

LICENSING AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Licensing Act 1908.

Clause 1 relates to the Short Title.

Clause 2 makes new provision for the constitution of a licensing trust following a vote for restoration in a no-licence district. At present, if restoration is carried a further poll is held on the question of whether the electors of the district wish all licences authorised under the Sale of Liquor Act 1962 to be offered to a suburban licensing trust. If that proposal is carried the Minister may establish one or more such trusts in the district, and the trust or trusts will have a prior right to all wholesale, hotel premises, tavern premises, and tourist-house licences authorised for that area by the Licensing Control Commission.

The effect of the proposed *section 9A* is to repeal the present provisions providing for the establishment of suburban licensing trusts, and to provide instead for the constitution of district licensing trusts. These trusts are largely autonomous and, in particular, are free from supervision or control by the Licensing Control Commission.

The required majority for restoration (60 percent), and the requirement of a trust poll whenever restoration is carried remain unchanged.

The proposed *section 9B* provides for the case where restoration is carried in a particular district, but the trust proposal is defeated. The district is to be incorporated in the adjoining licensing district constituted under the Sale of Liquor Act 1962.

Subclause (2) prescribes a new voting form for the trust proposal.

Clause 3 relates to consequential amendments and repeals.

Hon. Dr Finlay

LICENSING AMENDMENT

ANALYSIS

| Title | |
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| 1. Short Title | |
| 2. New sections (relating to Trust proposal) substituted | 9B. Incorporation of district in adjoining licensing district following vote for restoration |
| 9A. Further poll, where restoration carried, to determine whether Trust control be established | 3. Consequential amendments and repeals |

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,
5 as follows:

1. **Short Title**—This Act may be cited as the Licensing Amendment Act 1975, and shall be read together with and deemed part of the Licensing Act 1908* (hereinafter referred to as the principal Act).

10 2. **New sections (relating to Trust proposal) substituted**—
(1) The Licensing Amendment Act 1910 is hereby amended by repealing sections 9A to 9C, and substituting the following sections:

*Reprinted 1963, Vol. 2, p. 1751
Amendment: 1974, No. 11

"9A. Further poll, where restoration carried, to determine whether Trust control be established—(1) If, in accordance with section 9 of this Act, the determination of the electors is deemed to be in favour of the restoration of licences, there shall be submitted for the determination of the electors of the district the further question whether a licensing Trust shall be established to conduct hotels and other premises for the sale of liquor in the district (in this section referred to as the Trust proposal). 5

"(2) The poll on the Trust proposal shall be taken on a day to be appointed by the Minister by notice in the *Gazette*, being a day not later than the 90th day following the date of the giving by the Returning Officer of public notice of the result of the poll on the restoration question, or, as the case may require, following the date of any amended public notice or order of the Court superseding that notice under the principal Act. 10 15

"(3) The Trust proposal shall be submitted in Form 1A in the Second Schedule to this Act, and in the manner prescribed by the principal Act, as amended by this Act. 20

"(4) The poll on the Trust proposal shall be deemed for the purposes of the principal Act to be a licensing poll, and the provisions of that Act, as far as they are applicable and with the necessary modifications, shall apply accordingly.

"(5) If the number of votes recorded in favour of the Trust proposal amounts to more than one-half of all the votes recorded in respect of the proposal, that proposal shall be deemed to be carried. 25

"(6) Pending the final declaration of the result of the poll on the Trust proposal, nothing in section 9B or section 11 of this Act shall apply with respect to the district. If on such declaration as aforesaid the Trust proposal is deemed, in accordance with subsection (5) of this section, to be carried the said sections 9B and 11 shall not apply with respect to the district; and the provisions of section 3A of the Licensing Trusts Act 1949 shall apply accordingly. 30 35

“9B. Incorporation of district in adjoining licensing district following vote for restoration—On the coming into force of a determination in favour of the restoration of licences in any district, the district shall be incorporated in the adjoining
5 licensing district constituted under the Sale of Liquor Act 1962, or, where there is more than one such district, such adjoining licensing district as the Governor-General may specify by Order in Council.”

10 (2) The Second Schedule to the Licensing Amendment Act 1910 (as substituted by section 3 (6) of the Licensing Amendment Act 1956) is hereby amended by inserting, after Form 1, the following form:

“Form 1A Section 9A (3)

VOTING PAPER

[Consecutive Number]

No-licence District of

LICENSING TRUST POLL

Directions

Strike out the proposal for which you do not wish to vote. After voting, fold this paper and place it in the ballot box. You must not take it out of the polling booth.

If you spoil this paper, return it to the Issuing Officer and obtain another.

(Proposal to determine whether a licensing Trust should be established to conduct hotels and other premises for the sale of liquor in the district, or whether licences should be authorised under the Sale of Liquor Act 1962 for private ownership.)

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| I VOTE FOR TRUST CONTROL |
| I VOTE FOR LICENCES UNDER THE SALE OF LIQUOR ACT |

15 3. Consequential amendments and repeals—(1) The Third Schedule to the Licensing Amendment Act 1910 is hereby amended by omitting Form 2, and substituting the following form:

Licensing Amendment

"Form 2"

DECLARATION OR RESULT OF POLL ON LICENSING TRUST PROPOSAL

No-licence District of

In pursuance of the Licensing Act 1908, I hereby give public notice that at the licensing poll taken under section 9A of the Licensing Amendment Act 1910 the total number of valid votes recorded was as follows:

For Trust Control

For Licences

I hereby declare that, as the total number of valid votes recorded in favour of the proposal for a licensing Trust amounts (or does not amount) to more than one-half of all the valid votes recorded on the Trust proposal, the determination of the electors of the district is in favour of (or is against) the proposal that a licensing Trust be established.

Dated at this day 19 .

..... Returning Officer."

(2) Section 14 (1) of the Licensing Amendment Act 1910 (as amended by section 3 (1) (a) of the Licensing Amendment Act 1963) is hereby amended by omitting the expression "section 9B", and substituting the expression "section 9A".

(3) Section 51 (3) of the Statutes Amendment Act 1946 is hereby amended by omitting the expression "section eight", and substituting the expression "section 8 or section 9A".

(4) Section 6 (1) (a) of the Licensing Amendment Act 1957 (as amended by section 3 (3) of the Licensing Amendment Act 1963) is hereby amended by omitting the words "the Trust proposal under section 9B", and substituting the words "the Trust proposal under section 9A".

(5) The following enactments are hereby consequentially repealed:

- (a) The Licensing Amendment Act 1963: 15
- (b) Section 3. (3) of the Sale of Liquor Amendment Act 1968:
- (c) Sections 4 to 6 of the Licensing Amendment Act 1974.