

House of Representatives

Supplementary Order Paper

Wednesday, 22 August 2012

Alcohol Reform Bill

Proposed amendments

Hon Judith Collins, in Committee, to move the following amendments:

Clause 2

Replace *clause 2(1) to (2A)* (line 4 on page 18 to line 4 on page 19) with:

- (1) **Sections 3, 4, 97, 98, 100, 100A, 117, 118, 120, 128 to 130, 289, 348, 390, and 399(2)** come into force on the day 6 months after the date on which this Act receives the Royal assent.
- (2) **Sections 9 to 59, 60 (except subsections (3) and (4)), 61 to 74, 80 to 96, 99, 101 to 116, 119, 121 to 127, 131 to 157A, 174 to 288, 290 to 347, 349 to 381, 391 to 398, 399(3), and 400 to 416, and the schedules**, come into force on the day 12 months after the date on which this Act receives the Royal assent.
- (2A) **Section 60(3) and (4)** comes into force on the earlier of the following days:
 - (a) a date appointed by the Governor-General by Order in Council:
 - (b) the day 2 years after the date on which this Act receives the Royal assent.

Clause 5

In *clause 5(1)*, replace the definition of **alcohol** (lines 10 to 16 on page 20) with:

alcohol means a substance—

- (a) that—
 - (i) is or contains a fermented, distilled, or spirituous liquor; and
 - (ii) at 20°C is found on analysis to contain 1.15% or more ethanol by volume; or

- (b) that—
 - (i) is a frozen liquid, or a mixture of a frozen liquid and another substance or substances; and
 - (ii) is alcohol (within the meaning of **paragraph (a)**) when completely thawed to 20°C; or
- (c) that, whatever its form, is found on analysis to contain 1.15% or more ethanol by weight in a form that can be assimilated by people

In *clause 5(1)*, replace the definition of **intoxicated** (lines 8 to 11 on page 26) with:

intoxicated means observably affected by alcohol, other drugs, or other substances (or a combination of 2 or all of those things) to such a degree that 2 or more of the following are evident:

- (a) appearance is affected:
- (b) behaviour is impaired:
- (c) co-ordination is impaired:
- (d) speech is impaired

In *clause 5(1)*, insert in their appropriate alphabetical order:

alcohol area, in relation to a single-area condition, means the area described in the condition

beer means the product prepared by the fermentation of an aqueous extract of cereals, grains, or both

fruit or vegetable wine—

- (a) means the product prepared from the complete or partial fermentation of fruit, vegetables, cereals, grains, preparations of fruit, preparations of vegetables, preparations of cereals, preparations of grains, or a combination of 2 or more of those products; but
- (b) does not include beer or grape wine

grape wine means the product of the complete or partial fermentation of fresh grapes, or a mixture of that product and products derived solely from grapes

mead means the product prepared from the complete or partial fermentation of honey

principal business, in relation to the business carried on or to be carried on in any premises, means principal business as ascertained, assessed, or calculated by a means for the time being prescribed by regulations made under this Act for the purposes of this definition

single-area condition means a condition under **section 105A(2)**

In *clause 5(1)*, definition of **community trust**, replace “**336(2)**” (at line 23 on page 22) with “**370**”.

In *clause 5(1)*, definition of **company** in *paragraph (a)*, replace “or Part 18” (at line 28 on page 22) with “, 18, or 19”.

In *clause 5(1)*, definition of **licence**, replace *paragraph (b)* (lines 22 and 23 on page 26) with:

- (b) in relation to any licensed premises, means the licence issued for them (or, in the case of premises that 2 or more licences have been issued for, any of those licences)

In *clause 5(1)*, definition of **restricted area**, *paragraph (a)*, replace “this Act or” (at line 32 on page 29) with “**section 109** or a corresponding provision of”.

In *clause 5(1)*, definition of **supervised area**, *paragraph (a)*, replace “this Act or a” (at line 28 on page 30) with “**section 109** or a corresponding provision of a”.

New clause 5A

After clause 5 (after line 8 on page 32), insert:

5A Use of electronic records

- (1) To the extent that this Act makes provision to the effect that any person must or may record, register, or make or keep a record or register of, any information or matter, the person may instead record the information or matter electronically; and this Act must be interpreted accordingly.
- (2) **Subsection (1)** does not limit or affect any obligation under this Act to display a notice or sign.

Clause 18

In *clause 18*, before “premises” (at line 9 on page 38), insert “any”.

Clause 19

In *clause 19(1)(c)*, delete “in the restaurant” (at line 29 on page 38).

Clause 28

In *clause 28(c)*, replace “another” (at line 16 on page 42) with “other”.

