

## LICENSING TRUSTS AMENDMENT BILL

### EXPLANATORY NOTE

THIS Bill amends the Licensing Trusts Act 1949, the Masterton Licensing Trust Act 1947, and the Invercargill Licensing Trust Act 1950.

*Clause 1* relates to the Short Title.

### PART I

#### LICENSING TRUSTS

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

*Clause 3* authorises district Trusts to establish restaurants in which light wine, beer, and stout may be sold to persons having meals, for consumption with the meals, during the same hours and subject to the same conditions as apply to licensed restaurants under section 32 of the Licensing Amendment Act 1960. The wording of the clause is based on the relevant provisions of that section, but the premises must be of a standard approved by the Minister.

*Clause 4:* At present the Masterton Licensing Trust and the Invercargill Licensing Trust may sell liquor in separate bars in premises in which accommodation is not provided. No such power has been given to other district Trusts. This clause gives that power to the other Trusts, subject however to the approval of the Minister of Justice and on such conditions as he thinks fit; but the word "taverns" is substituted for the word "bars".

*Clause 5* relates to site polls, and brings the principal Act into line with the corresponding provisions of the Licensing Amendment Bill.

*Clause 6:* Subsection (1) of the new section 35B gives to a Magistrate the same power to exempt Trust hotels from the provisions of the Licensing Act 1908 prohibiting the use of licensed premises for entertainments as the Commission has in respect of licensed tourist houses, and will have under the Licensing Amendment Bill in respect of licensed hotels.

Subsection (2) of the new section similarly makes the same provision for exemptions from section 163 of the Licensing Act 1908 as is made for licensed hotels by the Licensing Amendment Bill, subject to the same limitations excluding the engagement of "hostesses".

Subsections (3) and (4) make provision for exemptions relating to billiards and other games. The provisions are similar to those made for licensed hotels by section 18 of the Licensing Amendment Act 1960.

*Clause 7* brings up to date the list of provisions of the Licensing Act and its amendments that do not apply to Trusts.

## PART II

## MASTERTON LICENSING TRUST

*Clause 8:* This Part is to be read with the Masterton Licensing Trust Act 1947.

*Clause 9* applies to the Masterton Licensing Trust the new provisions (relating to restaurants) made by Part I of the Bill.

*Clause 10* rewrites the provisions of the Masterton Licensing Trust Act 1947 relating to the sale of liquor in bars on premises in which accommodation is not provided. The new provisions are the same as those (relating to taverns) inserted in the Licensing Trusts Act 1949 by Part I of the Bill.

*Clause 11* has the same effect as *clause 5*.

*Clause 12* applies to the Masterton Trust the new provisions as to exemptions (relating to entertainments) made by Part I of the Bill.

*Clause 13* has the same effect as *clause 7*.

## PART III

## INVERCARGILL LICENSING TRUST

*Clause 14:* This Part is to be read with the Invercargill Licensing Trust Act 1950.

*Clause 15* applies to the Invercargill Licensing Trust the new provisions (relating to restaurants) made by Part I of the Bill.

*Clause 16* rewrites the provisions of the Invercargill Licensing Trust Act 1950 relating to the sale of liquor in bars on premises in which accommodation is not provided. The new provisions are the same as those (relating to taverns) inserted in the Licensing Trusts Act 1949 by Part I of the Bill.

*Clause 17* has the same effect as *clause 5*.

*Clause 18* applies to the Invercargill Trust the new provisions as to exemptions (relating to entertainments) made by Part I of the Bill.

*Clause 19* has the same effect as *clause 7*.

*Clause 20:* Under section 3 of the Invercargill Licensing Trust Act 1950 (as amended by the Invercargill Licensing Trust Amendment Act 1954) the boundaries of the Trust district may be altered for the purpose of ensuring that they are the same as the boundaries of the city; but they may not be altered so as to include any licensed premises.

The districts of Waikiwi and Grasmere have recently been included in the city boundaries, but the new area cannot all be included in the Trust district because there is in that area a licensed wine reseller's business. The licensee is agreeable to his licence lapsing not later than 30 June 1965.

This clause provides that an Order in Council may be made so as to include the wine reseller's premises. His licence will continue in force, and may be renewed from time to time up to 30 June 1965 by the Awarua Licensing Committee, which will continue to have jurisdiction over the licensed premises while the licence remains in force.

