

SALE OF LIQUOR AMENDMENT BILL (NO. 2)

EXPLANATORY NOTE

THIS Bill amends the Sale of Liquor Act 1962 by providing for the issue of theatre licences by the Licensing Control Commission, and by making two other amendments.

Clause 1 relates to the Short Title.

Theatre Licences

Clause 2: Subclause (1) inserts a new section 65A in the principal Act defining a theatre licence. Such a licence will authorise the sale of liquor in a specified part or parts of a theatre between 7 p.m. and 10 p.m. on any day (except Sunday and Good Friday) when the theatre is open to the public for the purposes of a "live" entertainment. The licence authorises the sale of liquor for consumption only on the part or parts of the theatre specified in the licence. It is not to be granted unless the theatre is regularly used for such entertainments, proper facilities for the sale, disposal, and consumption of liquor are available on the premises, and the proposed licensed premises are not readily accessible to persons not attending a performance. The licensed premises must conform to the general standards prescribed by the Licensing Control Commission in respect of such premises.

Subclause (2) consequentially amends section 2 of the principal Act by including in the definition of the term "licensed premises" a reference to the part or parts of a theatre in which liquor is sold for consumption there under a theatre licence.

Subclause (3) amends section 10 of the principal Act by including the grant and renewal of theatre licences among the functions of the Commission.

Subclause (4) amends section 11 of the principal Act by including theatre licences among those for which the Commission may prescribe minimum standards.

Subclause (5) consequentially amends section 54 of the principal Act by including theatre licences in the list of licences that may be issued.

Clause 3: The effect of the amendments made by this clause is that the holder of a theatre licence may appoint a manager to conduct the business under the licence. Such a manager must hold a manager's certificate granted by the Chairman of the Licensing Committee under section 177 of the principal Act.

Clause 4 inserts three new sections dealing with the procedure for the granting of theatre licences.

The new section 112A applies to theatre licences the provisions of sections 107, 108, 109 (1) to (3), and 111 of the principal Act, which relate to the manner of dealing with applications for restaurant licences. (Section 107 deals with the manner of making application to the Commission and requires the applicant to give public notice of his application. Section 108 requires the Secretary of the Commission to obtain a Police report and to ask for reports from an inspector of licensed premises, the Chief Fire Officer, and the Medical Officer of Health. Section 109 gives residents of the licensing district the right to object either on the ground of the character of the applicant or on the ground that the licensing of the premises will have a prejudicial effect on residents in the immediate neighbourhood. Section 111 requires a public hearing of the application and authorises the Commission to impose conditions on the grant of a licence.)

The new section 112B sets out the matters to which the Commission must have regard in determining whether to grant a licence. Except for paragraph (a), these matters are substantially the same as those set out in section 110 of the principal Act in relation to restaurant licences.

The new section 112C deals with the issue of the licence.

Clause 5 deals with the renewal by the Commission of theatre licences. The procedure for the making of applications, the obtaining of reports, and the hearing of applications will be substantially the same as that relating to restaurant licences under sections 124 to 127 of the principal Act.

Clause 6 deals with the transfer of theatre licences by the Commission, and applies, with the necessary modifications, the procedure for transferring other licences.

Clause 7 deals with the removal by the Commission of theatre licences. The procedure will be substantially the same as that relating to restaurant licences under the principal Act.

Clause 8: Subclause (1) deals with the duties and responsibilities of the licensee or manager under a theatre licence. It applies, with the necessary modifications, the provisions relating to restaurant licences, requiring the provision of adequate facilities for sanitary and public health purposes, fire prevention and safety precautions, and proper maintenance.

Subclause (2) makes it clear that the restrictions on entertainment imposed by section 202 of the principal Act do not apply to any part of the theatre except the licensed premises.

Clause 9 extends to theatre licences the provisions for the inspection of licensed premises.

Clause 10: The effect of the amendments made by this clause is that the Commission may suspend or cancel a theatre licence in the same way as the Licensing Committee may suspend or cancel a restaurant licence under sections 212 and 213 of the principal Act, and on the same grounds.