Clause 31

In *clause 31(1)(i)* delete “company,” (at lines 3 and 4 on page 44).

In *clause 31(5)*, replace “**349**” (at line 21 on page 44) with “**395**”.

Clause 35(1)(ba)

In *clause 35(1)(ba)(i)* before “issued” (at line 19 on page 45) insert “to be”.

In *clause 35(1)(ba)(ii)* before “issued” (at line 22 on page 45) insert “to be”.

Clause 35A(1)

After the definition of **grocery store** (after line 25 on page 46), insert:

ready-to-eat prepared food—

- (a) includes food for the time being declared by regulations under this Act to be ready-to-eat prepared food; and

- (b) does not include food for the time being declared by regulations under this Act not to be ready-to-eat prepared food
- snack food—**
- (a) includes food for the time being declared by regulations under this Act to be snack food; and
 - (b) does not include food for the time being declared by regulations under this Act not to be snack food.

Clause 36(1)

In *clause 36(1)*, replace “issue an off-licence” (at line 18 on page 47) with “direct that an off-licence should be issued”,

In *clause 36(1)(a)*, after “**(c),**” (at line 22 on page 47), insert “**(ca),**”.

Clause 37(1)

Replace “issue an off-licence” (at line 30 on page 47) with “direct that an off-licence should be issued”,

Clause 38

In *clause 38*, replace “issue an off-licence” (at line 32 on page 48) with “direct that an off-licence should be issued”.

In *clause 38(f)*, replace “from a shop without leaving it” (at lines 7 and 8) with “directly from a shop, or directly from premises where the principal business carried on is a business of a kind described in **paragraph (a)**”.

Clause 39(1)

In *clause 39(1)*, replace “issuing an on-licence, endorse it to indicate that this section applies to it if” (at lines 14 and 15 on page 49) with “directing that an off-licence should be issued, direct that it should be endorsed to indicate that this section applies to it if (and only if)”.

In *clause 39(1)(b)* before “issued” (at line 20 on page 49) insert “to be”.

Clause 40(1)

Replace “issuing an on-licence, endorse it to indicate that this section applies to it if” (at lines 30 and 31 on page 49) with “directing that an off-licence should be issued, direct that it should be endorsed to indicate that this section applies to it if (and only if)”.

Clause 41

Replace “issuing an off-licence, endorse it to indicate that this section applies to it if” (at lines 114 and 12 on page 50) with “directing that an off-licence should be issued, direct that it should be endorsed to indicate that this section applies to it if (and only if)”.

Delete *subclause (4)* (lines 23 to 29 on page 50)

Clause 41A

Replace “issuing an off-licence, endorse it to indicate that this section applies to it if” (at lines 34 and 35 on page 50) with “directing that an off-licence should

be issued, direct that it should be endorsed to indicate that this section applies to it if (and only if)".

Clause 45

In *clause 45(2)(a)*, replace "in not" (at lines 15 and 16 on page 52) with "not in".

Clause 49

In *clause 49(b)*, before "wine" (at line 20 on page 54), insert "grape wine or fruit or vegetable".

Clause 57

In *clause 57*, replace "there is displayed at all times a sign attached to the outside of the premises, so as to be easily read by people immediately outside each principal" (at line 36 on page 57 and line 1 on page 58) "for each principal entrance to the premises there is displayed at all times a sign attached to the inside or outside of the premises, so as to be easily read by people immediately outside the".

Clause 59

Replace *clause 59* (line 9 on page 59 to line 16 on page 60) with:

59 Restriction on kinds of alcohol sold in supermarkets and grocery stores, and premises directly accessible from supermarket or grocery store

- (1) The holder of an off-licence issued for premises of a kind described in **subsection (2)** must ensure that no alcohol is sold on the premises unless it contains no more than 15% ethanol by volume measured at 20°C and is—
 - (d) beer, mead, fruit or vegetable wine, or grape wine; or
 - (e) a food flavouring, prepared for culinary purposes, that is unsuitable for drinking undiluted.
- (2) The kinds of premises referred to in **subsection (1)** are—
 - (a) premises that are or form part of a supermarket or grocery store; and
 - (b) premises that can be reached directly from a supermarket or grocery store.

Compare: 1989 No 63 s 37(3)

Clause 62

Replace *paragraph (b)* (lines 9 to 12 on page 62) with:

- (b) within 10 working days of the appointment of a new secretary, the secretary of the appropriate licensing committee is told the name of the new secretary; and

New clause 64A

Before *clause 65* (before line 31 on page 62) insert:

64A Issue of licences, certificates, and authorities

- (1) As soon after the licensing authority or a licensing committee has directed that a licence, certificate, or authority should be issued as its secretary is satisfied that all requirements imposed by the authority or committee as a condition of its issue have been met, he or she must issue the licence, certificate, or authority (endorsed, where appropriate, as the authority or committee has directed) to the applicant.
- (2) Even if the licensing authority or a licensing committee has directed that a licence should be issued for any premises, the premises are not licensed premises until the licence has been issued.

