

# LICENSING TRUSTS AMENDMENT BILL

## EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to the Licensing Trusts Act 1949, the Masterton Licensing Trust Act 1947, and the Invercargill Licensing Trust Act 1950.

The amendments relate to the holding of social gatherings on Trust premises, the filling of extraordinary vacancies, and the procedure for raising loans.

## PART I

### LICENSING TRUSTS

*Clause 2:* This Part is to be read with the Licensing Trusts Act 1949.

*Clause 3:* This clause makes it lawful for any Trust to permit any portion of its premises to be used for the purposes of social gatherings or entertainments or meetings after the ordinary closing hours, if no liquor is sold or supplied to persons present at the gathering or is taken into or consumed in that portion of the premises while the gathering is being held. *Subclause (2)* makes it clear that a person attending the gathering is not unlawfully on the premises unless he is a party to a breach of the provisions of *subclause (1)* relating to liquor.

*Clause 4:* Section 164 of the Licensing Act 1908, which applies to Trusts, relates to dancing, concerts, and theatrical entertainments on licensed premises. It forbids the licensee to use his premises for those purposes, but private assemblies may be held in a room hired for any such purpose if a permit is granted by the Chairman and two members of the Licensing Committee. As Licensing Committees have no jurisdiction in Trust districts, this clause authorises any Magistrate to grant such a permit.

*Clause 5:* Members of Trusts are elected for six-year terms, but retire in rotation, so that an election to fill some of the vacancies is held every three years. At present, where an extraordinary vacancy occurs within twelve months before the expiry of the term of office of the member concerned, the Trust may resolve (a) that the vacancy be filled by election, or (b) that the vacancy be filled by appointment by the Trust of a qualified person; but if the vacancy occurs within six months of the expiry of the term the Trust may instead resolve that the vacancy be not filled until the next triennial election is held.

The effect of the new subsection substituted by this clause is that the Trust may leave the vacancy unfilled until the next triennial election if the vacancy occurs within twelve months before that election, whether or not the member's term of office would have expired at that election. Where that term would not have so expired (so that there would still be three years of it to run), the vacancy will be filled at that election as if it were an ordinary vacancy. The person elected by the smallest number of votes will then fill the extraordinary vacancy.

*Clause 6* rewrites the machinery provisions relating to the issue of debentures by Trusts, so as to bring those provisions into line with the new Local Authorities Loans Act 1956. The clause makes two changes. The first is to allow the issue of stock instead of debentures, thus giving Trusts the same borrowing procedure as other local authorities. The second consequentially applies the procedural provisions of the Local Authorities Loans Act 1956 relating to debentures and stock, in place of the earlier provisions of the repealed Local Bodies' Loans Act 1926 relating to debentures, and includes certain sections which did not formerly apply.

## PART II

### MASTERTON LICENSING TRUST

*Clause 7:* This Part is to be read with the Masterton Licensing Trust Act 1947.

*Clause 8* applies to the Masterton Licensing Trust the new provisions allowing social and other gatherings, without liquor, made by *clause 3*.

*Clause 9* makes the same provision as to permits for dancing, etc., as is made by *clause 4* in relation to other Trusts.

*Clause 10* gives to the Masterton Trust the same powers as to extraordinary vacancies as are given to other Trusts by *clause 5*.

*Clause 11* applies to the Masterton Trust the same provisions as to the issue of debentures and stock as are made by *clause 6* in relation to other Trusts.

*Clause 12* applies in respect of the Masterton Trust certain provisions already applying to Trusts constituted under the Licensing Trusts Act 1949. The clause empowers local authorities in the Trust district to make advances to or guarantee loans of the Trust in accordance with section 37A of the Licensing Trusts Act 1949 (as enacted by section 3 of the Licensing Trusts Amendment Act 1951)

## PART III

### INVERCARGILL LICENSING TRUST

*Clause 13:* This Part is to be read with the Invercargill Licensing Trust Act 1950.

