of section 65A of the Licensing Amendment Act 1948 is hereby consequentially amended—

- (a) By omitting from paragraph (a) the word “or”;
- (b) By repealing paragraph (b).

20 **12. Power of Committee to have regard to certain matters on application for grant or transfer of licence**—Where an application is made for the grant or transfer of a publican’s, accommodation, or tourist house licence the Committee, in deciding whether to grant the licence or transfer, may have
25 regard to the experience and competence of the applicant or proposed transferee in the management of hotels and to the financial resources available to him in relation to the premises of which he proposes to become the licensee.

30 **13. Power to cancel licence on failure to comply with directions**—(1) Section 58 of the Licensing Amendment Act 1948 (as amended by subsection (4) of section 11 of the Licensing Amendment Act 1952) is hereby further amended as follows:

- 35 (a) By inserting in subsection (5), before the word “suspended”, the words “cancelled or”;
- (b) By inserting in subsection (6), before the word “suspend”, the words “cancel or”.

(2) Section 65 of the Licensing Amendment Act 1948 is hereby amended by inserting in subsection (1), after paragraph (c), the following paragraph:

- “(cc) Any licence is cancelled by the Committee under section 58 of this Act; or”.

14. Definition of intoxicating liquor amended—Section 4 of the principal Act is hereby amended by omitting from the definition of the term “intoxicating liquor” or “liquor” (as amended by section 94 of the Licensing Amendment Act 1948) the word “three”, and substituting the word “two”. 5

15. Sale and delivery by wholesale licensee—(1) Section 80 of the principal Act is hereby amended by repealing the proviso to subsection (1) (as substituted by subsection (1) of section 7 of the Licensing Amendment Act 1955), and substituting the following proviso: 10

Struck Out

<p>“Provided that nothing in this subsection shall prevent the holder of any wholesale licence from—</p> <p>“(a) Selling or delivering from any bonded warehouse to any licensee any liquor that the last-mentioned licensee is entitled to sell under his licence; or</p> <p>“(b) Selling or delivering any liquor from any bonded warehouse to any person who is entitled to enter goods for home consumption without the payment of duty under the Customs Act 1913; or</p> <p>“(c) Exporting, or shipping as ships’ stores, any liquor from any bonded warehouse pursuant to the Customs Act 1913.”</p>	<p>15</p> <p>20</p>
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<p>“Provided that it shall be lawful for the holder of a whole-sale licence, pursuant to the terms of his licence,—</p> <p>“(a) To sell or deliver liquor from any bonded warehouse—</p> <p style="padding-left: 40px;">“(i) To any licensee, if the liquor is of a kind that the last-mentioned licensee is entitled to sell under his licence; or</p> <p style="padding-left: 40px;">“(ii) To any person who is entitled to enter goods for home consumption without the payment of duty under the Customs Act 1913; or</p> <p>“(b) To export liquor, or to ship it as ships’ stores, from any bonded warehouse pursuant to the Customs Act 1913.”</p>	<p>25</p> <p>30</p> <p>35</p>
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(2) The said section 80 is hereby further amended by inserting, after subsection (1), the following subsection:

Struck Out

<p>“(1A) Notwithstanding anything in this section, any beer or stout sold to a person who is not a licensee shall be supplied only in bottles containing not more than one reputed quart, or in kegs containing not less than four and a half gallons.”</p>	<p>40</p>
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New

5 “(1A) Where, pursuant to the terms of a wholesale licence, beer or stout is sold to any person who is not a licensee, it shall be delivered only in bottles, each of which shall contain not more than one reputed quart.”

(3) The said section 80 is hereby further amended by adding the following subsection:

10 “(3) The holder of a wholesale licence may sell or deliver liquor pursuant to the terms of his licence on any day, not being a day during which licensed premises are required to be closed, between the hours of nine o'clock in the morning and six o'clock in the evening, and shall not be entitled to sell or deliver liquor at any other time:

15 “Provided that liquor may be delivered at any time on any day, not being a day during which licensed premises are required to be closed, to the holder of any publican's, accommodation, tourist house, or wholesale licence, or to any chartered club, or to the Licensing Trust of any licensing Trust district, if the delivery is made at the licensed premises of
20 the holder of that licence or, as the case may be, at the premises of the club or the Trust premises.”