*Schedules:* The Schedules contain the lists of provisions of the Licensing Act 1908 and its amendments that do not apply to the Trusts. The purpose is to make it clear that certain provisions of the amending Acts of 1948 and 1960, and of the Licensing Amendment Bill, do not apply.

*Hon. Mr Hanan*

## LICENSING TRUSTS AMENDMENT

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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 1961.

## PART I

## LICENSING TRUSTS

**2. This Part to be read with 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. Restaurants—**(1) The principal Act is hereby amended  
 by inserting, after section 28, the following section:

“28A. (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: 15

“‘New Zealand unfermented grape juice’ means un-  
 fermented grape juice made in New Zealand from  
 grapes grown in New Zealand:

“‘Restaurant’ means any premises (other than premises  
 in which accommodation is provided) in which  
 meals are regularly supplied on sale to the public  
 for consumption on the premises. 20

“(2) Notwithstanding anything in the Licensing Act 1908  
 or in section 11 of the Sale of Liquor Restriction Act 1917,  
 the Trust may within the Trust district establish and main-  
 tain restaurants, in which it may sell and serve light wine,  
 beer, and stout, 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: 25 30

“Provided that any such liquor served in any such restaur-  
 ant 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 immedi-  
 ately after two-thirty o’clock or eleven-thirty o’clock, as the  
 case may require. 35

“(3) The Trust shall not establish or maintain a restaurant for the purposes of this section unless the restaurant premises and the services and facilities provided therein are of a standard for the time being approved by the Minister, who  
5 may give his approval on and subject to such terms and conditions as he thinks fit. If at any time the premises, services, and facilities are not maintained in accordance with the standard so approved the Minister may, if he thinks fit, require that the premises be closed, and thereupon the Trust  
10 shall close the premises.

“(4) The following provisions shall apply to any such restaurant, namely:

“(a) Liquor shall be supplied only to persons partaking of a meal and seated at tables, and served only in  
15 bottles which shall be opened at those tables in the presence of the purchasers:

“(b) So far as practicable, there shall be available for sale and serving New Zealand light wine and New Zealand unfermented grape juice, and they shall  
20 be specified in a list of liquors which shall, at the request of any person partaking of a meal, be shown to that person:

“(c) Every bottle in which liquor is supplied in the restaurant, and every drinking vessel used for the  
25 consumption of such liquor, shall be removed from any dining room of the restaurant immediately after three o'clock in the afternoon or immediately after twelve o'clock at night, as the case may require.

“(5) In any case where any of the provisions of subsection (4) of this section are not complied with, the person for the  
30 time being charged with the management of the restaurant shall be deemed to have committed an offence and shall be liable on summary conviction to a fine not exceeding twenty  
35 pounds.

“(6) Notwithstanding anything in the Licensing Act 1908 or this Act, any Magistrate may in his discretion authorise, by a written certificate, dancing on the premises of the  
40 restaurant, or on any specified portion of those premises, if he is satisfied that the premises are not used or to be used primarily for dancing, and that facilities for dancing are available only to persons who are present for the purpose of partaking of meals. Any Magistrate may at any time revoke any such authorisation by notice in writing to the Trust, and  
45 may cancel any such certificate accordingly.

“(7) So much of section 190 of the Licensing Act 1908 as relates to the sale or exposure for sale of liquor in licensed premises and to the opening or keeping open of such premises for the sale of liquor shall apply in respect of the restaurant as if for the words ‘during the time at which licensed premises are directed to be closed’ there were substituted the words ‘outside the times during which liquor may lawfully be sold in licensed restaurants’.” 5

“(8) So much of the said section 190 as relates to allowing liquor to be consumed in licensed premises shall apply in respect of the restaurant as if for the words ‘allows any liquors, although purchased before the hours of closing, to be consumed’ there were substituted the words ‘who, outside the times during which liquor may lawfully be consumed in licensed restaurants, allows any liquor to be consumed’.” 10 15

(2) Section 34 of the principal Act is hereby amended by inserting in subsection (13), after the word “premises”, the words “(other than a restaurant)”.

