

SALE OF LIQUOR AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Sale of Liquor Act 1962.

Clause 2 inserts a definition of the term "suburban Trust area". This means, in relation to any suburban Trust, the area within which polls are taken for the election of members of the Trust.

Clause 3 inserts a new section 79A in the principal Act. When restoration is carried in a no-licence district and trust control is carried, the suburban Trust has a right to apply, ahead of other applicants, for any licences that the Licensing Control Commission determines, as a result of its review of the former no-licence district under section 9A of the Licensing Amendment Act 1910, are necessary or desirable. The new section 79A makes it plain that the suburban Trust enjoys a similar preferential right in respect of any additional licences that are subsequently authorised by the Commission under section 74 of the Sale of Liquor Act 1962.

Clause 4 repeals subsection (6) of section 91 of the principal Act. This subsection at present limits the time within which a local Trust must comply with the requirements of the Commission in those cases where the Commission grants any application for the issue of a licence to a local Trust. The period is 3 years and the Commission has power, in special circumstances, to extend that period by up to 18 months. The repeal of the subsection will leave it to the Commission to fix an appropriate period in each case and to extend the period from time to time, under section 94 of the principal Act, as it does where it grants applications from other applicants. The repeal is retrospective to 1 June 1973.

Clause 5 requires an annual report to the Clerk of the Licensing Committee with respect to the maintenance of fire safety precautions on the premises of every licensed hotel, tourist-house, tavern, restaurant, or cabaret. The report is to be prepared by a member of the fire service established under the Fire Services Act 1972 authorised to undertake fire safety inspections. Such a report may be made at present but is not mandatory.

Clause 6 makes an amendment that is consequential on the passing of the Fire Services Act 1972.

Clause 7 inserts a new section 139A in the principal Act. The new section provides that where application is made for the removal of a hotel, tourist-house, or tavern premises licence or a wholesale licence into a suburban Trust area—

- (a) A copy of the application is to be served on the Trust.
- (b) The Trust may object to the application.

- (c) The application is not to be granted in the face of any such objection unless the Commission is satisfied that—
- (i) The business of the Trust will not be detrimentally affected by the removal of the licence into its area; or
 - (ii) There are special circumstances that justify the granting of the application.

Clause 8 substitutes a new section 141 in the principal Act. The section relates to objections in respect of the removal of a hotel or tavern premises licence. Under the existing section there is no right to apply for the taking of a trust poll. Paragraph (b) of subsection (1) of the new section confers the right to apply for such a poll on any 50 or more persons residing within the area into which it is proposed to remove the licence and on any local authority having jurisdiction over any part of that area.

Subsection (4) is new.

Subsection (8) is new. Where the electors favour both the issue of a hotel or tavern premises licence in their area and trust control, the Commission is to give public notice of its intention to consider applications on behalf of a local Trust for a hotel or tavern premises licence.

A local authority may then apply for the licence to be issued to a local Trust. The application for removal will be adjourned until the result of the application by the local authority is known. If the application by the local authority is granted the Commission is to refuse the application for removal. If the application by the local authority is not granted proceedings in respect of the application for removal may be resumed.

Clause 9 requires an annual report to the Licensing Control Commission with respect to the maintenance of fire safety precautions on the premises of every chartered club. The report is to be prepared by a member of the fire service established under the Fire Services Act 1972 authorised to conduct fire safety inspections. Such a report may be made at present but is not mandatory.

Clause 10 provides for the cancellation or suspension of restaurant licences by the Licensing Control Commission. A member of the Police or an Inspector appointed under the Sale of Liquor Act may apply to the Commission for the cancellation of any such licence. The grounds for cancellation or suspension are those which apply in respect of other licences and which are set out in section 213 of the principal Act.

Clause 11 changes a number of measures of capacity, and one of weight, in the principal Act from imperial measures to metric measures.

Wholesale Licences

The minimum quantity of liquor that the holder of a wholesale licence may sell or deliver to any one person at any one time from the premises described in the licence is changed from 2 gallons to 9 litres. This is a fractional reduction as 2 gallons = approximately 9.1 litres.

Except where delivery in kegs is authorised, the largest container in which the holder of a wholesale licence may deliver beer or stout is at present one which holds not more than 1 reputed quart. In future it will be one which holds not more than 760 millilitres. This is a fractional increase as 1 reputed quart = approximately 757 millilitres.

Where the holder of a wholesale licence is authorised to deliver beer or stout in kegs the capacity of each keg must at present be not less than 2 gallons. In future the capacity of each keg must be not less than 9 litres. This is a fractional reduction as 2 gallons = approximately 9.1 litres.