(4) Section 8 of the Sale of Liquor Restriction Act 1917 and subsection (1) of section 7 of the Licensing Amendment Act 1955 are hereby repealed.

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Struck Out

16. Restriction on transfer of licence—The principal Act is hereby further amended by repealing section 123, and substituting the following section:

30 “123. (1) Except on the ground of the illness of the licensee, or in exceptional circumstances, no transfer of any licence other than a publican's, accommodation, or tourist house licence shall be made, nor shall any application for such transfer be entertained, until the expiration of three months from the time of the granting or previous transfer of the
35 licence.

40 “(2) Except on the ground of the illness of the licensee, or in exceptional circumstances, no transfer of a publican's, accommodation, or tourist house licence shall be made, nor shall any application for such transfer be entertained, until the expiration of two years from the time of the granting or previous transfer of the licence.”

17. Removal of licences—(1) Section 127 of the principal Act (as substituted by subsection (1) of section 11 of the Licensing Amendment Act 1955) is hereby amended by omitting from subsection (9) the words “five miles”, and substituting the words “ten miles”.

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New

(2) The said section 127 is hereby further amended by repealing subsection (10), and substituting the following subsection:

“(10) No order for the removal of any publican’s, accom- 10
modation, tourist house, or wholesale licence shall take effect
without the approval of the Licensing Control Commission;
and no endorsement in respect of any such order shall be made
under section 129 of this Act until such approval is given. If
the Commission refuses its approval the effect of the licence 15
shall not be prejudiced.”

(3) Where at any time before the passing of this Act any
order for the removal of any publican’s, accommodation,
tourist house, or wholesale licence has been made by a Com-
mittee and approved by the Commission, the order shall be 20
deemed for all purposes to have been validly made, notwith-
standing that the Commission’s approval may have been given
after the making of the order.

18. Fair price payable on removal of certain licences—The principal Act is hereby further amended by inserting, after 25
section 127, the following section:

“127A. (1) Before approving the removal of any publican’s,
accommodation, tourist house, or wholesale licence, the Com-
mission may determine a fair price to be paid on the making
of an order for the removal of the licence.

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“(2) In the case of a publican’s, accommodation, or tourist
house licence, the fair price shall be a sum representing the
difference between the value of the licence before its removal
and what will be the value of the licence if it is removed,
increased or reduced by such sum as the Commission may 35
consider fair and equitable in the circumstances. For the
purposes of this subsection,—

“(a) The value of the licence before its removal shall be
a sum representing the difference between the
value of the licensed premises, as determined by 40
the Commission, and what would in the opinion
of the Commission be the value of those premises
if they were not licensed premises:

- “(b) The value of the licence if it is removed shall be a sum representing the difference between the value of the premises to which the licence is intended to be removed, as determined by the Commission (or, where those premises are proposed to be erected, what will in the opinion of the Commission be their value when erected), and what will in the opinion of the Commission be the value of those premises or proposed premises as licensed premises.
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- 10 “(3) In the case of a wholesale licence, the fair price shall be such sum as the Commission considers fair and equitable, having regard to all such circumstances as the Commission considers relevant.
- 15 “(4) When the Commission determines a fair price under this section it shall forthwith cause notice thereof to be sent to the Clerk to the Licensing Committee. On receipt of the notice the Clerk shall forthwith notify the applicant of the fair price so fixed.
- 20 “(5) Where a fair price is fixed under this section the amount of it shall be payable into the Licensing Fund established under Part I of the Licensing Amendment Act 1948; and no order of removal shall be made until the price so fixed has been paid to that Fund or payment thereof has been secured in the manner prescribed by regulations made under that Act.”
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19. Temporary absence of licensee—Section 171 of the principal Act is hereby amended by omitting from paragraph (a) of subsection (1) the words “fourteen days”, and substituting the words “one month”.