**4. Taverns**—Section 32 of the principal Act is hereby amended by repealing the proviso to subsection (1), and also by inserting, after that subsection, the following subsections: 20

“(1A) The Trust may, with the prior approval in each case of the Minister, establish and maintain taverns for the sale of liquor in premises (other than a restaurant) in which accommodation is not provided for the travelling public: 25

“Provided that nothing in this subsection shall be construed to limit or affect the duty of the Trust under this Act to provide premises for the accommodation of the travelling public.

“(1B) Any approval given by the Minister under subsection (1A) of this section may be given on and subject to such terms and conditions as the Minister thinks fit, and may at any time be varied or revoked. 30

“(1C) Except in the case of any tavern established pursuant to subsection (1A) of this section or of any restaurant premises of a standard approved by the Minister under section 28A of this Act or of any premises established temporarily pursuant to section 33 of this Act, liquor shall not be sold for consumption on the premises where it is sold unless the premises are of a standard at least equal to the standard required of premises in respect of which a publican’s or hotel licence under the Licensing Act 1908 is in force.” 35 40

**5. Situation of hotels**—Section 34 of the principal Act is hereby amended—

(a) By repealing paragraph (b) of subsection (4):

5 (b) By omitting from paragraph (a) of subsection (5) the words “or town district”, and substituting the words “town district, or county town”.

**6. Exemptions as to entertainments**—The principal Act is hereby further amended by inserting, after section 35A (as inserted by section 3 of the Licensing Trusts Amendment Act 10 1959), the following section:

“35B. (1) Any Magistrate may at any time, in his discretion, exempt any hotel premises maintained by the Trust from any of the provisions of the Licensing Act 1908 prohibiting the use of any part of licensed premises for the purposes 15 of dancing, concerts, or theatrical entertainments.

“(2) Any Magistrate may at any time, in his discretion, exempt any hotel or restaurant premises maintained by the Trust from the provisions of section 163 of the Licensing Act 1908. Nothing in this subsection or in any exemption there- 20 under shall authorise the engagement of any female, whether on salary or commission or otherwise, for the purpose of dancing, drinking, or otherwise associating with guests on the premises; but in other respects, while any such exemption remains in force, nothing in the said section 163 shall apply 25 to the premises.

“(3) Any Magistrate may at any time, in his discretion, exempt any hotel premises maintained by the Trust from any of the provisions of section 190 of the Licensing Act 1908 so far as they relate to the playing of billiards or baga- 30 telle or any other game, if the Magistrate is of opinion that the locality in which the premises are situated is a holiday resort, or if in his opinion no other facilities are conveniently available (except in other hotel premises of the Trust) in that locality for the enjoyment by guests of the things to 35 which the exemption relates.

“(4) Without limiting the power of a Magistrate to grant any exemption under subsection (3) of this section, it is hereby declared that the games to which any such exemption may relate include the game commonly known as housie; and 40 on the granting of an exemption in respect of housie nothing in section 185 of the Licensing Act 1908 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.

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

**7. Certain provisions not applicable in Trust district**—The principal Act is hereby further amended by repealing the First Schedule, and substituting the new First Schedule set out in the First Schedule to this Act.

## PART II

### MASTERTON LICENSING TRUST

**8. This Part to be read with 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\* (in this Part referred to as the principal Act).

**9. Restaurants**—(1) The principal Act is hereby amended by inserting, after section 28, the following section:

“28A. The provisions of section 28A of the Licensing Trusts Act 1949 (as enacted by subsection (1) of section 3 of the Licensing Trusts Amendment Act 1961) shall apply to the Trust.”

(2) Section 34 of the principal Act is hereby amended by inserting in subsection (13), after the word “premises”, the words “(other than a restaurant)”.

**10. Taverns**—(1) Section 32 of the principal Act is hereby amended by repealing subsections (1A) and (1B) (as enacted by section 30 of the Statutes Amendment Act 1948), and substituting the following subsections:

“(1A) The Trust may, with the prior approval in each case of the Minister, establish and maintain taverns for the sale of liquor in premises (other than a restaurant) in which accommodation is not provided for the travelling public:

“Provided that nothing in this subsection shall be construed to limit or affect the duty of the Trust under this Act to provide premises for the accommodation of the travelling public.

\*1947, No. 35

Amendments: 1948, No. 77, s. 30; 1952, No. 79;  
1953, No. 103; 1959, No. 39, Part II



“(1B) Any approval given by the Minister under subsection (1A) of this section may be given on and subject to such terms and conditions as the Minister thinks fit, and may at any time be varied or revoked.