Clause 11 amends section 216 of the principal Act to allow an extended hours permit for a social gathering to be granted for the theatre premises under a theatre licence.

Clause 12 provides for an appeal to the Supreme Court against a refusal to grant or renew or transfer a theatre licence or against a suspension or cancellation of a licence. By reason of the 1968 Amendment Act, all appeals to the Supreme Court will be heard by the Administrative Division of the Court.

Clause 13: Under this amendment notice of a prohibition order is to be given to the holder of a theatre licence in the same way as it is to other licensees.

Clause 14 brings theatre licences within the provisions that prohibit the licensee or manager from allowing the consumption of liquor on his licensed premises outside the authorised hours; but, as in the case of restaurants, allows half an hour's grace for consumption.

Clause 15 similarly brings theatre licences within the provisions that prohibit the consumption or procuring of liquor on licensed premises outside authorised hours. As in the case of restaurant licences, half an hour's grace is given for consumption.

Clause 16: Although all the other provisions of section 259 of the principal Act relating to the supply of liquor to or its purchase by a minor will apply, the effect of this amendment is that it will not be an offence for a minor to be "found in any bar" of the licensed premises of a theatre.

Clause 17: The fee for the grant or renewal of a theatre licence will be \$100 (as in the case of a restaurant licence); and every such fee will be paid into the Licensing Fund under section 17 of the principal Act.

Clause 18: As in the case of restaurant premises, no substantial alteration to the licensed premises of a theatre is to be made without the written consent of the Commission or its Chairman.

Miscellaneous Provisions

Clause 19: This clause amends the definition of a "club" to include a voluntary association of persons combined for promoting the sport of big-game fishing. The effect of the amendment is that Part V of the principal Act will apply, so that such a club may apply for a club charter, subject to all the conditions applying to other chartered clubs.

Clause 20: Part VI of the principal Act authorises the appointment of a manager to conduct the business under a hotelkeeper's licence (and certain other kinds of licences); and it requires the appointment in any case of a manager of the bar premises under a special hotelkeeper's licence or of the extended premises under an extended hotelkeeper's licence. Managers are required to hold certificates. Under section 185 a manager conducting the business on hotel premises is required to reside on the premises. Various other provisions of the principal Act (including provisions as to offences) impose certain duties, responsibilities, and liabilities on managers.

This clause inserts a new section 176A authorising the holder of a hotelkeeper's licence to appoint more than one manager to conduct the business of the hotel or any part of that business. Where this is done there must at all times be one of them (or a duly appointed acting manager) residing on the premises. Each manager, while he is for the time being conducting the business or part of it, is responsible under the Act in respect of the business or that part of it.

Right Hon. Mr Marshall

SALE OF LIQUOR AMENDMENT (NO. 2)

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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 (No. 2) 1969, and shall be read together with and deemed part of the Sale of Liquor Act 1962* (hereinafter referred to as the principal Act).

*1962, No. 139

Amendments: 1963, No. 114; 1964, No. 55; 1965, No. 70; 1967, No. 6; 1967, No. 34; 1968, No. 106

Theatre Licences

2. Theatre licence—(1) The principal Act is hereby amended by inserting, after section 65, the following section:

“65A. (1) Subject to the provisions of this section, a theatre licence shall authorise the licensee to sell and dispose of liquor for consumption on the premises specified in the licence— 5

“(a) At any time between the hours of 7 o’clock in the evening and 10 o’clock in the evening on any day (except Sunday and Good Friday) when the theatre is open to the public for the purpose of attending an entertainment of the kind referred to in paragraph (a) of subsection (2) of this section; and 10

“(b) Only in the part or parts of the theatre described in the licence (in this Act referred to as the licensed premises of the theatre). 15

“(2) A theatre licence shall not be granted in respect of any theatre unless—

“(a) It is regularly used for entertainments of the kind in which all the performers whose words or actions constitute the entertainment are physically present and actually perform the entertainment; and 20

