

This Bill, originally introduced as clauses 2 to 16 of the Sale of Liquor Amendment Bill 1981, was ordered to be printed as a separate Bill with the addition of the new Title, enacting words, and Short Title shown below.

Hon. Mr McLay

SALE OF LIQUOR AMENDMENT (NO. 2)

ANALYSIS

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A BILL INTITULED

An Act to make provision for a distributor's licence and 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 (No. 2) 1981.

Distributor's Licence

2. Distributor's licence—The principal Act is hereby amended by inserting, after section 66, the following section:

“66A. A distributor's licence shall authorise the licensee to sell or deliver to the holder of any other licence under this Act or to a chartered club or to a licensing trust, at any time on any day other than a day in which licensed premises are required to be closed for the sale of liquor, every class of liquor specified in the licence, from any premises, for consumption off those premises only.”

3. Heading and new sections inserted in principal Act—The principal Act is hereby amended by inserting, after section 106, the following heading and sections:

Distributor's Licence

“106A. **Application for distributor's licence**—(1) Every application for a distributor's licence shall be made, in the prescribed form, by the person who intends to sell or deliver liquor pursuant to the licence if the application is granted, and shall be filed with the Secretary of the Licensing Control Commission.

“(2) If the applicant is a person other than a body corporate, the application shall be accompanied by—

“(a) A statutory declaration made by the applicant—

“(i) Giving particulars of any experience that he has had in the conduct of any business (including any experience as an employee in any capacity in respect of any such business); and

“(ii) Stating whether or not he has had any convictions recorded against him for any offences against this Act or the Licensing Act 1908, and giving particulars of any such convictions; and

“(b) Not less than 2 testimonials as to the character and reputation of the applicant.

“(3) If the applicant is a body corporate other than a private company, the application shall be accompanied by a statutory declaration made by a responsible officer of the body corporate stating whether or not it has had any convictions recorded against it for any such offences, and giving particulars of any such convictions.

“(4) If the applicant is a private company within the meaning of the Companies Act 1955, the following provisions shall apply:

- 5 “(a) The application shall be accompanied by the statutory declaration referred to in subsection (3) of this section, and by a statement specifying the name, address, and occupation of every director of the company, and of every person by whom or on whose behalf more than 25 percent of the shares in the capital of the company is held:
- 10 “(b) The Commission may require that any such director or shareholder shall make and furnish a statutory declaration and supply testimonials in the same manner as if he were an applicant to whom subsection (2) of this section applies.
- 15 “(5) The application, and every declaration, testimonial, and statement shall be filed in duplicate.
- 20 “(6) The application shall also be accompanied by—
- “ (a) A statement of the address of the applicant’s principal place of business, and of the general nature of the business operation proposed to be conducted pursuant to the licence; and
- “ (b) A statement of the class or classes of liquor in respect of which authority to sell and deliver liquor pursuant to the licence is sought; and
- “ (c) Such other particulars as may be required by regulations made under this Act.
- 25 “(7) Public notice of every application made under this section shall be given by the applicant.
- “ (8) The notice shall specify the name, address, and occupation of the applicant, and the address of his principal place of business in respect of which the application is made, and shall state that any person who wishes to object to the issue of a licence to the applicant may, not later than 14 days after the first publication of the notice, file notice of his objection, and of the grounds thereof, with the Secretary of the Commission.
- 35 “106B. **Secretary of Commission to obtain reports**—(1) The Secretary shall forthwith send a copy of every such application, declaration, and statement, and the original testimonials, to the member of the Police in charge of the police station nearest to the applicant’s principal place of business, and shall request that a Police report be made.
- 40 “(2) It shall be the duty of the Police to inquire into and report to the Commission on every such application.

“(3) The Secretary shall also forthwith send particulars of the application to an Inspector with a request that the Inspector report to the Commission on the application.