Wine Makers' Licences

The minimum quantity of wine that the holder of a wine maker's licence may sell pursuant to his licence to any one person at any one time is changed from 1 reputed pint to 375 millilitres. This is a fractional reduction as 1 reputed pint = approximately 379 millilitres.

The maximum quantity of dried fruit or fruit that he is not authorised to use which the holder of a wine maker's licence may at any time keep or have on any part of his wine maker's premises is changed from 25 pounds to 11 kilograms. This is a small reduction as 25 pounds = approximately 11.34 kilograms.

Wine Resellers' Licences

The minimum quantity of wine that the holder of a wine reseller's licence may sell to any one person at any one time is changed from 1 reputed pint to 375 millilitres. This is a fractional reduction as 1 reputed pint = approximately 379 millilitres.

Winebar Licences

The maximum quantity of wine that the holder of a winebar licence may sell at any one time to any one person is changed from 2 gallons to 9.1 litres. This is a fractional increase of approximately $\frac{2}{1000}$ of a gallon.

Hon. Dr Finlay

SALE OF LIQUOR AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Sale of Liquor Act 1962

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 Sale of Liquor Amendment Act 1973, and shall be read together with and deemed part of the Sale of Liquor Act 1962* (hereinafter referred to as the principal Act).

10 2. Interpretation—Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “restaurant”, the following definition:

“‘Suburban Trust area’, in relation to any suburban Trust, means the area within which polls are taken
15 for the election of members of the Trust.”

*Reprinted 1969, Vol. 4, p. 2795

Amendments: 1970, No. 35; 1971, No. 2; 1971, No. 77; 1972, No. 101

3. Suburban Trust to have prior right to licences authorised for its area—The principal Act is hereby amended by inserting, after section 79, the following section:

“79A. (1) Where the locality or area defined under subsection (1) of section 79 of this Act comprises the whole or part of any suburban Trust area, the Trust shall have a preferential right to apply for any licence authorised. 5

“(2) In any such case, the provisions of this Act shall apply subject to the following modifications:

“(a) In the case of a hotel or tavern premises licence,— 10

“(i) The public notice of the Commission’s intention to invite applications under section 80 of this Act shall name each suburban Trust to which the invitation is to be addressed; and

“(ii) Section 82 of this Act shall not apply: 15

“(b) In the case of a hotel, tavern, or tourist-house premises licence,—

“(i) The public notice given under subsection (1) or subsection (2) of section 86 of this Act shall name each suburban Trust which may make an application for the licence and shall indicate that no person (other than a suburban Trust so named) may make application for the licence; and 20

“(ii) The proviso to subsection (1) of section 86 of this Act shall not apply: 25

“(c) In the case of a wholesale licence, the public notice given under subsection (1) of section 114 of this Act shall name each suburban Trust which may make an application for the licence and shall indicate that no person (other than a suburban Trust so named) may make application for the licence: 30

“(d) On the giving of any such notice any suburban Trust so named may, within the time prescribed or allowed under section 87 or, as the case may require, section 114 of this Act, apply in accordance with this Act for such of the licences as it thinks fit, and nothing in section 97 or section 100 of this Act shall apply: 35

“(e) If in respect of any such licence no such application is made within the time prescribed or allowed as aforesaid, the Commission or, as the case may require, the Licensing Committee, shall cause public notice to be given of that fact: 40

5 “(f) Where any application is made under paragraph (d) of this subsection the application shall be granted if it conforms to the standards defined by the Commission under section 79 of this Act, subject however to the provisions of this Act relating to objections and to compliance with the lawful requirements of the Commission:

10 “(g) Subject to paragraph (i) of this subsection, if in respect of any such licence no such application is made or granted, the Commission or, as the case may require, the Committee shall, in accordance with section 86 or section 114 of this Act, cause public notice to be given of its intention to consider applications from other persons for the licence:

15 “(h) Subsection (1) of section 82, subsections (3) and (4) of section 83, the proviso to subsection (1) of section 86, section 89, and subsection (5) of section 91 of this Act (which relate to Trust polls and applications on behalf of local Trusts) shall not apply:

20 “(i) In the case of a hotel or tavern premises licence, the Commission shall not exercise the power conferred on it by paragraph (g) of this subsection if it is of the opinion that there are special circumstances that make it desirable that the Commission should cause public notice to be given under section 80 of this Act of its intention to invite applications for a hotel or tavern premises licence; in which case the provisions of this Act (excluding those mentioned in paragraph (h) of this subsection) shall apply accordingly with such modifications as are necessary.”

25 **4. Cancellation of grant**—(1) Section 91 of the principal Act is hereby amended by repealing subsection (6).

35 (2) This section shall be deemed to have come into force on the 1st day of June 1973.