“(b) In the opinion of the Commission, proper facilities for the sale, disposal, and consumption of liquor are or will be available on the licensed premises of the theatre; and 25

“(c) The proposed licensed premises of the theatre are not readily accessible to persons other than those who are attending for the purposes of the entertainment. 30

“(3) A theatre licence shall be deemed to be issued subject to the condition that the licensed premises of the theatre shall at all times conform to the general standards prescribed by the Commission in respect of such premises.” 35

(2) Section 2 of the principal Act is hereby amended by inserting in the definition of the term “licensed premises”, after the words “in force under this Act”, the words “, or, in the case of a theatre licence, the part or parts of the theatre in which liquor is sold for consumption there,”. 40

(3) Section 10 of the principal Act is hereby amended by inserting in subsection (1), after paragraph (d), the following paragraph:

“(dd) To grant and renew theatre licences:”.

5 (4) Section 11 of the principal Act is hereby amended by omitting from subsection (1) the words “or restaurant licence”, and substituting the words “restaurant licence, or theatre licence”.

10 (5) Section 54 of the principal Act is hereby amended by inserting in subsection (2), after paragraph (a), the following paragraph:

“(aa) Theatre licences:”.

3. Management—(1) Section 66 of the principal Act is hereby amended by omitting the words “or restaurant”, and
15 substituting the words “restaurant, or theatre”.

(2) Section 176 of the principal Act is hereby amended by omitting from paragraph (a) of subsection (1) the words “or restaurant”, and substituting the words “restaurant, or theatre”.

20 (3) Section 177 of the principal Act is hereby amended by inserting in subsection (5) (as added by section 18 of the Sale of Liquor Amendment Act 1964), after the word “restaurant”, the words “or the licensed premises of a theatre”.

4. New sections inserted—The principal Act is hereby
25 further amended by inserting, after section 112, the following heading and sections:

“Theatre Licence

30 **“112A. Application for theatre licence, reports, objections, and hearing**—The provisions of sections 107 and 108, subsections (1) to (3) of section 109, and section 111 of this Act, so far as they are applicable and with the necessary modifications, shall apply with respect to every application for a theatre licence as if—

35 “(a) References in those provisions to a restaurant licence were references to a theatre licence:

“(b) The reference in subsection (1) of section 107 to the restaurant business were a reference to the business of the licensed premises of the theatre:

“(c) The references in paragraph (a) of subsection (2) of section 107 to restaurants and to any restaurant were references to licensed premises:

“(d) The first and third reference in paragraph (a) of subsection (6) of section 107 to the restaurant were references to the theatre, and the second reference in that paragraph to the restaurant were a reference to the proposed licensed premises of the theatre: 5

“(e) The reference in subsection (3) of section 109 to the restaurant were a reference to the theatre. 10

“112B. **Circumstances to be taken into account**—In determining whether to grant any application for a theatre licence the Commission shall have regard to—

“(a) The nature and standard of the entertainments to be provided in the premises or proposed premises: 15

“(b) The suitability of the premises or proposed premises and the facilities and services to be provided, including, where it is intended that meals should be provided in any part of the licensed premises, the facilities for the service of meals: 20

“(c) Any prejudicial effect that the licensing of the theatre might have on residents in the immediate neighbourhood of the theatre:

“(d) The character and reputation of the applicant, and any convictions of the applicant for offences against this Act or the Licensing Act 1908: 25

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

“112c. **Issue of theatre licence**—(1) Whenever the Commission grants any application for a theatre licence it shall issue the licence on payment of the prescribed fee and when it is satisfied that the conditions (if any) specified by the Commission under subsection (2) of section 111 of this Act (as applied by section 112A of this Act) have been complied with. 30

“(2) The licence shall be in the prescribed form; and nothing in section 121 of this Act shall apply.” 35

5. Renewal of theatre licence—The principal Act is hereby further amended by inserting, after section 127, the following section:

5 “127A. (1) A theatre licence may be renewed by the Commission in accordance with this section.