- 30 **20. Exemptions as to entertainments**—(1) Notwithstanding anything in the principal Act, the Licensing Control Commission may from time to time, in its discretion, exempt the holder of any publican’s licence or accommodation licence from any of the provisions of the principal Act prohibiting the use of
- 35 any part of the licensed premises for the purposes of dancing, concerts, or theatrical entertainments, if the Commission is of opinion that the licensed premises will be used substantially for the accommodation of tourists or holidaymakers. In the exercise of its discretion the Commission shall take into account
- 40 any other facilities that are conveniently available in the locality in which the licensed premises are situated (except on premises in respect of which any such licence is in force) for the enjoyment by guests of the things to which the proposed exemption relates.

(2) Any such exemption shall be in writing, and may be granted subject to such conditions and restrictions as the Commission thinks fit, and may at any time in like manner be varied or revoked.

(3) Without limiting the power of the Commission to grant any exemption under this section in respect of premises then existing, it is hereby declared that the Commission may, when it decides to authorise the grant of any publican's licence or directs the alteration or rebuilding of any premises in respect of which any *(such)* publican's or accommodation licence is in force, decide that any such exemption will be granted in respect of the proposed licensed premises or the altered or rebuilt premises when the licence is issued or, as the case may require, when the Commission's directions have been complied with.

(4) Section 67 of the Licensing Amendment Act 1948 is hereby amended by repealing subsection (3A) (as inserted by subsection (1) of section 41 of the Licensing Amendment Act (No. 2) 1953), and substituting the following subsection:

“(3A) Without limiting the power of the Commission to grant any exemption under this section in respect of premises then existing, it is hereby declared that the Commission may, when it decides to authorise the grant of any tourist house licence or directs the alteration or rebuilding of any premises in respect of which any such licence is in force, decide that any such exemption will be granted in respect of the proposed licensed premises or the altered or rebuilt premises when the licence is issued or, as the case may require, when the Commission's directions have been complied with.”

(5) Section 41 of the Licensing Amendment Act (No. 2) 1953 is hereby repealed.

(6) Any exemption heretofore granted, under any enactment repealed by this section, in respect of any matter to which this section relates shall continue in force as if it had been granted under this section, and may be varied or revoked accordingly.

21. Exemptions as to billiards and other games—(1) Notwithstanding anything in the principal Act, the Commission may from time to time, in its discretion, exempt from any of the provisions of section 190 of the principal Act so far as they relate to the playing of billiards or bagatelle or any other game—

(a) The holder of any tourist house licence:

(b) The holder of any publican's or accommodation licence, if the locality in which the licensed premises are situated is recognised by the Commission as a holiday resort, or if in the opinion of the Commission no other facilities are conveniently available (except in other licensed premises) in that locality for the enjoyment by guests of the things to which the exemption relates.

(2) Without limiting the power of the Commission to grant any exemption under this section, it is hereby declared that the games to which any such exemption may relate include the game commonly known as housie; and on the granting of an exemption in respect of housie nothing in section 185 of the principal Act shall apply to that game:

Provided that the playing of housie pursuant to any such exemption shall be subject to the conditions and restrictions from time to time laid down by regulations under the Gaming Act 1908 in respect of the conduct and playing of that game.

(3) Any such exemption shall be in writing, and may be granted subject to such conditions and restrictions as the Commission thinks fit, and may at any time in like manner be varied or revoked.

(4) Any exemption heretofore granted by the Commission, under section 67 of the Licensing Amendment Act 1948 or under subsection (2) of section 41 of the Licensing Amendment Act (No. 2) 1953, in respect of any matter to which this section relates shall continue in force as if it had been granted under this section, and may be varied or revoked accordingly.

(5) Section 67 of the Licensing Amendment Act 1948 is hereby amended by omitting from subsection (3) the words "or from the provisions of section one hundred and ninety of the principal Act in so far as they relate to the playing of billiards or bagatelle or other games".

22. Lodgers accommodated away from licensed premises—

(1) This section applies in any case where the holder of any publican's, accommodation, or tourist house licence makes any arrangement for the provision of sleeping accommodation in any unlicensed premises (whether or not those premises are owned or leased by the licensee) for persons who—

(a) Are registered as lodgers in his licensed premises in accordance with section 109 of the Licensing Amendment Act 1948 but cannot be provided with sleeping accommodation on the licensed premises because such accommodation is not available thereon; and

(b) Are entitled as lodgers to have their meals on the licensed premises and to make use of the other facilities of those premises.