5. Fire safety reports—(1) Section 125 of the principal Act is hereby amended by repealing subsection (3) (as amended by section 99 of the Fire Services Act 1972), and substituting
40 the following subsection:

“(3) In respect of the premises of every licensed hotel, tourist-house, tavern, restaurant, or cabaret, a member of the fire service established under the Fire Services Act 1972 authorised to undertake fire safety inspections shall report to the Clerk of the Licensing Committee, on or before the 31st day of May in every year, with respect to the maintenance on the premises by the holder of any hotelkeeper’s, tourist-house keeper’s, tavernkeeper’s, restaurant, or cabaret licence of safeguards against and means of warning and escape in the case of fire.”

(2) The following enactments are hereby consequentially repealed:

(a) Subsection (2) of section 37 of the Sale of Liquor Amendment Act (No. 2) 1971:

(b) So much of the Second Schedule to the Fire Services Act 1972 as relates to subsection (3) of section 125 of the principal Act.

6. Renewal of theatre licence—Section 127A of the principal Act (as inserted by section 5 of the Sale of Liquor Amendment Act (No. 2) 1969 and amended by section 99 of the Fire Services Act 1972) is hereby further amended by omitting from subsection (6) the words “Chief Fire Officer”, and substituting the words “member of the fire service established under the Fire Services Act 1972 authorised to undertake fire safety inspections”.

7. Application for removal into area of suburban Trust—The principal Act is hereby amended by inserting, after section 139, the following section:

“139A. In any case where the application is for the removal of a hotel, tourist-house, or tavern premises licence or a wholesale licence and the proposed new premises are within any suburban Trust area—

“(a) A copy of the application shall be served on the Trust by the applicant:

“(b) The Trust may, within 14 days after the date on which it is served with a copy of the application or within such further time as the Chairman of the Commission may allow, object to the removal of the licence by filing notice in writing of its objection with the Secretary of the Commission:

“(c) The application shall not be granted in the face of any such objection unless the Commission is satisfied that—

5 “(i) The business of the Trust will not be detrimentally affected by the removal of the licence into its area; or

 “(ii) There are special circumstances that justify the granting of the application.”

10 **8. Objections in respect of removal of hotel or tavern premises licence—**(1) The principal Act is hereby amended by repealing section 141 (as amended by section 4 of the Sale of Liquor Amendment Act 1964), and substituting the following section:

15 “141. (1) Where the application for removal relates to any hotel or tavern premises licence (other than the house premises under a special hotel premises licence), any 50 or more persons residing within the area described in subsection (2) of this section who are qualified as electors of any local authority having jurisdiction over any part of that area, or

20 any such local authority, may, at any time within 30 days after the first publication of the notice under subsection (3) of section 139 of this Act or within such further time as the Commission may allow, apply in writing to the Commission for the taking of one or both of the following polls, namely—

25 “(a) A poll for the purpose of ascertaining whether a majority of the electors residing in the area desire that a licence of the type proposed to be removed or an additional licence of that type, as the case may require, be not issued in the area:

30 “(b) A poll for the purpose of ascertaining whether, if a licence of the type proposed to be removed or an additional licence of that type, as the case may require, is issued in the area, a majority of the electors residing in the area desire that it be

35 issued to a local Trust (hereinafter in this section referred to as a Trust poll).

 “(2) The area referred to in subsection (1) of this section shall be—

40 “(a) Where the proposed new premises are on any land in a city, borough, town district, or county town, the area contained within a radius of 2 miles from a point at the middle of the frontage of that land:

“(b) Where the proposed new premises are on any other land, the area contained within a radius of 5 miles from a point at the middle of the frontage of that land.

“(3) On any application for the taking of a poll or polls under this section the Commission may hold such inquiry and take such evidence as it thinks fit; and if it is of opinion that the application is made in good faith and that a poll or polls should be taken it shall, subject to subsection (4) of this section, direct that a poll or polls be taken. 5 10

“(4) Where both polls are sought the Commission may direct that the poll of the kind described in paragraph (a) of subsection (1) of this section be taken first and may postpone its decision with regard to the taking of a Trust poll until the result of the first poll is known. 15

“(5) The Commission may decline to direct that a poll be taken if it is of opinion that—

“(a) Having regard to the distance between the premises from which it is proposed to remove the licence and the new premises, no poll should be taken; or 20

“(b) Having regard to the locality or area to which it is proposed to remove the licence, it is impracticable to define a reasonably substantial area having sufficient community of interest to justify the taking of a poll. 25

“(6) If the Commission directs that a poll be taken, section 84 of this Act shall apply.