“ (2) The provisions of sections 124 and 125 of this Act shall apply for the purposes of this section, with the necessary modifications, as if—

10 “(a) References to restaurant premises or to a restaurant licence were references to theatre premises or to a theatre licence, as the case may require:

“(b) References to the Chairman of the Licensing Committee were references to the Chairman of the Commission:

15 “(c) References to the Clerk of the Licensing Committee were references to the Secretary of the Commission.

“ (3) The Commission may request the Police, any Medical Officer of Health, any inspector within the meaning of section 20 2 of the Health Act 1956, or a Chief Fire Officer to make a further report in addition to any report made under section 125 of this Act (as applied by this section).

25 “(4) The Commission, in its discretion, may renew a theatre licence without a public sitting, or may set down any application for hearing at a public sitting of the Commission of which public notice shall be given.

30 “(5) Where the Commission sets down any application for hearing as aforesaid it shall cause at least 10 clear days’ notice of the date fixed for the hearing to be given to the applicant, and shall cause to be sent to the applicant at his address for service copies of all reports made to the Commission under section 125 of this Act or under this section, or such extracts therefrom as the Chairman of the Commission directs.

35 “(6) At any such hearing the Commission shall hear the applicant, and may hear any member of the Police, any Medical Officer of Health or inspector under the Health Act 1956, any Chief Fire Officer or any local authority within whose district the theatre premises are situated, and any other person whom the Commission thinks fit to hear.

“(7) The Commission may decline to renew any such licence if it is satisfied—

“(a) That the licensee has failed to conduct the licensed premises of the theatre in a proper manner, or has allowed them to be frequented by disorderly or disreputable persons, or that drunkenness or riotous or disorderly conduct is allowed on them; or 5

“(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 10

“(c) That the licensee has been convicted of any offence against the Health Act 1956 or the Food and Drugs Act 1947, or any regulations made thereunder, in relation to the conduct or state of the licensed premises; or 15

“(d) That the licensee has failed to fulfil his responsibilities under section 195A of this Act; or

“(e) That the licensee has been convicted of any offence and sentenced to imprisonment, or has been convicted of any offence involving moral turpitude or dishonesty. 20

“(8) The annual fee payable for the renewal of a theatre licence shall be paid to the Secretary of the Commission on or before the 30th day of June in each year.

“(9) If the Commission grants an application for the renewal of the licence the Secretary shall notify the applicant, in the prescribed form, of the renewal; and subject to the payment of the proper fee the notification shall have the effect of renewing the licence. 25

“(10) If the licence is not renewed there shall be repaid to the applicant the amount paid by him for the renewal, less a sum equal to one-twelfth of that amount for every month or part of a month which has elapsed from the 30th day of June to the day on which the Commission refused to renew the licence.” 30 35

6. Transfer of theatre licence—(1) The principal Act is hereby further amended by inserting, after section 134, the following section:

“134A. (1) A theatre licence may be transferred by the Commission in accordance with this section. 40

“(2) The provisions of section 129 to 134 of this Act (except subsection (3) of section 133) shall apply for the purposes of this section, with the necessary modifications, as if references to the Licensing Committee or to the Clerk were
5 references to the Commission or to the Secretary, as the case may require.

“(3) Where the Commission grants an application for the transfer of a theatre licence, a copy of the licence endorsed under section 134 of this Act (as applied by this section)
10 shall be sent by the Secretary of the Commission to the Clerk of the Licensing Committee in whose register particulars of the licence are recorded.”

(2) Section 279 of the principal Act is hereby amended by inserting in subsection (1), after the word “restaurant”,
15 the word “theatre”.

7. Removal of theatre licence—The principal Act is hereby further amended by inserting, after section 147B (as inserted by section 9 of the Sale of Liquor Amendment Act 1964), the following section:

20 “147C. (1) A theatre licence may be removed by the Commission in accordance with this section.

“(2) The provisions of sections 139 and 140, subsections (1) to (3) of section 141A, and section 144 of this Act shall, with the necessary modifications, apply with respect to any
25 application for the removal of a theatre licence as if references in sections 141A and 144 to a restaurant licence were references to a theatre licence.