(2) If in any case to which this section applies any arrangement so made by the licensee is for the time being approved pursuant to subsection (3) of this section, it shall be lawful for the licensee to sell and supply liquor on the licensed premises, for consumption thereon but not otherwise, at any time when those premises are required by the principal Act to be closed, to any such registered lodger as aforesaid who is provided with sleeping accommodation pursuant to the arrangement; and the presence of that person on the licensed premises at any time shall not be a breach of the provisions of the principal Act relating to the closing of licensed premises.

(3) For the purposes of this section, the Commission may from time to time approve any such arrangement as aforesaid, either generally or in respect of any specified period.

(4) Any approval given under this section shall be in writing, and may at any time in like manner be revoked by the Commission.

23. Locking of bars—(1) For the purposes of this section—

“Bar”, in relation to any hotel, means any room or place in or from which liquor is served (*at any time*) to any person, (*not being resident on the premises or a bona fide guest or lodger therein*) over a counter (other than a counter over which liquor is served exclusively to the licensee or his employees or agents for supply to persons seated at tables in a lounge, beer garden, or similar place); but does not include a house bar:

“Hotel” means premises in respect of which a publican’s licence or an accommodation licence is in force:

New

“House bar” means any room or place that is used principally or exclusively for the serving or supply of liquor to persons who are resident on the premises or are bona fide guests or lodgers therein.

(2) Subject to the provisions of this section, every door by which admittance is gained to any bar in any hotel, whether from outside or inside the hotel, and every opening in any bar through which liquor may be served, shall be shut and locked at all times while the premises are required by this Act to be closed.

- (3) If in any hotel any door by which admittance is gained to any bar, whether from outside or inside the hotel, or any opening in any (*door*) bar through which liquor may be served, is found open, or is found shut and not locked, at any time while the premises are required to be closed, or if any person other than the licensee or an employee or agent of the licensee is found in the bar at any such time, proof of any such fact shall be prima facie evidence of a sale of liquor at that time.
- 10 (4) Notwithstanding anything in this Act or the principal Act—
- (a) The licensee of any hotel may keep any bar open for a period not exceeding fifteen minutes immediately after six o'clock in the evening, on any day on which the premises are permitted by this Act to be open, for the purpose of allowing persons who were in the bar at six o'clock to leave the premises:
- 15
- (b) During the said period of fifteen minutes any liquor that was served before six o'clock to persons in any bar or in any other room or place in which liquor is served to the public for consumption on the premises may be consumed in that bar or room or place by those persons:
- 20
- (c) Any door by which admittance is gained to any bar from inside any hotel may at any time be opened solely to enable the licensee or any employee or agent of the licensee, or any person acting under any contract with the licensee or owner of the hotel, to enter the bar for the purposes of cleaning, repairing, maintaining, altering, or restocking the bar or any equipment (or stocktaking) therein, or removing or replacing any such equipment, or checking cash in the bar or removing it therefrom:
- 25
- 30
- (d) Every licensee shall at the request of any member of the Police open and keep open any door by which admittance is gained to any bar from inside the hotel for such time as that member of the Police thinks necessary in order that the provisions of the principal Act or this Act may be enforced, and during the time that the door is so open the licensee shall be deemed not to have acted in contravention of the foregoing provisions of this section.
- 35
- 40
- (5) If in respect of any hotel any of the provisions of this section are contravened or not complied with, the licensee
- 45 commits an offence and is liable to a fine not exceeding twenty-five pounds.

New

(5A) Where in the circumstances of any particular case the Licensing Committee is of opinion that it would be unreasonable or impracticable to require the licensee of any hotel to comply fully with the provisions of subsection (2) of this section in respect of any opening in any bar in the hotel (not being a door by which admittance is gained to the bar) the Committee may in its discretion, and subject to such conditions as it thinks fit, exempt the licensee from compliance with that subsection, so far as it relates to that opening, for the purpose of permitting the supply of liquor through the opening to persons who are entitled to be so supplied in any room or place in the hotel (not being a room or place that is otherwise used principally or exclusively for the sale, supply, or consumption of liquor). Any such exemption may at any time be revoked or varied by the Committee. While any such exemption is in force, any door by which admittance is gained to the said bar may at any time be opened to enable the licensee or any employee or agent of the licensee to enter the bar for the purpose of supplying liquor to such persons as aforesaid through the opening in accordance with the exemption.