5 “(1C) Except in the case of any tavern established pursuant to subsection (1A) of this section or of any restaurant premises of a standard approved by the Minister under section 28A of the Licensing Trusts Act 1949, as applied by section 28A of this Act, or of any premises established temporarily  
10 pursuant to section 33 of this Act, liquor shall not be sold for consumption on the premises where it is sold unless the premises are of a standard at least equal to the standard required of premises in respect of which a publican’s or hotel licence under the Licensing Act 1908 is in force.”

15 (2) Any bar maintained by the Trust, under the said section 32, at the passing of this Act shall be deemed to have been established with the prior approval of the Minister.

(3) Section 30 of the Statutes Amendment Act 1948 is hereby consequentially repealed.

20 **11. Situation of hotels**—Section 34 of the principal Act is hereby amended by repealing paragraph (b) of subsection (4).

**12. Exemptions as to entertainments**—The principal Act is hereby further amended by inserting, after section 35A (as  
25 inserted by section 8 of the Licensing Trusts Amendment Act 1959), the following section:

“35B. The provisions of section 35B of the Licensing Trusts Act 1949 (as inserted by section 6 of the Licensing Trusts Amendment Act 1961) shall apply to the Trust.”

30 **13. Certain provisions not applicable in Trust district**—The principal Act is hereby further amended by repealing the Third Schedule, and substituting the new Third Schedule set out in the Second Schedule to this Act.

### PART III

35 INVERCARGILL LICENSING TRUST

**14. This Part to be read with 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).

\*1950, No. 33

Amendments: 1952, No. 79; 1953, No. 103; 1954, No. 17;  
1959, No. 39; Part III

**15. Restaurants**—(1) The principal Act is hereby amended by inserting, after section 29, the following section:

“29A. The provisions of section 28A of the Licensing Trusts Act 1949 (as enacted by subsection (1) of section 3 of the Licensing Trusts Amendment Act 1961) shall apply to the Trust.”

(2) Section 35 of the principal Act is hereby amended by inserting in subsection (13), after the word “premises”, the words “(other than a restaurant)”.

**16. Taverns**—(1) Section 33 of the principal Act is hereby amended by repealing subsections (2) and (3), and substituting the following subsections:

“(2) The Trust may, with the prior approval in each case of the Minister, establish and maintain taverns for the sale of liquor in premises (other than a restaurant) in which accommodation is not provided for the travelling public:

“Provided that nothing in this subsection shall be construed to limit or affect the duty of the Trust under this Act to provide premises for the accommodation of the travelling public.

“(3) Any approval given by the Minister under subsection (2) of this section may be given on and subject to such terms and conditions as the Minister thinks fit, and may at any time be varied or revoked.

“(3A) Except in the case of any tavern established pursuant to subsection (2) of this section or of any restaurant premises of a standard approved by the Minister under section 28A of the Licensing Trusts Act 1949, as applied by section 29A of this Act, or of any premises established temporarily pursuant to section 34 of this Act, liquor shall not be sold for consumption on the premises where it is sold unless the premises are of a standard at least equal to the standard required of premises in respect of which a publican’s or hotel licence under the Licensing Act 1908 is in force.”

(2) Any bar maintained by the Trust, under the said section 33, at the passing of this Act shall be deemed to have been established with the prior approval of the Minister.

**17. Situation of hotels**—Section 35 of the principal Act is hereby amended by repealing paragraph (b) of subsection (4).

**18. Exemptions as to entertainments**—The principal Act is hereby further amended by inserting, after section 36A (as inserted by section 14 of the Licensing Trusts Amendment Act 1959) the following section:

5 “36B. The provisions of section 35B of the Licensing Trusts Act 1949 (as inserted by section 6 of the Licensing Trusts Amendment Act 1961) shall apply to the Trust.”

**19. Certain provisions not applicable in Trust district**—  
10 The principal Act is hereby further amended by repealing the Second Schedule, and substituting the new Second Schedule set out in the Third Schedule to this Act.