“106c. **Objections**—(1) Objections to the grant of a distributor’s licence may be made by any person. 5

“(2) Every objection shall be made by notice in writing filed with the Secretary of the Commission within 14 days after the first publication of the notice of the making of the application, or within such further time as the Chairman of the Commission may allow. 10

“(3) The grounds on which any such objection may be made are that the applicant—

“(a) Has been convicted of an offence against this Act or the Licensing Act 1908; or

“(b) Is not a suitable person to hold the licence having regard to his character or lack of experience in the conduct of any business (including any experience as an employee in any capacity in respect of any such business). 15

“106d. **Circumstances to be taken into account**—(1) In determining whether to grant any application for a distributor’s licence the Commission shall have regard to—

“(a) The general nature of the business operation proposed to be conducted pursuant to the licence:

“(b) The experience of the applicant in the conduct of any business and his character, and any convictions of the applicant for offences against this Act or the Licensing Act 1908: 25

“(c) Such other considerations as the Commission thinks fit to take into account. 30

“(2) It shall not be a ground for refusing an application for a distributor’s licence that—

“(a) The grant of the application might have a prejudicial effect on the business conducted pursuant to any other distributor’s licence or other licence under this Act or on the business of any licensing trust; or 35

“(b) The existing demand is already being adequately met; or

“(c) The applicant is engaged or proposes to engage in the sale of other goods as well as liquor. 40

“(3) The Commission shall grant an application for a distributor’s licence unless it is satisfied, having regard to the provisions of subsection (1) of this section, that it should not do so.

5 “106E. **Hearing**—(1) The Commission shall hold a public sitting to consider the application, after giving public notice, and also notice to the applicant and to any person who has filed a notice of objection, of the time and place fixed for the sitting.

10 “(2) After hearing the applicant and all other interested parties, the Commission shall determine the application.

“(3) On the grant of any application, the Commission may impose such conditions, not inconsistent with this Act or any regulations made under this Act, as it thinks fit.

15 “(4) The application may be granted subject to compliance by the applicant with any specified conditions within such period as the Commission may prescribe, or within such further period or periods as it may from time to time allow.

20 “(5) If any condition specified by the Commission is not complied with within the period so prescribed or allowed by the Commission, or within such further time as the Commission may allow, the Commission may cancel the grant.

25 “(6) The Commission may from time to time, on the application of the holder of any distributor’s licence, vary the licence by adding any other class of liquor that may be sold or delivered pursuant to the licence.

30 “106F. **Issue of distributor’s licence**—(1) Whenever the Commission grants any application for a distributor’s licence, it shall, on being satisfied that the conditions (if any) specified by the Commission under section 106E of this Act have been complied with, issue a certificate authorising the Licensing Committee of the licensing district in which the applicant has his principal place of business to issue a licence.

35 “(2) Where principal place of business is situated in a licensing trust district or a suburban licensing trust area, the certificate shall be issued to the Licensing Committee of an adjoining licensing district.”

40 **4. Offences by holder of distributor’s licence**—The principal Act is hereby amended by inserting, after section 252A (as inserted by section 14 (1) of the Sale of Liquor Amendment Act 1970), the following section:

“252B. (1) Every holder of a distributor’s licence commits

an offence and is liable to a fine not exceeding \$500 who—

“(a) Sells or exposes or keeps for sale, or delivers, any liquor of a class that he is not authorised by his licence to sell or deliver; or

“(b) Sells or delivers any liquor to any person other than the holder of any licence under this Act or to a chartered club or to a licensing trust; or 5

“(c) Sells or exposes for sale or delivers any liquor, or keeps open any premises for the sale of liquor, on any day on which licensed premises are required to be closed for the sale of liquor. 10

“(2) Nothing in sections 243 to 249, 257, and 259 to 261 of this Act shall apply to premises in respect of which a distributor’s licence is in force or to the holder of any such licence.”

Consequential Provisions Relating to Distributors’ Licences 15

5. Functions of Commission—Section 10 (1) of the principal Act is hereby amended by inserting, after paragraph (c) (as substituted by section 5 (2) of the Sale of Liquor Amendment Act (No. 2) 1971), the following paragraph:

“(ca) To grant distributors’ licences:”. 20

6. Exclusion of licensing trust districts—Section 29 (2) of the principal Act (as substituted by section 13 (1) of the Sale of Liquor Amendment Act 1980) is hereby amended by inserting, after the words “other than any”, the word “distributor’s”. 25

7. Kinds of licences—Section 54 (2) of the principal Act (as substituted by section 14 (1) of the Sale of Liquor Amendment Act 1980) is hereby amended by inserting in paragraph (a), the following paragraph:

“(aa) Distributors’ licences:”. 30

8. Purchases by holders of club licences—Section 67B (7) (c) of the principal Act (as inserted by section 4 (1) of the Sale of Liquor Amendment Act 1980) is hereby amended by inserting, after the word “tavernkeeper’s”, the words “or distributor’s”. 35

9. What licences may be renewed—Section 123 of the principal Act is hereby amended by inserting, after paragraph (c), the following paragraph:

“(ca) Distributors’ licences:”.