(6) This section shall come into force on the first day of November, nineteen hundred and sixty-one.

24. Liquor with meals in hotels and chartered clubs—

(1) Section 10 of the Sale of Liquor Restriction Act 1917 is hereby amended as follows:

(a) By omitting from subsection (2) the words “six o’clock and eight o’clock in the evening”, and substituting the words “six o’clock in the evening and eleven-thirty o’clock at night on any day, and also between the hours of twelve noon and two-thirty o’clock in the afternoon on Sunday, Good Friday, and Christmas Day”:

(b) By omitting from that subsection the words “evening meal”, in each place where those words occur, and substituting in each case the word “meal”.

(2) The said section 10 is hereby further amended by adding the following subsections:

“(3) Notwithstanding anything in subsection (2) of this section, no liquor shall be sold or served in any such dining room in any hotel after eight o’clock in the evening unless the licensee has previously notified the member of the Police in charge of the police station nearest to the hotel that it is his intention to keep the dining room open after that hour

for that purpose. Any such notification may be general or may be limited to any specified day or days, and shall have effect according to its tenor.

“(4) Where pursuant to this section liquor is sold or served
5 in any hotel after eight o'clock in the evening it shall be lawful for the dining room to be kept open until twelve o'clock at night for the purpose of allowing persons dining there to finish their meals (including liquor sold and served before eleven-thirty o'clock); but it shall not be lawful for any such
10 person to remain on the premises after twelve o'clock at night unless he is resident on the premises or is a bona fide lodger or employee therein.”

25. Consumption of liquor at social gatherings—(1) Section 107 of the Licensing Amendment Act 1948 is hereby amended
15 by repealing subsection (4), and substituting the following subsections:

“(4) This section shall extend and apply to any dance held or promoted by any such body of persons as aforesaid, subject to compliance with the foregoing conditions and with
20 the following additional conditions:

“(a) That the only liquor consumed at the dance shall be the liquor supplied pursuant to the permit:

“(b) That no liquor shall be taken into the premises by any guest or other person while the dance is being held:

25 “Provided that not more than one permit in respect of a dance shall be granted in any year to any one body of persons.

“(5) In the case of any such dance the provisions of section 59 of the Statutes Amendment Act 1939 shall not apply to the possession or supply or consumption of liquor on the
30 premises, pursuant to the permit, while the dance is being held; but, except as aforesaid, nothing in this section shall limit or affect the provisions of the said section 59 so far as they apply to the possession or control of liquor in the vicinity of any hall to which that section applies.”

35 (2) Section 108 of the Licensing Amendment Act 1948 is hereby amended by repealing subsection (4), and substituting the following subsections:

“(4) This section shall extend and apply to any dance held or promoted by any such society, association, or body of persons
40 as aforesaid, subject to compliance with the foregoing conditions and with the following additional conditions:

“(a) That the only liquor consumed at the dance shall be the liquor supplied by the society, association, or body of persons holding or promoting the dance:

45 “(b) That no liquor shall be taken into the premises by any guest or other person while the dance is being held.

“(5) In the case of any such dance, so long as all the aforesaid conditions are complied with, the provisions of section 59 of the Statutes Amendment Act 1939 shall not apply to the possession or supply or consumption of liquor on the premises while the dance is being held; but, except as aforesaid, nothing in this section shall limit or affect the provisions of the said section 59 so far as they apply to the possession or control of liquor in the vicinity of any hall to which that section applies.” 5

(3) The said section 108 is hereby further amended by omitting from subsection (3) the words “subsection (1) of”. 10

26. Extended hours permits and restaurant permits—

(1) Section 107 of the Licensing Amendment Act 1948 is hereby further amended as follows:

(a) By omitting from subsection (1), and also from subsection (2), the words “the Chairman of any Licensing Committee”, and substituting in each case the words “any Magistrate”: 15

(b) By omitting from paragraph (a) of subsection (3), and also from paragraph (c) of that subsection, the word “Chairman”, and substituting in each case the word “Magistrate”. 20

