

[AS REPORTED FROM THE STATUTES REVISION
COMMITTEE]

House of Representatives, 13 October 1955

Words struck out by the Statutes Revision Committee are shown in roman enclosed in panel; words inserted are shown in black or in roman with rule down side.

Hon. Mr Marshall

LICENSING TRUSTS AMENDMENT

ANALYSIS

Title.	6. Power of Trust to raise money by issue of debentures.
1. Short Title.	7. Power of local Trust or local authority to make fresh application for licence where first application not proceeded with.
2. Alteration of boundaries of Trust district.	8. Power of local Trust to acquire other licensed premises.
3. Trust district may be divided into wards for purposes of elections.	9. Provision for winding up of local Trust in certain circumstances.
4. Election of members on creation or alteration of wards.	
5. Consequential amendments.	

A BILL INTITULED

AN ACT to amend the Licensing Trusts Act 1949. Title.

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

1. This Act may be cited as the Licensing Trusts Amendment Act 1955, and shall be read together with
and deemed part of the Licensing Trusts Act 1949 (hereinafter referred to as the principal Act). Short Title.
1949, No. 43

10 *Struck out*

2. The principal Act is hereby amended by inserting, after section three, the following section: Alteration of boundaries of Trust district.

“3A. (1) Subject to the provisions of this section, the Governor-General may from time to time by Order in
15 Council, on the recommendation of the Minister made at the request of the Licensing Trust of any Trust district, alter and redefine the boundaries of that Trust district by adding thereto any area which in his opinion should be part of the Trust district, or by excluding therefrom
20 any area which in his opinion should no longer be part of the Trust district.”

- Reprinted 1951,
p. 946
- 1953, No. 90
- Reprinted 1951,
p. 949
- Trust district
may be divided
into wards for
purposes of
elections.
- “(2) The boundaries of a Trust district shall not be so altered as to include—
- “(a) Any licensed premises within the meaning of the Licensing Act 1908:
- “(b) Any part of any special area within the meaning of section fourteen of the Licensing Amendment Act (No. 2) 1953: 5
- “(c) Any part of any no-licence district for the time being constituted under the Licensing Act 1908.
- “(3) Where the boundaries of any Trust district are altered by excluding any area from the district, the provisions of subsection one of section five of the Licensing Act 1908 (which relates to ordinary licensing districts) shall apply to the area so excluded, unless by Order in Council under this section it is added to any other Trust district.” 10 15
3. Section four of the principal Act is hereby amended by inserting, after subsection two, the following subsections:
- “(2A) By any such Order in Council, the Governor-General may declare the newly constituted Trust district to be divided into wards for the purposes of the election of members, and may prescribe the names and boundaries of the wards and the number of elective members for each ward. 20 25
- “(2B) The Governor-General may from time to time, by Order in Council, declare any undivided Trust district to be divided into wards for the purposes of the election of members, and prescribe the names and boundaries of the wards and the number of elective members for each ward. 30
- “(2c) The Governor-General may from time to time, by Order in Council,—
- “(a) Alter the boundaries of any ward of a divided Trust district, or wholly redivide the district into wards: 35
- “(b) Name or rename any ward:
- “(c) Alter the number of elective members for any ward:
- “(d) Abolish all wards of the district. 40
- “(2D) In any case to which subsection *two B* or subsection *two c* of this section applies, the Governor-General, by the same or any subsequent Order in Council, may prescribe—
- “(a) The number of elective members of the Trust: 45

5 “(b) The number of elective members of the Trust, being members elected at the first election after the making of the Order in Council, whose terms of office shall expire, under subsection *three* A of section five of this Act, before the second election after the making of the Order in Council:

“*(c)* The number of members of the Trust to form a quorum at any meeting of the Trust.”

10 4. The principal Act is hereby amended by inserting, after section eleven, the following section:

“11A. (1) Where—

“*(a)* An undivided Trust district is divided into wards;

or

15 “*(b)* A Trust district divided into wards is wholly redivided; or

“*(c)* The wards of a divided Trust district are abolished,—

20 “there shall be a general election of all the elective members of the Trust on a day to be appointed by the Minister by notice in the *Gazette*.

25 “(2) Where, in any case to which subsection *one* of this section does not apply, the number of elective members for any ward of a divided Trust district is altered, the alteration shall not take effect until the next general election of members of the Trust, except to such extent as may be necessary for providing for the holding of that election. The Governor-General may at any time, by Order in Council, prescribe the terms of office of all or
30 any of the members elected for that ward at that election.”

35 5. (1) Section five of the principal Act (which relates to the terms of office of elective members) is hereby amended by inserting, after subsection three, the following subsection:

40 “(3A) Where by any Order in Council under this Act an undivided Trust district is divided into wards, or a divided Trust district is wholly redivided, or the wards of a divided Trust district are abolished, the following provisions shall apply with respect to the members of the Trust elected at the first general election after the making of the Order in Council:

Election of members on creation or alteration of wards.

Consequential amendments.