Compare: 1989 No 63 s 114

Clause 65

In the *heading to clause 65*, replace “**to set up and maintain register**” (at line 31 on page 62) with “**of authority to set up and maintain registers**”.

In *clause 65(1)*, replace “a register” (at line 4 on page 63) with “one or more registers”.

In *clause 65(2)*, replace “the register” (at line 9 on page 63) with “a register”.

Clause 68

Replace *clause 68(1)* (lines 33 to 35 on page 63) with:

- (1) Every licensee and every manager must notify an address for service to the secretary of the licensing authority promptly after adopting a new address for service.
- (1A) A licensee’s or manager’s last known address for service is a sufficient address for service under this section until a new address for service is notified under **subsection (1)**.

Clause 73

Replace *subclauses (1) to (3)* (lines 2 to 20 on page 67) with:

- (1) The holder of a licence or manager’s certificate may at any time surrender it by—
 - (a) notifying the secretary of the licensing committee of its surrender; and
 - (b) sending it to the secretary.
- (2) The licence or certificate ceases to have effect from the day the secretary receives it; and the secretary must—
 - (a) notify the secretary of the licensing authority that the licence or certificate was surrendered on that day; and
 - (b) record—
 - (i) the day on which he or she was notified of the surrender; and

- (ii) the day on which the licence or certificate was received.
- (3) The licensee or person surrendering his or her manager's certificate is entitled to a proportionate refund of any fee paid for the licence or certificate, ascertained by—
 - (a) deducting from the amount of the fee the cost of processing the application for it or granting it; and
 - (b) calculating the proportion of the remainder that relates to the period for which the licence or certificate would have had effect if it had not been surrendered.

Delete *subclause (3A)* (lines 21 to 24 on page 67).

Clause 74

Replace *clause 74* (line 33 on page 67 to line 11 on page 68) with:

74 Temporary licence during repairs etc

- (1) The appropriate licensing committee may authorise a licensee to sell alcohol pursuant to the licence on or from premises other than the licensed premises concerned for any period it from time to time determines where—
 - (a) the licensed premises are unfit for the sale of alcohol because of a fire, storm, earthquake, or other unforeseen event; or
 - (b) the licensed premises are or will become unfit for the sale of alcohol because of their repair, alteration, or rebuilding, or the building of additions to them; or
 - (c) any other circumstances have arisen or will arise (in respect of the premises) that prevent or will prevent the sale of alcohol on the licensed premises.
- (2) While an authority under **subsection (1)** is in force, this Act has effect as if—
 - (a) the licensed premises concerned were not licensed premises; and
 - (b) the other premises were the licensed premises to which the licence concerned relates.

Clause 77(1)

Replace *paragraph (b)* (lines 6 and 7 on page 69) with:

- (b) location of licensed premises by reference to proximity to premises of a particular kind or kinds:
- (ba) location of licensed premises by reference to proximity to facilities of a particular kind or kinds:

Clause 77A

Replace the heading (at line 23 on page 70) with “**Authority may produce draft policy**”.

In *clause 77A(1)*, replace “must first” (at line 25 on page 70) with “may”.

Clause 78

Replace the heading (at line 11 on page 71) with “**Authority may produce provisional policy by consulting on draft policy using special consultative procedure**”.

In *clause 78(1)*, replace “must” (at line 14 on page 71) with “may”.

Clause 80

Replace the heading (at line 18 on page 71) with “**Authority wishing to adopt provisional policy must give public notice**”.

In *clause 80(1)*, replace “must” (at line 27 on page 71) with “may”.

Clause 81

Replace *clause 81(2)* (lines 4 to 6 on page 72) with:

- (1A) The Police or a Medical Officer of Health may, within 30 days of the public notification of a draft local alcohol policy, appeal to the licensing authority against any element of the resulting provisional local alcohol policy.
- (2) Except as provided in **subsection (1A)**, a person or agency that did not make submissions as part of the special consultative procedure on a draft local alcohol policy cannot appeal against any element of the resulting provisional local alcohol policy.

Clause 83

Replace *subclause (2)* (lines 23 to 25 on page 73) with:

- (2) In an appeal to the High Court against the licensing authority’s finding that an element of a provisional local alcohol policy is unreasonable in the light of the object of this Act, every person who appealed to the licensing authority against the element is a respondent.