(2) The said section 107 is hereby further amended by inserting, after subsection (3), the following subsections:

“(3A) The powers conferred on a Magistrate by this section may, with the approval of the Magistrate or, if there is more than one Magistrate exercising jurisdiction in the place where the premises to which the application relates are situated, the senior Magistrate in that place, be exercised by the Registrar of a Magistrate’s Court in any case where no objection is made to the grant of the permit. Any such approval may be given either generally or in respect of any particular case or class of case. 25

“(3B) The fact that the Registrar grants any such permit shall, except where an objection has been made to the grant of the permit, be conclusive evidence of his authority to do so. 35

“(3C) Where any application for a permit is refused by the Registrar, he shall, if the applicant so requests, refer the application forthwith to a Magistrate for reconsideration, and the Magistrate may in his discretion confirm or reverse the decision of the Registrar.” 40

27. Polls as to publicans’ licences—Section 50A of the Licensing Amendment Act 1948 (as inserted by section 29 of the Licensing Amendment Act (No. 2) 1953) is hereby amended by adding the following subsection: 45

“(9) Where a poll has been taken under this section, whether before or after the commencement of this subsection, and the granting of a publican’s licence has not been authorised by reason of the fact that a majority of the valid votes
5 recorded at the poll was against the granting of a licence, further polls may from time to time be taken, for the purposes of this section, in the same area on the like application and on the direction of the Commission in accordance with this section; but no such further poll shall be taken until after the
10 expiration of three years from the date of the first poll under this section, or, in the case of any subsequent poll, until after the expiration of three years from the date of the poll immediately preceding it.”

28. Repealing restriction on number of tourist house licences—Subsection (2) of section 28 of the Licensing Amendment Act 1948 is hereby repealed.
15

29. Objections to grant or renewal, etc., of licence—
(1) Section 88 of the principal Act is hereby amended by inserting in subsection (1), after the word “relates”, the words
20 “or any Medical Officer of Health or Inspector within the meaning of the Health Act 1956”.

(2) Section 109 of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraph:

“(bb) That the premises do not conform to the requirements of the Health Act 1956, or of any regulations thereunder, that are applicable to them, or are not conducted in accordance with any such requirements; or”.
25

30. Voluntary surrender of licence—Section 34 of the Licensing Amendment Act 1948 is hereby amended by adding the following subsection as subsection (2) thereof:
30

“(2) Notwithstanding anything in this Act, the Commission shall not be bound in any case to accept the surrender of any licence under this section.”

31. Persons in possession of liquor on unlicensed premises—
(1) The principal Act is hereby amended by repealing section 230, and substituting the following section:
35

“230. (1) Where pursuant to a warrant any Inspector or constable enters any premises and seizes any liquor therein,
40 the occupier and the manager (if any) of the premises shall each, until the contrary is proved, be deemed to have been unlawfully dealing in liquor, and shall each be liable to a fine not exceeding fifty pounds.

“(2) Where pursuant to a warrant any Inspector or constable enters any premises and seizes any liquor therein, any person then on the premises in whose possession or under whose control that liquor, or any container or package containing that liquor, was found shall, until the contrary is proved, be deemed to have been on the premises for the purpose of unlawfully dealing in liquor, and shall be liable to a fine not exceeding five pounds.” 5

(2) Section 231 of the principal Act is hereby amended by inserting, after the words “such liquor as aforesaid”, the words “being the occupier or manager of the premises or a person in whose possession or under whose control the liquor, or any container or package containing the liquor, has been found”. 10

32. Shops in licensed hotels—(1) Section 108A of the Licensing Amendment Act 1948 (as inserted by section 10 of the Licensing Amendment Act 1957) is hereby amended by inserting in subsection (2), after the word “use”, the words “(whether by the licensee or by any other person)”. 15

(2) The said section 108A is hereby further amended by adding the following subsections: 20

“(7) Subject to the provisions of the Shops and Offices Act 1955 and of any award made under section 3 of that Act applying to any shop or store authorised under this section, it shall be lawful for any such shop or store to be open for the sale and purchase of goods other than liquor at any time, notwithstanding the provisions of the principal Act relating to the closing of licensed premises. 25