“(7) If in the case of a poll taken under paragraph (a) of subsection (1) of this section a majority in number of the valid votes recorded at the poll is in favour of the proposal that a licence of the type proposed to be removed or an additional licence of that type, as the case may require, be not issued in that area, the Commission shall not approve the removal of the licence to premises within the area in which the poll was taken or, under subsection (8) of this section, invite application for a licence, unless in its opinion, having regard to the proportion that the total number of valid votes bears to the number of electors entitled to vote, the proportion that the number of valid votes recorded in favour of the proposal not to issue a licence bears to the total number of 30 35 40

valid votes, the convenience of travellers in the case of a hotel premises licence, and all such other matters as it considers relevant, there are special circumstances that make it desirable in the public interest that such a licence should be issued.

5 “(8) In any case where the Commission has directed that a Trust poll be taken, and a majority in number of the valid votes recorded at that poll is in favour of the proposal that a licence be issued in the area to a local Trust, the Commission shall, subject to subsection (7) of this section, cause
10 public notice of its intention to consider applications on behalf of a local Trust for a hotel or tavern premises licence to be given as soon as practicable after the declaration of the result of the Trust poll.

“(9) On the giving of any notice under subsection (8) of
15 this section, any local authority, either acting alone or with or on behalf of any other local authority, or any 2 or more local authorities, authorised by subsection (1) of this section to apply for a Trust poll, but no other person, may within 60 days after the last publication of the notice apply for the
20 licence to be issued to a local Trust.

“(10) The provisions of this Act shall apply in respect of every such application with such modifications as are necessary.

“(11) The application for removal shall be adjourned until
25 the result of any application under subsection (9) of this section is known.

“(12) If the licence is granted to a local Trust the Commission shall refuse the application for removal.

“(13) If a licence is not granted to a local Trust, proceedings in respect of the application for removal may be
30 resumed.”

(2) Section 74 of the principal Act (as amended by section 2 of the Sale of Liquor Amendment Act 1964) is hereby amended by adding the following subsection:

35 “(6) Subsections (4) and (5) of this section shall be read subject to the provisions of section 141 of this Act.”

(3) Section 4 of the Sale of Liquor Amendment Act 1964 is hereby consequentially repealed.

9. Fire safety inspection of chartered clubs—(1) Section 170 of the principal Act is hereby amended by repealing subsection (4) (as amended by section 99 of the Fire Services Act 1972), and substituting the following subsection:

“(4) In respect of the premises of every chartered club, 5
a member of the fire service established under the Fire Services Act 1972 authorised to undertake fire safety inspections shall report to the Commission, on or before the 31st day of May in every year, with respect to the maintenance on the premises by the club of safeguards against and means of 10
warning and escape in case of fire.”

(2) The Fire Services Act 1972 is hereby consequentially amended by repealing so much of the Second Schedule as relates to subsection (4) of section 170 of the principal Act.

10. Cancellation or suspension of restaurant licence— 15

(1) Section 213 of the principal Act is hereby amended by repealing paragraph (c) of subsection (7) (as substituted by section 42 (2) of the Sale of Liquor Amendment Act (No. 2) 1971), and substituting the following paragraphs:

“(c) A cabaret licence; and 20
“(d) A restaurant licence—”.

(2) The said section 213 is hereby further amended by omitting from subsection (8) (as enacted by section 42 (2) of the Sale of Liquor Amendment Act (No. 2) 1971) the words “or cabaret”, and substituting the words “restaurant, 25
or cabaret”.

11. Metric conversions—(1) The principal Act is hereby amended in the manner indicated in the Schedule to this Act.

(2) Sections 4 and 18 of the Sale of Liquor Amendment Act 1965 are hereby consequentially repealed. 30

SCHEDULE

Section 11 (1)

AMENDMENTS OF PRINCIPAL ACT

Section Amended	Amendment
Section 67	By omitting from subsection (1) the expression "2 gallons", and substituting the expression "9 litres". By omitting from subsection (4) the expression "1 reputed quart", and substituting the expression "760 millilitres". By omitting from the proviso to subsection (4) the expression "2 gallons", and substituting the expression "9 litres".
Section 152	By omitting from subsection (1) (as amended by section 18 of the Sale of Liquor Amendment Act 1965) the words "one reputed pint", and substituting the expression "375 millilitres". By omitting from subsection (4A) (as inserted by section 10 of the Sale of Liquor Amendment Act (No. 2) 1971) the expression "25 pounds", and substituting the expression "11 kilograms".
Section 156	By omitting from subsection (2) (as amended by section 4 of the Sale of Liquor Amendment Act 1965) the expression "1 reputed pint", and substituting the expression "375 millilitres".
Fourth Schedule	By omitting from clause 1 the expression "2 gallons", and substituting the expression "9.1 litres".