

Supplementary Order Paper

HOUSE OF REPRESENTATIVES

Tuesday, the 30th Day of October 1962

SALE OF LIQUOR BILL

Proposed Amendments

Hon. Mr HANAN, in Committee, to move the following amendments:

Clause 54: To insert, after subclause (2), the following subclause:

(2A) There may also be granted under this Act, for the purposes and in accordance with the provisions set out in the First A Schedule to this Act, limited wholesale licences to sell spirits. Except as provided in that Schedule, nothing in this Act shall apply to any licence to which this subsection relates.

Clause 163: To insert, after subclause (2), the following subclause:

(2A) Every application for the grant of a charter shall be heard at a public sitting of the Commission.

Clause 167, subclause (1): To omit the second proviso (as inserted by the Statutes Revision Committee).

[NOTE: This is consequential on the amendments to *clauses 259 and 260.*]

Clause 229, subclause (2): To add to paragraph (b) the word “; or”, and to add the following paragraph:

(c) On any appeal under section 228 of this Act against the refusal by a Licensing Committee to cancel or suspend any licence under section 213 of this Act, cancels or suspends the licence—”.

Clause 259: To omit this clause, and substitute the following clause:

259. Supply of liquor to person under twenty-one—(1)
Every person commits an offence and is liable to a fine not exceeding ten pounds who, being the holder of a licence of any description under this Act, or the holder of a brewer's licence under the Finance Act 1915, or a manager, supplies any liquor, or allows it to be supplied, on or from any licensed premises, whether by sale or otherwise, to any person who is under the age of twenty-one years.

(2) Where on any licensed premises any person other than the licensee or manager supplies liquor to any person who is under the age of twenty-one years he commits an offence and is liable to a fine not exceeding ten pounds, irrespective of any liability that may attach to the licensee or manager in respect of the same offence.

(3) It shall be a defence to a charge under subsection (1) or subsection (2) of this section to prove that the person supplying the liquor believed on reasonable grounds that the person to whom he supplied it was of or over the age of twenty-one years.

(4) Every person commits an offence and is liable to a fine not exceeding ten pounds who, being under the age of twenty-one years, purchases any liquor from the holder of any such licence as aforesaid, or from a manager, or from the wife or employee or agent of the holder of any such licence as aforesaid or of the manager.

(5) Nothing in the foregoing provisions of this section shall apply to the supply of liquor to or its purchase by any person if the liquor is supplied to that person for consumption by him as part of a meal of which he is partaking on the premises in accordance with this Act, and that person—

- (a) Is of or over the age of eighteen years; or
- (b) Is accompanied by his spouse or by his parent.

(6) Nothing in subsections (1) to (4) of this section shall apply to the supply of liquor to or its purchase by the spouse or any member of the family of the licensee or manager.

(7) Every person commits an offence and is liable to a fine not exceeding ten pounds who, being under the age of twenty-one years, is found in any bar of any licensed premises, unless he is an employee or agent of the licensee, or a person acting under any contract with the licensee or manager, who with the authority of the licensee or manager is in the bar for the purpose of cleaning, repairing, maintaining, altering, or restocking the bar or any equipment therein, or removing or replacing any such equipment, or stocktaking, or checking cash in the bar or removing it therefrom, or unless his presence in the bar is in accordance with the proviso to subsection (1) of section 190 of this Act.

(8) Where any person appearing to be under the age of twenty-one years requests the supply of any liquor to him, or is found in any bar, any member of the Police, or the licensee or manager to whom the request is made, or the licensee or manager of the licensed premises where that person is so found, or the wife of any employee or agent of any such licensee or manager as aforesaid, may demand particulars of that person's age, name, and address. If there is reasonable ground to suppose that any particulars so given by him are false, the person demanding the particulars may require him to supply satisfactory evidence of the correctness thereof.

(9) If any such person refuses to give a name and address on being required to do so under this section, any member of the Police may caution him and, if he persists in such refusal, may arrest him without warrant.

(10) Every person commits an offence who, being required under this section to give particulars of this age, name, and address, fails to give those particulars, or gives any false particulars, or supplies any false evidence with respect thereto.

Clause 260, subclause (2): To omit this subclause, and substitute the following subclause:

- (2) Nothing in this section shall apply to—
 - (a) The supply of liquor to any person for consumption by him as part of a meal of which he is partaking on the premises in accordance with this Act, if that person is accompanied by his spouse or by his parent; or
 - (b) The supply of liquor to the spouse or any member of the family of the licensee or manager.

