

LICENSING AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Licensing Amendment Act 1910 by prescribing a new procedure to be followed where restoration is carried on a poll of electors in a no-licence district. The present procedure is incompatible with Part III of the Licensing Trusts Act 1949 (as enacted in 1976). The new procedure is consistent with that Part.

Clause 1 relates to the Short Title and commencement.

Clause 2 requires Returning Officers to forward to the Clerk of the House of Representatives all voting papers used or unused at a licensing poll. At present, they are sent to the District Court.

Clause 3 repeals sections 9A to 9C of the Licensing Amendment Act 1910, and substitutes 3 new provisions, relating to the procedure to be followed where restoration is carried in a no-licence district.

At present, the first step is for the Licensing Control Commission to review the district and determine what hotel, tourist-house, tavern premises, and wholesale licences are necessary or desirable in the district. At the same time a Trust poll is held to determine whether or not the electors wish any licences that are authorised by the Commission to be offered first to a suburban Trust. However, Part III of the Licensing Trusts Act 1949 provides for suburban Trusts to decide which premises they will establish and where, subject to the provisions of that Part. Moreover, section 53 of that Act provides that suburban Trusts do not need licences under the Sale of Liquor Act 1962.

Accordingly, the new procedure provides for the Trust poll to be conducted before the Commission's review. If the Trust proposal is carried, the Commission's task is to make recommendations to the Minister of Justice relating to the constitution of one or more suburban Trusts. It will then be for the Trusts to set about the tasks of establishing liquor outlets in accordance with Part III of the Licensing Trusts Act 1949.

If the Trust proposal is defeated, the Commission will then review the area and call for applications for licences in the usual way.

Clauses 4 and 5 are consequential upon *clause 3*.

Hon. Mr McLay

LICENSING AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Licensing Act 1908 in relation to the disposal of voting papers following a licensing poll, and to amend the Licensing Amendment Act 1910 in respect of the procedure to be followed where restoration is carried in a no-licence district

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

- 10 **1. Short Title and commencement**—(1) This Act may be cited as the Licensing Amendment Act 1981, and shall be read together with and deemed part of the Licensing Act 1908* (hereinafter referred to as the principal Act).
- 15 (2) This Act shall come into force on the 28th day after the date on which it receives the Governor-General's assent.

*R.S. Vol 3, p. 207

2. Disposal of voting papers—The principal Act is hereby amended by repealing section 26, and substituting the following section:

“26. (1) As soon as the licensing poll has been taken, all the voting papers used and unused thereat shall be packed in separate parcels and forwarded to the Clerk of the House of Representatives in accordance with paragraphs (a) to (c) of section 121 of the Electoral Act 1956; and the provisions of that section and sections 122 and 123 of that Act shall apply, with all necessary modifications, as if the voting papers were ballot papers under that Act.

“(2) The Returning Officer may include any unused voting papers in the same packet or packets as the unused ballot papers under the said paragraph (a).”

3. New sections substituted in Licensing Amendment Act 1910—The Licensing Amendment Act 1910 is hereby amended by repealing sections 9A to 9C, and substituting the following sections:

“9A. **Poll to be taken on question whether suburban Trusts should be constituted**—(1) If, in accordance with section 9 of this Act, the determination of the electors of the district is deemed to be in favour of the restoration of licences, a poll of the electors residing in the former no-licence district shall be held as soon as practicable after the determination comes into force, on a day to be fixed by the Commission, on the question whether one or more suburban Trusts should be established to conduct premises for the sale of liquor in the district (hereinafter referred to as the Trust proposal).

“(2) The Trust proposal shall be deemed to be carried if the number of valid votes recorded for that proposal exceeds the number of valid votes recorded against it.

“(3) For the purposes of the poll, the provisions of section 84 of the Sale of Liquor Act 1962 (except paragraphs (a) and (g) of subsection (1) of that section) shall apply.

“(4) Subject to the provisions of this section, the poll shall be deemed for the purposes of the principal Act to be a licensing poll, and the provisions of that Act shall apply accordingly, so far as they are applicable and with the necessary modifications.

“(5) Pending the final declaration of the result of the poll on the Trust proposal, nothing in section 11 of this Act shall apply in respect of the district.

“9B. Procedure where Trust proposal carried—(1) If the Trust proposal is carried, the Licensing Control Commission shall give the Minister a report informing him of its opinion on the following matters:

5 “(a) The number of suburban Trusts that should be constituted in respect of the former no-licence district and the areas that each should serve:

“**(b)** The desirability of amalgamating the whole or any part of the former no-licence district with the area
10 of an existing suburban Trust:

“**(c)** Any other matter in relation to the former no-licence district that the Commission considers should be drawn to the Minister’s attention.

“**(2)** For the purposes of preparing its report under sub-section (1) of this section, the Commission shall hold a public hearing, of which public notice shall be given, and shall afford to all interested persons an opportunity to give evidence or make representations; and sections 46 to 51 and 53 of the Sale of Liquor Act 1962, with all necessary modifications, shall
15 apply to the hearing.

“**(3)** On receipt of the Commission’s report under subsection (1) of this section, the Minister may in his discretion, by notice in the *Gazette*, do one or more of the following things:

25 “**(a)** Constitute one or more suburban Trusts in respect of the whole or any specified part of the former no-licence district (with such name or names as may be specified in the notice):

30 “**(b)** Amalgamate the whole or any part of the former no-licence district with the area of an existing suburban Trust:

“**(c)** Include the whole or any part of the area of an existing suburban Trust within the area of a suburban Trust constituted by the notice.

35 **“9c. Procedure where Trust proposal not carried—**(1) If the Trust proposal is not carried, the Licensing Control Commission shall, as soon as practicable, review the former no-licence district and determine what hotel, tourist-house, and tavern premises licences, and what wholesale licences,
40 are necessary or desirable in that district or in any locality or place within the district.

“**(2)** For the purposes of the review, the Commission shall hold a public sitting, of which public notice shall be given, and shall afford to all interested persons an opportunity to

give evidence or make representations; and sections 46 to 51, 53, 226, and 230A of the Sale of Liquor Act 1962 shall apply to the sitting.

“(3) For the purposes of this section, but subject to the provisions of this Act, sections 75 to 79 of the Sale of Liquor Act 1962 shall apply, with all necessary modifications, as if the review were an inquiry under section 74 of that Act.”

4. Form of declaration of result of Trust proposal amended—Form No. 2 in the Third Schedule to the Licensing Amendment Act 1910 (as substituted by section 7 (1) (c) of the Licensing Amendment Act 1949) is hereby amended—

- (a) By omitting from the principal heading the word “LOCAL”, and substituting the word “SUBURBAN”:
- (b) By omitting the expression “section 9B” (as substituted by section 3 (1) (c) of the Licensing Amendment Act 1963), and substituting the expression “section 9A”:
- (c) By omitting the words “a local Trust” in both places where they occur, and substituting in each case the words “one or more suburban Trusts”.

5. Consequential amendments and repeals—(1) 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”.

(2) Section 6 (1) 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”.

(3) Section 52 of the Licensing Trusts Act 1949 (as inserted by section 9 of the Licensing Trusts Amendment Act 1976) is hereby amended by omitting from the definition of the term “Trust” the expression “section 9BA”, and substituting the expression “section 9B”.

(4) The following enactments are hereby consequentially repealed:

- (a) Section 2, subsections (2) and (3) of section 3, of the Licensing Amendment Act 1963:
- (b) Sections 3 to 6 of the Licensing Amendment Act 1974.