“(8) Where any such shop or store is lawfully open at a time when licensed premises are required to be closed, no person shall be deemed to be unlawfully on the licensed premises by reason only of the fact that he is employed in that shop or store (whether or not he is a servant or agent of the licensee) or is visiting that shop or store with a view to purchasing any article sold therein.” 30 35

33. Repeal of provision requiring outdoor lamp—Section 160 of the principal Act is hereby repealed.

34. Section 212 of principal Act (as to prohibition orders) amended—Subsection (1) of section 212 of the principal Act is hereby amended as follows: 40

(a) By omitting the words “any licensed person to sell to the said drunkard”, and substituting the words “any licensee to sell to that person”:

- (b) By omitting the words "the said drunkard by any licensed person", and substituting the words "that person by any licensee":
- 5 (c) By omitting the words "the drunkard", and substituting the words "that person".

35. Restaurant licences—(1) For the purposes of this section,—

"Light wine" means wine, cider, or perry containing not more than twenty-five parts per cent of proof spirit:

10 "Meal" means a substantial meal of at least two courses:

"New Zealand light wine" means light wine made in New Zealand:

"New Zealand unfermented grape juice" means unfermented grape juice made in New Zealand from grapes grown in New Zealand:

15

"Restaurant" means any premises (other than premises in respect of which a publican's licence or a tourist house licence or an accommodation licence is in force) in which meals are regularly supplied on sale to the public for consumption on the premises.

20

(2) The Licensing Control Commission may from time to time grant to any person a restaurant licence in the prescribed form, subject to such conditions as may be prescribed, and to such other conditions as the Commission thinks fit.

25 (3) Notwithstanding anything in the principal Act or in section 11 of the Sale of Liquor Restriction Act 1917, a restaurant licence shall authorise the holder thereof to sell and serve light wine (*and malted liquors*), beer, and stout in a restaurant, for consumption as part of a meal by persons actually partaking there of a meal at any time between the hours of twelve noon and two-thirty o'clock in the afternoon, and between the hours of six o'clock in the evening and eleven-thirty o'clock at night, on any day except Sunday and Good Friday:

30

35 Provided that any such (*wine or*) liquor served before two-thirty o'clock in the afternoon or before eleven-thirty o'clock at night to persons partaking of a meal as aforesaid may be consumed in the restaurant by those persons during a period not exceeding thirty minutes immediately after two-thirty o'clock or eleven-thirty o'clock, as the case may require.

40

(4) No restaurant licence shall be granted in respect of any premises unless the Commission is satisfied in respect of the following matters, namely:

- (a) That the applicant is a fit person to be the holder of the licence, and has the immediate supervision of the conduct of the business of the restaurant:
- (b) That the premises of the restaurant are suitable for the purposes of the licence. 5
- (5) A restaurant licence shall be deemed to be issued subject to the following additional conditions, namely:
 - (a) That liquor shall be supplied only to persons partaking of a meal and seated at tables, and served only in bottles which shall be opened at those tables in the presence of the purchasers: 10
 - (b) That, so far as practicable, the licensee shall have available for sale and serving New Zealand light wine and New Zealand unfermented grape juice, and that he shall specify them in a list of liquors 15 which shall, at the request of any person partaking of a meal, be shown to that person.

New

(5A) Notwithstanding anything in the principal Act, on the grant of a restaurant licence, or at any subsequent time, the Commission may in its discretion authorise, either by endorsement on the licence or by a written certificate, dancing on the premises of the restaurant, or on any specified portion of those premises, if it is satisfied that the premises are not used or to be used primarily for dancing, and that facilities for dancing 25 are available only to persons who are present for the purpose of partaking of meals. The Commission may at any time revoke any such authorisation by notice in writing to the licensee, and may cancel any such endorsement or certificate accordingly. 30

(5B) The Commission may at any time in its discretion, either by endorsement on a restaurant licence or by a written certificate, declare that section 163 of the principal Act shall not apply to the premises in respect of which the licence is held. The Commission may at any time revoke any such 35 declaration by notice in writing to the licensee, and may cancel any such endorsement or certificate accordingly. While any such declaration remains in force, nothing in the said section 163 shall apply to the premises.