Fourth Schedule: To insert, after the reference to 1957, No. 105 (The Licensing Amendment Act 1957), the following item:

1959, No. 97—The Distillation Amendment Act 1959

By repealing paragraph (e) of section 2 (as added by subsection (2) of section 2 of the Distillation Amendment Act 1961).

By omitting from paragraph (a) of subsection (3) of section 7 (as amended by subsection (3) of section 2 of the Distillation Amendment Act 1961) the words "or to the holders of limited wholesale licences under section 9A of this Act", and substituting the words "or to the holders of limited wholesale licences under the First A Schedule to the Sale of Liquor Act 1962".

By repealing section 9A (as inserted by subsection (1) of section 2 of the Distillation Amendment Act 1961).

Fifth Schedule: To insert, after the reference to 1960, No. 122, the following item:

1961, No. 88—The Distillation Amendment Act 1961.

New Schedule

To insert, after the *First Schedule*, the following new Schedule:

FIRST A SCHEDULE

Section 54 (2A)

LIMITED WHOLESALE LICENCES TO SELL SPIRITS

1. The Commission may from time to time grant to any fit and proper person a limited wholesale licence to sell spirits, if the Commission is satisfied that it is proper to do so.

2. (1) A limited wholesale licence to sell spirits shall authorise the holder to sell or deliver any spirits, or any class or classes of spirits, specified in the licence, from the premises specified in the licence:

Provided that the authority conferred by any such licence shall be limited to spirits purchased from the holder of a licence to rectify and compound spirits under section 7 of the Distillation Amendment Act 1959.

(2) A limited wholesale licence to sell spirits shall relate only to spirits distilled, rectified, and compounded in New Zealand pursuant to licences under sections 6 and 7 of the Distillation Amendment Act 1959, and may relate to spirits intended for consumption in New Zealand, or to spirits intended for export, or to both.

(3) Notwithstanding anything in this Act, every licence granted under this Schedule shall authorise the holder to sell spirits, pursuant to this clause and to the terms of his licence, only to holders of wholesale licences under this Act or to the Licensing Trusts of licensing trust districts or to persons authorised to produce goods in a manufacturing warehouse under the Customs Act 1913.

3. Every application for a limited wholesale licence to sell spirits shall be made to the Commission in writing and shall be accompanied by such documents, and dealt with in such manner, as the Commission may direct. The Commission may if it thinks fit determine any such application without holding a public sitting.

4. If the Commission grants the application it shall, on payment to it of a licence fee of £10, issue to the applicant a licence in the prescribed form or, if no form is prescribed, in such form as it thinks fit.

5. If the Commission refuses to grant the application on the ground that the applicant is not a fit and proper person to hold the licence by reason of the fact that he is not of good character and reputation, the applicant may in accordance with clause 8 of this Schedule appeal to the Supreme Court against the Commission's decision.

6. Every licence issued under this Schedule shall, subject to the payment of an annual fee of £10 in the month of November in every year, continue in force until it is cancelled pursuant to clause 7 of this Schedule, subject to any suspension of the licence pursuant to that clause.

7. (1) Any licence issued under this Schedule may be cancelled or suspended by the Commission on any of the grounds specified in paragraphs (c) and (d) of subsection (1) of section 213 of this Act, and the provisions of that section, so far as they are applicable and with all necessary modifications, shall apply accordingly as if the references therein to the Licensing Committee were references to the Commission.

(2) Where the Commission cancels or suspends any such licence, the holder of the licence may in accordance with clause 8 of this Schedule appeal to the Supreme Court against the Commission's decision.

8. For the purposes of clauses 5 and 7 (2) of this Schedule, the provisions of section 226, subsections (8) to (12) of section 229, and section 230 of this Act shall apply, so far as they are applicable and with the necessary modifications.

9. The provisions of sections 71 and 72, paragraphs (c) to (e) of section 208, section 209, and Part XII of this Act shall apply with respect to every licence issued under this Schedule as if the licence were a wholesale licence under this Act and the premises to which the licence relates were licensed premises.

10. For the purposes of this Schedule, the term "spirits" has the same meaning as in the Distillation Act 1908.

11. Every limited wholesale licence to sell spirits granted by the Minister of Customs under section 9A of the Distillation Amendment Act 1959 and in force at the commencement of this Act shall be deemed to be a licence issued by the Commission under this Schedule.