**20. Special provision as to alteration of boundaries of Trust district**—(1) Notwithstanding anything in paragraph (a) of the proviso to subsection (1A) of section 3 of the principal  
15 Act (as inserted by subsection (1) of section 2 of the Invercargill Licensing Trust Amendment Act 1954), any alteration of the boundaries of the Trust district by Order in Council hereafter made under the said subsection (1A) may include within those boundaries the premises situated at Tanner  
20 Street, Grasmere, in the City of Invercargill, in respect of which there is in force a wine reseller’s licence held by Patrick Cecil Griffin, of Invercargill, grocer.

(2) Notwithstanding anything in the principal Act, but subject to the provisions of the Licensing Act 1908 and of  
25 this section, the said wine reseller’s licence shall continue in force after the making of any such Order in Council and may be renewed from time to time in respect of any period ending with a day not later than the thirtieth day of June, nineteen hundred and sixty-five.

(3) No renewal of the said licence, and no licence in substitution therefor, shall be granted to any other person, except in any of the cases referred to in sections 130 to 136 of the Licensing Act 1908 (which relate to the death, bankruptcy, and mental deficiency of licensees).

(4) Nothing in sections 117 to 126 of the Licensing Act 1908 (which relate to the transfer of licences and the continuance of forfeited licences) shall apply to the said licence.

(5) Every application for a renewal of the said licence shall be made to the Licensing Committee for the Awarua Licensing District, and that Committee shall have jurisdiction to deal with the application in all respects as if the Committee had jurisdiction over the district in which the premises are situated. 5

(6) While the said licence is for the time being in force, the premises shall for the purposes of the Licensing Act 1908 be deemed in all respects to be under the jurisdiction of the said Committee. 10

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SCHEDULES

FIRST SCHEDULE

Section 7

NEW FIRST SCHEDULE TO LICENSING TRUSTS ACT 1949

“FIRST SCHEDULE

PROVISIONS OF LICENSING ACT 1908 AND ITS AMENDMENTS NOT  
APPLICABLE IN LICENSING TRUST DISTRICTS

The Licensing Act 1908: Part III; Part IV (except section 143);  
sections 148 to 159, 171, 180, 200, 234 to 236, 246 to 251, 253 to  
258, 291 to 296, 299 to 301.

The Licensing Amendment Act 1910: Sections 8 to 12.

The Licensing Amendment Act 1948: Parts I, II, and V.

The Licensing Amendment Act 1960: Sections 7, 17, and 18.

The Licensing Amendment Act 1961: Parts I and II (except sections  
61 and 62, so far as they relate to premises in respect of which  
licences have lawfully been granted in Trust districts).”

SECOND SCHEDULE

Section 13

NEW THIRD SCHEDULE TO MASTERTON LICENSING TRUST ACT 1947

“THIRD SCHEDULE

PROVISIONS OF LICENSING ACT 1908 AND ITS AMENDMENTS NOT  
APPLICABLE IN TRUST DISTRICT

The Licensing Act 1908: Part III; Part IV (except section 143);  
sections 148 to 159, 171, 180, 200, 234 to 236, 246 to 251, 253 to  
258, 291 to 296, 299 to 301.

The Licensing Amendment Act 1910: Sections 8 to 12.

The Licensing Amendment Act 1948: Parts I, II, and V.

The Licensing Amendment Act 1960: Sections 7, 17, and 18.

The Licensing Amendment Act 1961: Parts I and II (except sections  
61 and 62, so far as they relate to premises in respect of which  
licences have lawfully been granted in the Trust district).”

THIRD SCHEDULE

Section 19

NEW SECOND SCHEDULE TO INVERCARGILL LICENSING TRUST ACT 1950

“SECOND SCHEDULE

PROVISIONS OF LICENSING ACT 1908 AND ITS AMENDMENTS NOT  
APPLICABLE IN TRUST DISTRICT

The Licensing Act 1908: Part III; Part IV (except section 143);  
sections 148 to 159, 171, 180, 200, 234 to 236, 246 to 251, 253 to  
258, 291 to 296, 299 to 301.

The Licensing Amendment Act 1910: Sections 8 to 12.

The Licensing Amendment Act 1948: Parts I, II, and V.

The Licensing Amendment Act 1960: Sections 7, 17, and 18.

The Licensing Amendment Act 1961: Parts I and II (except sections  
61 and 62, so far as they relate to premises in respect of which  
licences have lawfully been granted in the Trust district).”