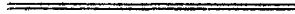
*Clause 14* applies to the Invercargill Licensing Trust the new provisions allowing social and other gatherings, without liquor, made by *clause 3*.

*Clause 15* makes the same provision as to permits for dancing, etc., as is made by *clause 4* in relation to other Trusts.

*Clause 16* gives to the Invercargill Trust the same powers as to extraordinary vacancies as are given to other Trusts by *clause 5*.

*Clause 17* applies to the Invercargill Trust the same provisions as to the issue of debentures and stock as are made by *clause 6* in relation to other Trusts.

*Clause 18* makes the same provision as to advances and guarantees by local authorities as is made for the Masterton Trust by *clause 12*.



*Hon. Mr Mason*

## LICENSING TRUSTS AMENDMENT

### ANALYSIS

Title		
1. Short Title	9. Permits for dancing, etc., in Trust premises	
PART I		
LICENSING TRUSTS		
2. This Part to be read with the Licensing Trusts Act 1949	10. Filling of extraordinary vacancies	
3. Social and other gatherings in Trust premises	11. Borrowing powers of Trust	
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6. Borrowing powers of Trust	INVERCARGILL LICENSING TRUST	
PART II		
MASTERTON LICENSING TRUST		
7. This Part to be read with the Masterton Licensing Trust Act 1947	13. This Part to be read with the Invercargill Licensing Trust Act 1950	
8. Social and other gatherings in Trust premises	14. Social and other gatherings in Trust premises	
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### A BILL INTITULED

**An Act to amend the Licensing Trusts Act 1949, the Masterton Licensing Trust Act 1947, and the Invercargill Licensing Trust Act 1950**

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

1. **Short Title**—This Act may be cited as the Licensing Trusts Amendment Act 1959.

## PART I

## LICENSING TRUSTS

**2. This Part to be read with the Licensing Trusts Act 1949**—This Part of this Act shall be read together with and deemed part of the Licensing Trusts Act 1949 (in this Part referred to as the principal Act). 5

**3. Social and other gatherings in Trust premises**—The principal Act is hereby amended by inserting, after section thirty-five, the following section:

“35A. (1) Notwithstanding anything in the Licensing Act 1908 or this Act, it shall be lawful for the Trust from time to time to permit any portion of any premises maintained by it to be used, at any time when licensed premises are required by the Licensing Act 1908 to be closed, for the purpose of any gathering of persons, whether the gathering is for social purposes or for the purposes of entertainment or recreation or of any meeting or otherwise, if— 10

“(a) No liquor is sold or supplied by the Trust, or by any other person, to any person while he is present at the gathering; and 20

“(b) No liquor is taken into or consumed in that portion of the premises while the gathering is being held.

“(2) No person attending any gathering held under the authority of this section shall, by reason only of his presence at the gathering, be deemed for the purposes of the Licensing Act 1908 to be unlawfully on licensed premises or to commit any other offence against the Licensing Act 1908, unless he is a party to any breach of any of the provisions of paragraph (a) or paragraph (b) of subsection one of this section.” 25

**4. Permits for dancing, etc., in Trust premises**—Section thirty-five of the principal Act is hereby amended by inserting, after subsection four, the following subsection: 30

“(4A) In the application of the provisions of section one hundred and sixty-four of the Licensing Act 1908, the references in subsection two of that section to the Chairman and any two members of the Licensing Committee shall be read as references to a Magistrate.” 35

**5. Filling of extraordinary vacancies**—(1) Section sixteen of the principal Act is hereby amended by repealing subsection one, and substituting the following subsections:

5 “(1) In the event of an extraordinary vacancy in the office of an elective member of the Trust occurring within twelve months of the date fixed for the next triennial election of members, the Trust may by resolution determine—

10 “(a) That the vacancy shall be filled by election in the manner prescribed by the provisions in that behalf of the Local Elections and Polls Act 1953; or

“(b) That the vacancy shall not be filled until the next triennial election of members is held; or

15 “(c) If the term of office of that member would have expired on the day appointed for the next triennial election of members, that the vacancy shall be filled by appointment by the Trust of a person qualified to be elected as a member.