10. Renewal of distributor's licence—Section 126 of the principal Act (as amended by section 19 (2) of the Sale of Liquor Amendment Act 1980) is hereby amended by adding the following subsection:

5 “(8) The Committee may decline to renew any distributor's licence if it is satisfied—

“(a) That the licensee has failed to conduct his business pursuant to the licence in a proper manner; or

10 “(b) That the licensee has been convicted of any offence against this Act, or has committed a breach of any condition of his licence; or

“(c) That the licensee has been convicted of any offence referred to in paragraph (d), or of a kind described in paragraph (f), of subsection (6) of this section;

15 or

“(d) That the licensee has failed to fulfil his responsibilities under section 196 of this Act.”

11. Responsibilities of holder of distributor's licence—Section 196 of the principal Act is hereby amended by inserting, 20 before the word “wholesale”, the words “distributor's or”.

12. Cancellation or suspension of distributor's licence—

(1) The principal Act is hereby amended by inserting, after section 213A (as substituted by section 37 (1) of the Sale of Liquor Amendment Act 1980), the following section:

25 “213B. (1) An Inspector or any member of the Police may at any time apply in the prescribed form to the Commission for the cancellation or suspension of any distributor's licence on any one or more of the following grounds:

30 “(a) That the licensee has failed to conduct his business pursuant to the licence in a proper manner; or

“(b) That the licensee has been convicted of any offence against this Act, or has committed a breach of any condition of his licence; or

35 “(c) That the licensee has been convicted of any offence referred to in paragraph (d), or of a kind described in paragraph (f), of section 126 (6) of this Act; or

“(d) That the licensee has failed to fulfil his responsibilities under section 196 of this Act.

40 “(2) The provisions of subsections (2) to (9) of section 213 of this Act, so far as they are applicable and with the necessary modifications, shall apply to every application for the cancellation or suspension of a licence under this section.”

(2) Section 213 (1) of the principal Act (as substituted by section 37 (1) of the Sale of Liquor Amendment Act 1980) is hereby amended by omitting the words "hotelkeeper's, tourist-house keeper's, tavernkeeper's, wholesale, airport, or ship licence", and substituting the words "licence other than a hotel premises, tavern premises, tourist-house premises, food and entertainment, club, or distributor's licence". 5

13. Inspection of records of credit sales or deliveries by holders of distributors' licences—Section 222 of the principal Act (as substituted by section 24 (1) of the Sale of Liquor Amendment Act (No. 2) 1971) is hereby amended by inserting in subsection (1), before the word "wholesale", the words "distributor's or". 10

14. Appeal to High Court where decision on ground of character—Section 227 (1) of the principal Act (as amended by section 47 of the Sale of Liquor Amendment Act 1980) is hereby amended— 15

(a) By inserting in paragraph (b), after the words "or subsection (7)", the words "or subsection (8)":

(b) By inserting in paragraph (c), after the words "or section 213A", the words "or section 213B". 20

15. Appeals to High Court against certain decisions of Commission—Section 229 of the principal Act is hereby amended by inserting, after subsection (4B) (as inserted by section 11 of the Sale of Liquor Amendment Act 1970), the following subsection: 25

"(4c) Where the Commission—

"(a) Under section 106E of this Act, refuses to grant an application for a distributor's licence; or

"(b) Under section 213B of this Act, suspends or cancels any such licence,— 30

the applicant, or, as the case may require, the licensee may appeal to the High Court against the Commission's decision."

16. Fees—Section 286 (2) of the principal Act is hereby amended by inserting, after paragraph (g) (as substituted by section 58 (1) of the Sale of Liquor Amendment Act 1980), the following paragraph: 35

"(ga) For every distributor's licence, and every renewal thereof, \$150:".