

1966/139



THE LOCAL LICENSING TRUSTS REGULATIONS 1966

BERNARD FERGUSSON, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 17th day of August 1966

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 46 of the Licensing Trusts Act 1949, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title—(1) These regulations may be cited as the Local Licensing Trusts Regulations 1966.

(2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

2. Procedure where intended local Trust is entitled to hotel or tavern premises licence—(1) Whenever, on an application made by any local authority or local authorities under section 89 of the Sale of Liquor Act 1962 for the grant of a hotel or tavern premises licence to a local Trust to be formed to hold the licence, the Licensing Control Commission decides under section 91 of that Act that a local Trust is entitled to the licence, the Commission shall forthwith notify the Minister of Justice, in writing, of its decision.

(2) The notification of the grant of the application required to be given by the Commission to the applicant under section 92 (1) of the Sale of Liquor Act 1962 shall state, in addition to the matters required by that subsection, that the licence will be issued to the local Trust when it has been constituted and when regulation 4 hereof has been complied with.

(3) Subsections (2) to (13) of section 92 and sections 93 and 94 of the Sale of Liquor Act 1962 shall not have effect until regulation 4 hereof has been complied with.

3. Constitution of local Trust—On receipt of the Commission's notification under regulation 2 (1) hereof, the Minister may by notice in the *Gazette* constitute a local Trust, with such name as may be specified in the notice.

4. Local Trust to notify Commission as to site and plans—(1) Within six months after the election or appointment of the first members of the local Trust, the Trust shall give to the Commission notice in writing stating whether or not it approves the proposed site referred to in the application made by the local authority or local authorities pursuant to sections 87 and 89 of the Sale of Liquor Act 1962, and the plan of the premises submitted with that application.

(2) If the Trust does not approve the proposed site, or wishes to submit a further plan in amendment of or substitution for the plan originally submitted, it shall, within the said period of six months, or within such further period or periods as the Commission may from time to time allow, submit to the Commission for its approval particulars of a different site or a further plan or both, as the case may require.

(3) On the receipt by the Commission of notice that the Trust approves the proposed site and plan, or when the Commission has approved any further plan submitted by the Trust in respect of premises for that site, the Commission shall proceed under section 92 of the Sale of Liquor Act 1962, and that section and sections 93 and 94 of that Act shall have effect as if the Trust had been the original applicant.

(4) Where the Trust submits particulars of a different site, the Commission shall hold a public sitting to consider the Trust's proposals in respect of that site. If after the sitting the Commission approves those proposals, the Commission shall proceed under section 92 of the Sale of Liquor Act 1962, and that section and sections 93 and 94 of that Act shall have effect as if the Trust had been the original applicant and as if the original application had related to that site.

5. Functions and powers of local Trusts—(1) The functions of a local Trust shall be to establish, maintain, and conduct the business of licensed premises in accordance with the Sale of Liquor Act 1962 and pursuant to any licence for the time being held by the Trust under that Act and the Licensing Trusts Act 1949.

(2) Subject to the Sale of Liquor Act 1962 and to the terms of any licence held by it as aforesaid, and without limiting the generality of section 27 of the Licensing Trusts Act 1949, a local Trust may for the purposes of carrying out its functions—

- (a) Establish and maintain such premises as are contemplated by any licence for the time being held by it;
- (b) Sell and dispose of liquor pursuant to any such licence;
- (c) Where it is the holder of a hotelkeeper's or tourist-house keeper's licence, provide accommodation and other facilities for the travelling public, and sell or supply meals and other refreshments to the general public on the premises to which the licence relates;
- (d) Purchase such stocks of liquor, foodstuffs, and goods of any other kind whatsoever as are required for the purpose of carrying out its functions.

6. Provisions applicable to local Trusts—(1) Such of the provisions of the Licensing Trusts Act 1949 as are referred to in the Schedule to these regulations shall not apply to any local Trust.

(2) Subject to the provisions of these regulations, the provisions of the Licensing Trusts Act 1949, so far as they are applicable and with all necessary modifications, shall apply to every local Trust.