20 “(1A) Where the Trust determines under this section that the vacancy shall not be filled until the next triennial election of members is held, and the term of office of the member whose office has become vacant would not have expired on the day appointed for that election, the vacancy shall be filled at the next triennial election of members as if it were an ordinary vacancy. For the purposes of that election the  
25 number of vacancies to be filled shall be increased accordingly, and the following provisions shall apply:

30 “(a) If the number of candidates exceeds the number of vacancies to be so filled, the member elected by the smallest number of votes shall be deemed to have been elected to fill the extraordinary vacancy; and where there is an equality of votes between the members elected by the smallest number of votes one of those members, to be determined by lot at the next meeting of the Trust, shall be deemed to  
35 have been elected to fill the extraordinary vacancy:

40 “(b) If the number of candidates is equal to the number of vacancies to be so filled, one of the members duly declared elected, to be determined by lot at the next meeting of the Trust, shall be deemed to have been elected to fill the extraordinary vacancy:

“(c) If the number of candidates is equal only to the number of ordinary vacancies, the members duly declared elected shall fill the ordinary vacancies, and the provisions of section thirteen of this Act shall apply to the extraordinary vacancy: 5

“(d) If the number of candidates is less than the number of ordinary vacancies, the members duly declared elected shall fill ordinary vacancies, and the remaining vacancies shall be filled by appointment pursuant to the said section thirteen, and one of the members so appointed shall be appointed to fill the extraordinary vacancy.” 10

(2) The said section sixteen is hereby further amended by inserting in subsection four, after the words “subsection one”, the words “or subsection one A”. 15

**6. Borrowing powers of Trust**—(1) Section thirty-seven of the principal Act is hereby amended by repealing subsection two A, as inserted by section five of the Licensing Trusts Amendment Act 1955, and substituting the following subsection: 20

“(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 or stock, whether charged on any property of the Trust or not; and in any such case the following provisions shall apply: 25

“(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: 30

“Provided that nothing in the proviso to subsection one of that section or in subsection three of that section shall apply: 35

“(b) In respect of any loan raised by the issue of debentures or stock under this subsection the provisions of sections fifty-two to fifty-five, fifty-seven to ninety-six, ninety-eight to one hundred and three, one hundred and five, one hundred and ten, one 40

5 hundred and twelve to one hundred and fourteen,  
one hundred and eighteen, one hundred and nine-  
teen, one hundred and twenty-two to one hundred  
and twenty-five, and one hundred and twenty-nine  
of the Local Authorities Loans Act 1956 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 those pro-  
visions and as if the loan were raised pursuant to  
that Act:

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

(2) Section five of the Licensing Trusts Amendment Act  
1955 is hereby consequentially repealed.

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## PART II

### MASTERTON LICENSING TRUST

**7. This Part to be read with the Masterton Licensing Trust  
Act 1947**—This Part of this Act shall be read together with  
and deemed part of the Masterton Licensing Trust Act 1947  
20 (in this Part referred to as the principal Act).

**8. Social and other gatherings in Trust premises**—The  
principal Act is hereby amended by inserting, after section  
thirty-five, the following section:

25 “35A. The provisions of section thirty-five A of the Licensing  
Trusts Act 1949 (as enacted by section three of the Licensing  
Trusts Amendment Act 1959) shall apply to the Trust and to  
persons attending any gathering held on premises of the Trust  
under the said section thirty-five A.”

**9. Permits for dancing, etc., in Trust premises**—Section  
30 thirty-five of the principal Act is hereby amended by adding  
the following subsection:

35 “(5) In the application of the provisions of section one  
hundred and sixty-four of the Licensing Act 1908, the refer-  
ences in subsection two of that section to the Chairman and  
any two members of the Licensing Committee shall be read as  
references to a Magistrate.”



