

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

Words struck out by the Committee of the Whole are shown in italics within bold round brackets, or with black rule at beginning and after last line of struck out matter, words inserted are shown in roman underlined with double rule, or with double rule before first line and after last line of new matter.

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

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).

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:

“‘Meal’ means a substantial meal of at least two courses:

“‘New Zealand light wine’ means light wine made in New Zealand:

“‘New Zealand unfermented grape juice’ means unfermented 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.

“(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 maintain 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:

“Provided that any such liquor served in any such restaurant 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 immediately after two-thirty o’clock or eleven-thirty o’clock, as the case may require.

“(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 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 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 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 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 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 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 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 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 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’.

“(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’.”

(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:

“(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.

“(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.

“(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.”

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

- (a) By repealing paragraph (b) of subsection (4):
- (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 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 of dancing, concerts, or theatrical entertainments.

Struck Out

“(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 thereunder 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 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 bagatelle 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 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 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.”

New

6A. Lodgers accommodated away from hotel premises—Section 35 of the principal Act is hereby amended by adding the following subsection:

“(6) In the application of the provisions of section 19 of the Licensing Amendment Act 1960, the references in subsections (3) and (4) of that section to the Commission shall be read as references to a Magistrate.”

6B. Expenditure in connection with annual conference of Licensing Trusts Association—The principal Act is hereby further amended by inserting, after section 38A (as inserted by subsection (1) of section 4 of the Licensing Trusts Amendment Act 1953), the following section:

“38B. The Trust of any Trust district in which the annual conference of the New Zealand Licensing Trusts Association, Incorporated, is held in any year may in that year, or in any earlier or later year, expend in connection with the holding of the conference and the reception and entertainment of delegates and other persons attending the conference such amount or amounts as the Trust thinks fit, not exceeding in the aggregate the sum of three hundred pounds.”

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).

*1947, No. 35

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

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.

“(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.

“(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 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.”

(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.

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 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.”

New

12A. Lodgers accommodated away from hotel premises—Section 35 of the principal Act, as amended by section 9 of the Licensing Trusts Amendment Act 1959, is hereby further amended by adding the following subsection:

“(6) In the application of the provisions of section 19 of the Licensing Amendment Act 1960, the references in subsections (3) and (4) of that section to the Commission shall be read as references to a Magistrate.”

12B. Expenditure in connection with annual conference of Licensing Trusts Association—The principal Act is hereby amended by inserting, after section 38A (as inserted by subsection (2) of section 4 of the Licensing Trusts Amendment Act 1953), the following section:

“38B. The provisions of section 38B of the Licensing Trusts Act 1949 (as enacted by section 6B of the Licensing Trusts Amendment Act 1961) shall apply to the Trust.”

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

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:

“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.”

New

18A. Lodgers accommodated away from hotel premises—Section 36 of the principal Act is hereby amended by inserting, after subsection (5), the following subsection:

“(5A) In the application of the provisions of section 19 of the Licensing Amendment Act 1960, the references in subsections (3) and (4) of that section to the Commission shall be read as references to a Magistrate.”

18B. Expenditure in connection with annual conference of Licensing Trusts Association—The principal Act is hereby further amended by inserting, after section 39A (as inserted by subsection (3) of section 4 of the Licensing Trusts Amendment Act 1953), the following section:

“39B. The provisions of section 38B of the Licensing Trusts Act 1949 (as enacted by section 6B of the Licensing Trusts Amendment Act 1961) shall apply to the Trust.”

19. Certain provisions not applicable in Trust district—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 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 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 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)* for the time being having jurisdiction in that part of the County of Southland which at the passing of this Act forms part of 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.

(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.

SCHEDULES

FIRST SCHEDULESection 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 SCHEDULESection 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 SCHEDULESection 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)."