(6) Every application for the grant, renewal, transfer, or 40 removal of a restaurant licence shall be made to and dealt with by the Commission in accordance with regulations made under the principal Act for the purposes of this section. Regulations so made may make provision for the making of objections to the grant, renewal, transfer, or removal of any 45 such licence and for the grounds on which such objections may be made, and for such other matters as may be necessary to give effect to this section, and may apply any of the provisions of the principal Act with or without modifications.

(7) It shall not be a ground of objection to the grant or removal of a restaurant licence that the licensing of the premises is not required in the neighbourhood; but it shall be a ground of objection that the licensing of the premises is not required for the service of the area or areas from which persons might reasonably be expected to resort to the restaurant if a licence is granted.

(8) The annual fee for a restaurant licence shall be fifty pounds; and the provisions of the principal Act relating to licence fees shall apply accordingly.

(9) Without limiting the power of the Commission to cancel any restaurant licence under section 60 of the Licensing Amendment Act 1948, the Commission may, on being satisfied in respect of any of the matters specified in subsection (1) of that section, suspend any restaurant licence for such period as it thinks fit. While the licence is so suspended, the holder of it shall be deemed not to be a licensed person and the restaurant shall be deemed not to be licensed premises.

(10) The number of restaurant licences for the time being in force in New Zealand shall not exceed ten.

(11) Section 4 of the principal Act is hereby amended by inserting, after the definition of the term "resident", the following definition:

" 'Restaurant licence' means a restaurant licence granted pursuant to the Licensing Amendment Act 1960:."

(12) The Licensing Amendment Act 1910 is hereby amended as follows:

(a) By inserting in subsection (2) of section 20, after the words "packet licence", the words "restaurant licence":

(b) By inserting in subsection (1A) of section 37 (as inserted by subsection (2) of section 117 of the Licensing Amendment Act 1948), after the words "tourist house licence", the words "restaurant licence".

36. Regulations—(1) The Governor-General may from time to time, by Order in Council, make all such regulations as may be deemed necessary or expedient for the purpose of giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the generality of subsection (1) of this section, it is hereby declared that regulations may be made thereunder for the purpose of regulating the procedure in respect of applications and objections to the Commission or to a Magistrate or Registrar under this Act or the principal Act.

(3) All regulations made under this Act shall be laid before Parliament.

37. District Licensing Trusts deemed to be holders of wholesale licences—The Licensing Trust of every licensing Trust district shall be deemed for all purposes, but without limiting the powers conferred by the Act by or under which the Trust is constituted, to be the holder of a wholesale licence for the time being in force under the Licensing Act 1908. This section shall not have the effect of applying to any such Trust any provision of the Licensing Act 1908 that would not otherwise apply to the Trust.

38. Postponing elections of Licensing Committees—(1) Notwithstanding anything in section 44 of the principal Act, no election of members of any Licensing Committee shall be held in any licensing district in the year nineteen hundred and sixty-one.

(2) Every Licensing Committee in existence at the passing of this Act shall continue to exist and to exercise its functions and powers until the thirty-first day of December, nineteen hundred and sixty-one.

(3) Every member of every such Licensing Committee as aforesaid shall, unless he sooner vacates his office, continue in office until the said date; and any vacancy in the office of any such member occurring before that date may be filled in accordance with the principal Act.

(4) The following enactments are hereby repealed, namely:
 (a) Section 17 of the Licensing Amendment Act 1957;
 (b) Section 2 of the Licensing Amendment Act 1959.

New

39. Increasing penalties for purchase of liquor by minors, etc.—Section 202 of the principal Act (as substituted by subsection (1) of section 6 of the Licensing Amendment Act 1952) is hereby amended as follows:

- (a) By omitting from subsection (2) the word “two”, and substituting the word “ten”;
- (b) By omitting from subsection (3) the word “two”, and substituting the word “ten”;
- (c) By omitting from subsection (5) the word “five”, and substituting the word “ten”.

40. Conditional licences for race meetings in no-licence districts—Section 6 of the Licensing Amendment Act 1910 is hereby amended by adding the following proviso:

“Provided that a conditional licence may from time to time be granted or renewed in respect of any race meeting (within the meaning of the Gaming Act 1908) held in any no-licence district.”