**10. Filling of extraordinary vacancies**—Section sixteen of the principal Act is hereby amended by repealing subsection one, and substituting the following subsections:

“(1) In the event of an extraordinary vacancy in the office of an elective member of the Trust occurring within twelve months of the date fixed for the next triennial election of members, the Trust may by resolution determine— 5

“(a) That the vacancy shall be filled by election in the manner prescribed by the provisions in that behalf of the Local Elections and Polls Act 1953; or 10

“(b) That the vacancy shall not be filled until the next triennial election of members is held; or

“(c) If the term of office of that member would have expired on the day appointed for the next triennial election of members, that the vacancy shall be filled by appointment by the Trust of a person qualified to be elected as a member. 15

“(1A) Where the Trust determines under this section that the vacancy shall not be filled until the next triennial election of members is held, and the term of office of the member whose office has become vacant would not have expired on the day appointed for that election, the vacancy shall be filled at the next triennial election of members as if it were an ordinary vacancy. For the purposes of that election the number of vacancies to be filled shall be increased accordingly, and the following provisions shall apply: 20 25

“(a) If the number of candidates exceeds the number of vacancies to be so filled, the member elected by the smallest number of votes shall be deemed to have been elected to fill the extraordinary vacancy; and where there is an equality of votes between the members elected by the smallest number of votes one of those members, to be determined by lot at the next meeting of the Trust, shall be deemed to have been elected to fill the extraordinary vacancy: 30 35

“(b) If the number of candidates is equal to the number of vacancies to be so filled, one of the members duly declared elected, to be determined by lot at the next meeting of the Trust, shall be deemed to have been elected to fill the extraordinary vacancy: 40

- “(c) If the number of candidates is equal only to the number of ordinary vacancies, the members duly declared elected shall fill the ordinary vacancies, and the provisions of section thirteen of this Act shall apply to the extraordinary vacancy:
- 5 “(d) If the number of candidates is less than the number of ordinary vacancies, the remaining vacancies shall be filled by appointment pursuant to the said section thirteen, and one of the members so appointed shall be appointed to fill the extraordinary vacancy.”
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**11. Borrowing powers of Trust**—Section thirty-seven of the principal Act is hereby amended by inserting, after subsection two, the following subsection:

- 15 “(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 or stock, whether charged on
- 20 any property of the Trust or not, as if it were a Licensing Trust constituted under the Licensing Trusts Act 1949; and in any such case the provisions of paragraphs (a) and (b) of subsection two A of section thirty-seven of that Act (as enacted by section six of the Licensing Trusts Amendment Act 1959)
- 25 shall apply, with the necessary modifications, as if those paragraphs were incorporated in this subsection.”

**12. Power of local authority to make advances to or guarantee loans of Trust**—The principal Act is hereby amended by inserting, after section thirty-seven, the following

- 30 section:
- “37A. Any local authority whose district is situated wholly or partly within the Trust district shall have in respect of the Trust the same power to advance money, or to enter into any guarantee, as a local authority has under section thirty-seven A
- 35 of the Licensing Trusts Act 1949 (as enacted by section three of the Licensing Trusts Amendment Act 1951) in respect of any Trust under that Act; and the provisions of the said section thirty-seven A shall apply accordingly, with the necessary modifications.”