“(3) The Commission shall hold a public sitting, of which public notice shall be given, to determine whether the
30 application should be granted.

“(4) After hearing the applicant and such other interested persons as it thinks fit to hear, and having regard to any reports made to it under section 140 of this Act (as applied by this section), the Commission may in its discretion grant
35 or refuse the application; and the provisions of subsections (2) to (4) of section 111 of this Act shall apply.

“(5) Nothing in section 141A of this Act (as applied by this section) shall limit the power of the Commission, in determining whether or not to grant the application, to have
40 regard to such considerations, other than the objections referred to in that section, as it thinks relevant, or to hear any person in relation thereto.

“(6) Where the Commission makes an order for the removal of the licence, and its requirements (if any) have been complied with or provision for compliance therewith has been made to its satisfaction, the Chairman of the Commission shall endorse the licence in the prescribed form. 5

“(7) A copy of the licence so endorsed shall be sent by the Secretary of the Commission to the Clerk of the Licensing Committee in whose register particulars of the licence are recorded, and if the licensed premises and the new premises are in different districts the Clerk shall act in accordance with subsection (3) of section 147 of this Act. 10

“(8) When the licence is endorsed by the Chairman of the Commission it shall have the same effect as if it had been granted in respect of the premises to which it is so removed, and the premises from which it is removed shall cease to be licensed premises.” 15

8. Responsibilities of licensee or manager under theatre licence—(1) The principal Act is hereby further amended by inserting, after section 195, the following heading and section: 20

“Theatre Licences

“195A. The provisions of section 195 of this Act, so far as they are applicable and with the necessary modifications, shall apply with respect to a theatre licence and to the licensed premises of a theatre in the same manner as they apply to a restaurant licence and to a restaurant; except that paragraph (a) of subsection (1) of that section shall not apply to any part of the licensed premises in which meals are not served.” 25

(2) Section 202 of the principal Act is hereby amended by adding the following subsection: 30

“(3) Nothing in this section shall be construed to apply to any part of a theatre in respect of which a theatre licence is in force, except the licensed premises of the theatre.”

9. Inspection—Section 205 of the principal Act is hereby amended— 35

(a) By inserting in paragraph (a) of subsection (1), after the words “restaurant premises”, the words “and on the licensed premises of any theatre”:

(b) By inserting in subparagraph (i) of paragraph (a) of subsection (2), after the words “restaurant licence is in force”, the words “or on the licensed premises of any theatre”. 40

10. Cancellation or suspension of theatre licence—(1) Section 212 of the principal Act is hereby amended by adding the following subsection:

5 “(6) This section shall extend and apply with respect to a theatre licence as if—

“**(a)** References to a restaurant licence or to a restaurant were references to a theatre licence or, as the case may require, to a theatre:

10 “**(b)** References to the Licensing Committee were references to the Commission.”

(2) Section 213 of the principal Act is hereby amended by adding the following subsection:

15 “(7) This section shall apply with respect to a theatre licence as if references to the Licensing Committee or to the Chairman were references to the Commission or, as the case may require, to the Chairman thereof.”

11. Extended hours permit—Section 216 of the principal Act is hereby amended by inserting, after subsection (1A) (as inserted by section 12 of the Sale of Liquor Amendment Act 1965), the following subsection:

20 “(1B) Notwithstanding anything in this Act, any Magistrate may from time to time, in his discretion, on application made to him in the prescribed manner, grant to the holder of a theatre licence, or to the manager of the licensed premises
25 conducted under any such licence, a permit authorising the holder thereof to supply liquor, for consumption on the licensed premises or in any other part of the theatre specified in the permit, after such time on any day as may be so specified, including any day when the licensed premises are
30 required to be closed for the sale of liquor, to persons attending any social gathering, being a gathering to be held on a day specified in the permit, held or promoted by the committee or other governing body of the theatre, or by any person or body of persons (whether incorporated or not).”