“(a) The terms of office of such number of those members as may, under paragraph (b) of subsection *two D* of section four of this Act, be specified in the Order in Council under that subsection shall expire on the day appointed for the second election of members of the Trust after the making of the Order in Council: 5

“(b) The terms of office of the remaining members shall expire on the day appointed for the third election of members of the Trust after the making of the Order in Council: 10

“(c) The members whose terms of office are to expire on the day appointed for the said second election shall be determined by agreement between the elective members of the Trust within three months after the date of the said first election, or, failing any such agreement, shall be determined by lot within the said three months. If there is no such determination within the said three months, the members whose terms of office are to expire as aforesaid shall be determined by the Minister.” 15 20

(2) The said section five is hereby further amended by inserting in subsection two, after the words “subsection three”, the words “and paragraph (a) of subsection *three A*”. 25

(3) Section nine of the principal Act (which relates to electors) is hereby amended by inserting, after subsection one, the following subsection:

“(1A) In the case of any Trust district that is divided into wards, the persons entitled to vote at any election of a member or members for any ward shall be those persons who are electors by virtue of residential qualifications in respect of addresses within that ward.” 30

(4) Section twelve of the principal Act (which relates to the conduct of elections) is hereby amended as follows: 35

(a) By inserting in subsection two, after the words “within the Trust district”, the words “or, as the case may require, within any ward of a divided Trust district”: 40

(b) By adding to subsection three the words “and, if the Trust district is divided into wards, the ward in respect of which every such person is entitled to vote”. 40

5 (5) Section fourteen of the principal Act (which relates to the disqualification of members) is hereby amended by inserting in paragraph (a) of subsection one, after the words "the Trust district", the words "or, in the case of the election or appointment of any member for a ward of a divided Trust district, is not an elector entitled to vote at elections of members for that ward".

10 (6) Section forty-eight of the principal Act (which relates to the Ashburton and Geraldine Licensing Trust districts) is hereby amended as follows:

(a) By omitting from subsection one the word "comprising", and substituting the words "which, subject to the provisions of this Act, shall comprise".

15 (b) By omitting from subsection two the word "comprising", and substituting the words "which, subject to the provisions of this Act, shall comprise".

20 (7) Section fifty of the principal Act (which relates to the Ashburton and Geraldine Licensing Trusts) is hereby amended as follows:

(a) By omitting from subsection one the words "subsections two and three", and substituting the words "subsections two and two A":

25 (b) By adding to subsection two the following proviso:
"Provided that if at any time either of the Trust districts is divided into wards, the number of elective members of the Trust and the number of members to form a quorum shall be such as are prescribed by any Order in Council for the time being in force under section four of this Act."

30 6. Section thirty-seven of the principal Act is hereby amended by inserting, after subsection two, the following subsection:

35 "(2A) Without limiting the generality of the provisions of subsection two of this section or affecting any mortgage, debenture, or other charge given thereunder, but subject to the provisions of the said subsection two, the Trust may borrow money by the issue of debentures, whether charged on any property of the Trust or not; and in any such case the following provisions shall apply:

Power of Trust to raise money by issue of debentures.

1951, No. 70,
s. 3

“(a) Any local authority or local authorities to whom section thirty-seven A of this Act applies may guarantee the repayment of the money so borrowed and the payment of interest thereon, and in respect of any such guarantee the provisions of the said section thirty-seven A shall apply accordingly: 5

“Provided that nothing in the proviso to subsection one of that section or in subsection three of that section shall apply: 10

See Reprint
of Statutes,
Vol. V, p. 374

“(b) For the purpose of the issue of the debentures, the provisions of sections twenty-seven to fifty-one, fifty-three to sixty-one, ninety-three to one hundred and nine, one hundred and twelve, and one hundred and sixteen to one hundred and twenty-two of the Local Bodies' Loans Act 1926, and of sections forty-nine and fifty of the Finance Act (No. 2) 1948, shall apply, so far as they are applicable and with the necessary modifications, as if the Trust were a local authority within the meaning of the Local Bodies' Loans Act 1926 and as if the money were borrowed pursuant to that Act: 15 20

1948, No. 78

“Provided that such debentures may be for sums of not less than five pounds.” 25

Power of local
Trust or local
authority to
make fresh
application for
licence where
first application
not proceeded
with.

1950, No. 90

7. Section forty-six of the principal Act, as substituted by subsection one of section two of the Licensing Trusts Amendment Act 1950, is hereby amended, as from the commencement of that section, by inserting, after subsection one, the following subsection: 30

“(1A) Where, on any application made by a local authority by virtue of this section, any Licensing Committee determines that it will grant a licence to a local Trust, and a local Trust is constituted accordingly, and for any reason no licence is issued pursuant to the determination, the following provisions shall apply: 35

“(a) The Trust, or the local authority with the concurrence and on behalf of the Trust, may from time to time make application, in accordance with this section, for a licence in respect of different or altered premises or proposed 40

premises on the site to which the first-mentioned application related, or in respect of premises or proposed premises on a different site:

5 “(b) If any such application is in respect of a different site as aforesaid, public notice shall be given in accordance with subsection three of section fifty-five of the Licensing Amendment Act 1948, and the provisions of subsections three to seven of that section and of section fifty-six of that Act shall apply accordingly. In any other case, the application shall be deemed to be by way of amendment to the original application for a licence made on behalf of the Trust, and shall be dealt with accordingly:

Reprinted 1951, p. 1113

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15 “(c) The provisions of any regulations made under this section in respect of applications by local authorities on behalf of intended Trusts shall apply, with the necessary modifications, to every application made by the Trust or the local authority under this subsection:

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25 “(d) The Trust shall continue in existence until any application made under this subsection is finally disposed of, and, if the Licensing Committee determines to grant a licence to it, shall be deemed to have been constituted for the purpose of conducting the premises in respect of which the licence is to be granted.”

30 8. (1) Section five of the Licensing Trusts Amendment Act 1953 (which empowers a local Trust to hold more than one licence) is hereby amended by adding the following paragraph:

Power of local Trust to acquire other licensed premises. 1953, No. 103

35 “(c) For any such local Trust, with the prior approval of the Minister, to acquire and conduct any licensed premises **situated within the Trust area**, whether in the same licensing district or in any other licensing district, and for that purpose to have transferred to it, in accordance with the Licensing Act 1908, any licence for the time being in force in respect of those premises.”

Reprinted 1951, p. 946

Struck out

45 (2) The said section five is hereby further amended by adding the following as subsection two thereof:

“(2) Regulations may be made under section forty-six of the principal Act providing for the reconstitution of any local Trust that becomes the holder of a licence under

paragraph (b) or paragraph (c) of subsection one of this section, for altering the number of members of the Trust and fixing their terms of office, for altering the boundaries of the areas within which polls for elections of members are taken and within which the Trust may expend or distribute profits, and for such other matters as may be necessary to give effect to this section.”

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(3) The said section five is hereby further amended by omitting from paragraph (b) of subsection one the words “being the holder of a licence in respect of any premises”, and substituting the words “for the purpose of conducting any premises”.

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Provision for winding up of local Trust in certain circumstances. 1950, No. 90

9. The principal Act is hereby further amended by inserting, after section forty-six (as substituted by subsection one of section two of the Licensing Trusts Amendment Act 1950), the following section:

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Reprinted 1951, p. 946

“46A. (1) Where any local Trust has been constituted under section forty-six of this Act, whether before or after the commencement of this section, and every application for a licence under the Licensing Act 1908 made by or on behalf of the Trust to any Licensing Committee has been disposed of and the Licensing Committee, pursuant to subsection one c of section fifty-seven of the Licensing Amendment Act 1948 (as inserted by subsection one of section ten of the Licensing Amendment Act 1952), revokes its decision to grant a licence to the Trust, the following provisions shall apply:

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Reprinted 1951, p. 1116

1952, No. 79

“(a) The Trust may, by resolution passed at a meeting of which not less than twenty-one days’ notice, specifying the intention to propose the resolution, has been duly given, resolve that the Trust shall be wound up voluntarily:

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“(b) The Trust, or any member or creditor thereof, or any local authority, may apply to the Supreme Court for an order that the Trust be wound up, and the Court, on being satisfied that the Licensing Committee has revoked its decision as aforesaid, may make a winding-up order accordingly.

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“(2) Where any local Trust so constituted is conducting any licensed premises pursuant to a licence under the Licensing Act 1908, and is unable to pay its debts,—

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“(a) The Trust may, in accordance with paragraph (a) of subsection one of this section, resolve that the Trust be wound up voluntarily:

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“(b) The Trust, or any member or creditor thereof, may apply to the Supreme Court for an order that the Trust be wound up.

“(3) Subject to the provisions of this section and of any regulations made under this Act, the provisions of Part VI of the Companies Act 1933 shall apply, so far as they are applicable and with the necessary modifications, to every winding up and every application to the Court under this section as if references in that Part to a company were references to the Trust, and as if references to the directors of a company were references to the members of the Trust: 1933, No. 29

“Provided that—

“(a) In the case of a voluntary winding up either the Official Assignee or any other fit person may be appointed as liquidator:

“(b) In any case, all surplus assets after the satisfaction of all costs and liabilities shall be transferred to such local authority or distributed among such local authorities, and in such manner, as the Court, in the case of a winding up by the Court, or the Minister, in the case of a voluntary winding up, shall direct.

“(4) Regulations may be made under section forty-six of this Act for the purpose of giving full effect to the provisions of this section and for the due administration thereof.”

New

10. (1) The Third Schedule to the principal Act is hereby amended by adding the words “excluding, however, any part of the Mackenzie County situated within the boundaries of the above-described area”.

Excluding area from Geraldine Licensing Trust district.

(2) The provisions of subsection one of section five of the Licensing Act 1908 (which relates to ordinary licensing districts) shall hereafter apply to every part of the Mackenzie County excluded from the Geraldine Licensing Trust district by subsection one of this section.