(3) The following provisions shall apply to every local Trust:

(a) The Trust shall consist of six members:

(b) The terms of office of three of the members elected at the first election of members shall expire on the day appointed for the second election of members pursuant to section 11 of the Licensing Trusts Act 1949:

(c) At any meeting of the Trust, three members shall form a quorum:

(d) In every year the Trust shall send to the Minister a copy of its yearly balance sheet, profit and loss account, and statements of accounts, when they have been duly audited pursuant to section 43 (2) of the Licensing Trusts Act 1949, together with a report on the operations of the Trust for the year to which the balance sheet and accounts relate.

(4) In the notice constituting any local Trust, or in any subsequent notice published in the *Gazette*, the Minister may—

(a) Prescribe an area within which polls shall be taken for the election of members of the Trust, and define the boundaries of that area:

(b) Prescribe an area, not being smaller than the area prescribed under paragraph (a) of this subclause, within which the Trust may expend or distribute profits pursuant to section 44 (1) of the Licensing Trusts Act 1949.

(5) The Minister may from time to time, in like manner, alter the boundaries of any area prescribed by him under subclause (4) of this regulation by including any area therein or excluding any area therefrom.

(6) In the application to the local Trust of such of the provisions of the Licensing Trusts Act 1949 as are applicable to it under these regulations—

(a) References to the Trust district shall, except in section 44 (1) of that Act, be read as references to the area for the time being prescribed under subclause (4) (a) of this regulation:

(b) The reference in section 17 of that Act to any Magistrate's Court in the Trust district shall be read as a reference to any Magistrate's Court in any licensing district within which the whole or any part of the aforesaid area is situated:

(c) The reference in section 44 (1) of that Act to the Trust district shall be read as a reference to the area for the time being prescribed under subclause (4) (b) of this regulation.

7. Revocations—The Local Licensing Trusts Regulations 1949*, and the Local Licensing Trusts Regulations 1949, Amendment No. 1†, are hereby revoked.

*S.R. 1949/189

†S.R. 1952/129

Reg. 6 (1)

SCHEDULE

PROVISIONS OF LICENSING TRUSTS ACT 1949 NOT APPLICABLE TO LOCAL TRUSTS

SECTIONS 4 (1), (2), and (3), 5 (3) (a), 23 (5), 26, 28, 28A, 29, 30, 31 (3) and (4), 32, 33, 34, 34A, 35, 36, 36A, 36B, 43 (3), 44 (2), and 45, Part II, and the First, Second, and Third Schedules.

T. J. SHERRARD,

Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations replace the Local Licensing Trusts Regulations 1949 and their amendments, and bring up to date the procedure relating to the grant of licences to local Trusts under the Sale of Liquor Act 1962.

Regulations 2 to 4 lay down the procedure to be followed when the Licensing Control Commission decides, after a public sitting held under section 91 of the Sale of Liquor Act 1962, that a local Trust is entitled to a new licence. At that stage the Trust will be constituted and will have an opportunity of approving the site and plans referred to in the original application made on behalf of the intended Trust by a local authority, or of submitting amended proposals to the Commission for its approval; but where any such amended proposals are for a different site, the Commission is to hold a further public sitting to consider that proposal. When the site and plans have been approved, sections 92 to 94 of the Sale of Liquor Act 1962 (which include the right for persons to object to the proposed site of a hotel or tavern premises licence) will apply in the ordinary way.

Regulation 5 re-enacts, with minor modifications, the present regulations setting out the functions and powers of local Trusts.

Regulation 6 contains provisions applicable to all local Trusts, and applies, with modifications, the Licensing Trusts Act 1949, except the provisions referred to in the Schedule.

The Schedule sets out the provisions of the Licensing Trusts Act 1949 that do not apply to local Trusts. This Schedule has been brought up to date in the light of the amendments made to that Act since the making of the original regulations and the amending regulations of 1952.

Most of the provisions of the 1949 regulations have not been re-enacted, as they have since been replaced by specific provisions of the Sale of Liquor Act 1962 relating to Trust polls, applications by local authorities on behalf of intended local Trusts, the procedure to be followed in relation to applications for and the issue of licences, and the issue of managers' certificates.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 18 August 1966.

These regulations are administered in the Department of Justice.