35 **12. Appeals against certain decisions of Commission**—Section 229 of the principal Act is hereby amended by inserting, after subsection (4), the following subsection:

“**(4A)** Where the Commission—

40 “**(a)** Under section 112A of this Act, refuses to grant an application for a theatre licence; or

“(b) Under subsection (7) of section 127A of this Act, declines to renew any such licence; or

“(c) Under section 134A of this Act, refuses to grant an application for the transfer of any such licence; or

“(d) Under section 212 or section 213 of this Act, suspends or cancels any such licence— 5

the applicant, or, as the case may require, the licensee, may appeal to the Supreme Court against the Commission’s decision.”

13. Notice of prohibition order—Section 237 of the principal Act is hereby amended by inserting, after the word “restaurant”, the word “theatre”. 10

14. Allowing consumption of liquor outside authorised hours—(1) Section 249 of the principal Act is hereby amended by inserting, after subsection (4), the following subsection: 15

“(4A) Every holder of a theatre licence, and every manager conducting the licensed premises of any theatre under the authority of such a licence, commits an offence who allows the consumption of liquor on the licensed premises of the theatre at any time between the hours of 10.30 o’clock in the evening on any day and 7 o’clock in the evening of the next day, or at any time on any day when the licensed premises are required to be closed for the sale of liquor.” 20

(2) The said section 249 is hereby further amended by inserting in subsection (2), after the words “of a licence”, the words “, other than a theatre licence,”. 25

15. Unlawfully consuming liquor, etc., on licensed premises—Section 253 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection: 30

“(2A) Every person commits an offence who, on the licensed premises of a theatre conducted under a theatre licence, at any time between the hours of 10.30 o’clock in the evening on any day and 7 o’clock in the evening of the next day, or at any time on any day when the licensed premises are required to be closed for the sale of liquor— 35

“(a) Consumes or procures or attempts to procure any liquor; or

“(b) Enters or is on the premises for the purpose of consuming or procuring liquor; or 40

“(c) Is found in possession of any liquor with intent to consume it there.”

16. **Supply of liquor to minors**—Section 259 of the principal Act (as substituted by section 2 (1) of the Sale of Liquor Amendment Act 1969) is hereby amended by inserting in subsection (8), after the words “any licensed premises”, the
5 words “other than the licensed premises of a theatre”.

17. **Fees**—(1) Section 286 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

10 “(2A) For every theatre licence, and every renewal thereof, there shall be paid to the Secretary of the Commission a fee of \$100.”

(2) Section 17 of the principal Act is hereby amended by inserting in subsection (2), after paragraph (b), the following paragraph:

15 “(bb) All fees paid for theatre licences, and for the renewal of such licences:”.

18. **Alterations in licensed premises of theatre**—Section 291 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

20 “(3A) Before the holder of a theatre licence makes any substantial alterations to any part of the licensed premises of the theatre he shall obtain the consent in writing of the Commission or the Chairman thereof.”

Miscellaneous Provisions

25 19. **Big-game fishing clubs**—Section 162 of the principal Act is hereby amended by inserting, after the word “comfort”, the words “, or for promoting the sport of big-game fishing,”.

20. **Appointment of more than one manager in hotel**—The principal Act is hereby further amended by inserting,
30 after section 176, the following section:

“176A.(1) In any case where the holder of a hotelkeeper’s licence is authorised or required by section 176 of this Act to appoint a manager to conduct the business under the licence or any part of that business, he may appoint more than one
35 manager for that purpose.

“(2) Subject to subsection (3) of this section, the provisions of this Act relating to managers shall apply to every such manager so appointed.

“(3) Where under this section more than one manager is so appointed—

“(a) It shall not be necessary for all the managers to reside on the hotel premises, so long as at all times there is one of them, or an acting manager appointed in the place of one of them pursuant to section 178 of this Act, so residing:

“(b) For the purposes of this Act, each of the managers, while he is for the time being conducting the business or any part of the business under the licence, shall be subject to all the duties, responsibilities, and liabilities of a manager under this Act in respect of the business or that part of the business conducted by him; and references in this Act to the manager shall be construed accordingly.”