## PART III

## INVERCARGILL LICENSING TRUST

**13. This Part to be read with the Invercargill Licensing Trust Act 1950**—This Part of this Act shall be read together with and deemed part of the Invercargill Licensing Trust Act 1950 (in this Part referred to as the principal Act). 5

**14. Social and other gatherings in Trust premises**—The principal Act is hereby amended by inserting, after section thirty-six, the following section:

“36A. The provisions of section thirty-five A of the Licensing Trusts Act 1949 (as enacted by section three of the Licensing Trusts Amendment Act 1959) shall apply to the Trust and to persons attending any gathering held on premises of the Trust under the said section thirty-five A.” 10

**15. Permits for dancing, etc., in Trust premises**—Section thirty-six of the principal Act is hereby amended by inserting, after subsection four, the following subsection:

“(4A) In the application of the provisions of section one hundred and sixty-four of the Licensing Act 1908, the references in subsection two of that section to the Chairman and any two members of the Licensing Committee shall be read as references to a Magistrate.” 20

**16. Filling of extraordinary vacancies**—(1) Section seventeen of the principal Act is hereby amended by repealing subsection one, and substituting the following subsections: 25

“(1) In the event of an extraordinary vacancy in the office of an elective member of the Trust occurring within twelve months of the date appointed for the next triennial election of members, the Trust may by resolution determine—

“(a) That the vacancy shall be filled by election in the manner prescribed by the provisions in that behalf of the Local Elections and Polls Act 1953; or 30

“(b) That the vacancy shall not be filled until the next triennial election of members is held; or

“(c) If the term of office of that member would have expired on the day appointed for the next triennial election of members, that the vacancy shall be filled by appointment by the Trust of a person qualified to be elected as a member. 35

“(1A) Where the Trust determines under this section that the vacancy shall not be filled until the next triennial election of members is held, and the term of office of the member whose office has become vacant would not have expired on  
5 the day appointed for that election, the vacancy shall be filled at the next triennial election of members as if it were an ordinary vacancy. For the purposes of that election the number of vacancies to be filled shall be increased accordingly, and the following provisions shall apply:

10 “(a) If the number of candidates exceeds the number of vacancies to be so filled, the member elected by the smallest number of votes shall be deemed to have been elected to fill the extraordinary vacancy;  
15 and where there is an equality of votes between the members elected by the smallest number of votes one of those members, to be determined by lot at the next meeting of the Trust, shall be deemed to have been elected to fill the extraordinary vacancy:

20 “(b) If the number of candidates is equal to the number of vacancies to be so filled, one of the members duly declared elected, to be determined by lot at the next meeting of the Trust, shall be deemed to have been elected to fill the extraordinary vacancy:

25 “(c) If the number of candidates is equal only to the number of ordinary vacancies, the members duly declared elected shall fill the ordinary vacancies, and the provisions of section fourteen of this Act shall apply to the extraordinary vacancy:

30 “(d) If the number of candidates is less than the number of ordinary vacancies, the members duly declared elected shall fill ordinary vacancies, and the remaining vacancies shall be filled by appointment pursuant to the said section fourteen, and one of the  
35 members so appointed shall be appointed to fill the extraordinary vacancy.”

(2) The said section seventeen is hereby further amended by inserting in subsection four, after the words “subsection one”, the words “or subsection one A”.

40 **17. Borrowing powers of Trust**—Section thirty-eight of the principal Act is hereby amended by adding the following subsection:

“(3) 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 or stock, whether charged on any property of the Trust or not, as if it were a Licensing Trust constituted under the Licensing Trusts Act 1949; and in any such case the provisions of paragraphs (a) and (b) of subsection two A of section thirty-seven of that Act (as enacted by section six of the Licensing Trusts Amendment Act 1959) shall apply, with the necessary modifications, as if those paragraphs were incorporated in this subsection.”

**18. Power of local authority to make advances to or guarantee loans of Trust**—The principal Act is hereby amended by inserting, after section thirty-eight, the following section: 15

“38A. Any local authority whose district is situated wholly or partly within the Trust district shall have in respect of the Trust the same power to advance money, or to enter into any guarantee, as a local authority has under section thirty-seven A of the Licensing Trusts Act 1949 (as enacted by section three of the Licensing Trusts Amendment Act 1951) in respect of any Trust under that Act; and the provisions of the said section thirty-seven A shall apply accordingly, with the necessary modifications.” 20