EXPLANATORY NOTE

Clause 54: Under the Distillation Amendment Act 1959 (as amended by the Distillation Amendment Act 1961) a new class of limited wholesale licences was provided for. Those licences authorise the sale of spirits purchased from the holders of licences to rectify and compound spirits under that Act; and sales may be made only to the holders of wholesale licences under the Licensing Act 1908 or to persons authorised to produce goods in a manufacturing warehouse under the Customs Act 1913.

This amendment, together with the new *First A* Schedule proposed in this Supplementary Order Paper, transfers the function of issuing these limited licences from the Minister of Customs to the Licensing Control Commission, and applies such of the provisions of the Sale of Liquor Bill as are necessary. See the notes to the new Schedule, below.

Clause 163: The effect of this amendment is that the Commission is to hold a public sitting to consider any application for a club charter.

Clause 167, subclause (1): This amendment is consequential on the re-drafted *clauses 259 and 260*, noted below, and depends on the adoption of those clauses.

Clause 229, subclause (2): The effect of this amendment is that where a Licensing Committee, on the application of the Police, refuses to cancel or suspend a licence, and on appeal to the Commission against that refusal the Commission reverses the Committee's decision and cancels or suspends the licence, the licensee or any other person having an estate or interest in the premises may appeal to the Supreme Court against the Commission's decision.

Clause 259: The proposed new clause makes it an offence for any licensee or manager or employee to supply liquor on any licensed premises to a person under 21 (whether he is a lodger or not) or for a person under 21 to purchase liquor, unless he is having liquor as part of a meal and is (a) not less than 18; or (b) accompanied by his spouse or by his parent. It also makes it an offence for a person under 21 (whether he is a lodger or not) to be found in a bar, unless he is an employee authorised to enter for cleaning, repairing, stocktaking, or checking cash, etc.

Subclauses (1) and (2) replace *clause 259 (1) and (8)*, and make it an offence to supply liquor to a person under 21. In either case, under *subclause (3)*, it is a defence to prove that the person supplying the liquor believed on reasonable grounds that the other person was 21 or over.

Subclause (4) replaces *clause 259 (2)*, and makes it an offence for a person under 21 to purchase liquor.

Subclause (5) replaces *clause 259 (3)*, and exempts from the foregoing provisions a person who is actually partaking of a meal on the premises and is (a) not less than 18; or (b) accompanied by his spouse or his parent.

Subclause (6) exempts from *subclauses (1) to (4)* the spouse or any member of the family of the licensee or manager.

Subclause (7) replaces *clause 259 (4)*, and makes it an offence for a person under 21 to be found in a bar, unless he is an employee authorised to enter for the purposes of cleaning, or repairs, or stocktaking or checking the cash, or is present pursuant to *clause 190 (1)* solely for serving meals.

Subclauses (8) to (10) replace *clause 259 (5) to (7)* without alteration.

Clause 260, subclause (2): This amendment consequentially amends the present exemptions in *clause 260*, so that it will be a separate offence to supply liquor on licensed premises to any person under 18, knowing him to be under that age unless that person is actually partaking of a meal on the premises and is accompanied by his spouse or by his parent, or unless he is the spouse or a member of the family of the licensee or manager.

The amendments to the *Fourth* and *Fifth Schedules* are consequential on the new *clause 54 (2A)* noted above.

The new *Schedule* deals with the issue by the Commission of limited wholesale licences to sell spirits, as mentioned in the note to the new *clause 54 (2A)*. The following changes are made:

- (a) Licences will be issued by the Commission instead of the Minister of Customs. The right of appeal against the refusal of a licence is preserved:
- (b) The classes of persons to whom the licensees may sell spirits will now include district Licensing Trusts:
- (c) An annual fee of £10 will be payable for the licence. So far no fee has been prescribed under the Distillation Act:
- (d) Instead of being an annually renewable licence, the licence will remain in force subject to the payment of the annual fee of £10:
- (e) The power to cancel or suspend the licence is transferred from the Minister of Customs to the Commission, on similar grounds; and a right of appeal to the Supreme Court is given:
- (f) The provisions of the Sale of Liquor Bill relating to closing days, the persons who may hold licences, inspection by the Police, and offences are applied:
- (g) All existing licences are deemed to have been issued under this Schedule.