Clause 87

Replace *subclause (2)* (lines 17 to 20 on page 76) with:

- (2) If **subsection (5)** applies to a local alcohol policy (or an amendment of a local alcohol policy),—
 - (a) the element or elements (or modification or modifications) by virtue of which that subsection applies must not be brought into effect under **subsection (1)(b)** on a day earlier than the day 3 months after the day on which public notice of its adoption was given; but
 - (b) the rest of the policy or amendment may be brought into effect under **subsection (1)(b)** on any day stated by resolution.
- (2A) **Subsection (2)** overrides **subsection (1)**.

New clauses 87A and 87B

After *clause 87* (after line 14 on page 77), insert:

87A Licensing authority to be given copy of local alcohol policy

- (1) Promptly after a local alcohol policy has been brought into force, the territorial authority concerned must give the licensing authority a copy.
- (2) Promptly after an amendment of a local alcohol policy has been brought into force, the territorial authority concerned must give the licensing authority a copy of the amendment, or of the policy as amended.
- (3) Promptly after the revocation of a local alcohol policy takes effect, the territorial authority concerned must notify the licensing authority that it has been revoked.

87B Licensing authority to keep register of local alcohol policies

- (1) The secretary of the licensing authority must keep a register of local alcohol policies in force (reflecting all amendments notified under **section 87A(2)**)
- (2) Any member of the public may, on payment of any prescribed fee, obtain an extract from the register from the secretary.

Clause 97

In *clause 97(5)*, after “secretary” (at line 12 on page 80), insert “of the licensing committee concerned”.

Clause 98

In *clause 98(1)*, after “secretary” (at line 16 on page 80), insert “of the licensing committee concerned”.

Clause 100

In *clause 100(1)(h)* replace “by more” (at line 4 on page 82) with “to more”.

After *clause 100(1)(h)* (after line 5 on page 82), insert:

- (ha) whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that—
 - (i) they would be unlikely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects of the issue of the licence; but
 - (ii) it is nevertheless desirable not to issue any further licences:

Clause 103

Replace “committee or licensing authority” (at line 20 on page 83) with “authority or licensing committee”.

Clause 104(1A)(b)

Replace “for premises of different kinds different levels of licensing fee prescribed by the regulations” (at lines 23 to 25 on page 84) with “different levels of licensing fee prescribed by the regulations for premises of different kinds”.

New clauses 105A to m105D

Replace *clause 105A* (line 17 on page 86 to line 6 on page 87) with:

105A Compulsory conditions relating to display and promotion of alcohol in single area in supermarkets and grocery stores

- (1) The purpose of this section and **sections 105B and 105C** is to limit (so far as is reasonably practicable) the exposure of shoppers in supermarkets and grocery stores to displays and promotions of alcohol, and advertisements for alcohol.
- (2) The licensing authority or licensing committee concerned must ensure that, when it issues or renews an off-licence for premises that are a supermarket or grocery store, it imposes on the licence a condition describing one area within the premises as a permitted area for the display and promotion of alcohol.
- (3) On the renewal of an off-licence for premises that are a supermarket or grocery store, any single-area condition imposed when the licence was issued (or was last renewed) expires.
- (4) **Subsection (3)** is subject to **section 105D(4)**.

105B Describing alcohol areas

- (1) The licensing authority or licensing committee concerned must have regard to **section 105A(1)**—
 - (a) when describing an alcohol area; and
 - (b) when taking any other action under this section; and
 - (c) when forming any opinion for the purposes of this section.
- (2) An alcohol area must be described by means of a plan of the footprint of the premises concerned (or, in the case of premises on more than one level, a plan of the footprint of the level on which the area is or is to be located) showing—
 - (a) the proposed configuration and arrangement (or, in the case of the renewal of a licence, the existing or any proposed new configuration and arrangement) of the premises or level; and
 - (b) the perimeter of the area.
- (3) The area may be so described that it is divided into 2 or 3 sub-areas; and in that case—
 - (a) the perimeter of each sub-area must be separately described; and

- (b) the licensing authority or licensing committee concerned must designate one sub-area as the core area and one sub-area as the secondary area, and (if the area is divided into 3 sub-areas) must designate one sub-area as the overflow area.
- (4) The perimeter of the area or any sub-area may pass through the proposed locations (or, in the case of the renewal of a licence, any existing or proposed new locations) of any display units.
- (5) The authority or committee must describe an alcohol area within the premises only if, in its opinion,—
 - (a) it is a single area; and
 - (b) the premises are (or will be) so configured and arranged that the area does not contain any part of (or all of)—
 - (i) any area of the premises through which the most direct pedestrian route between any entrance to the premises and the main body of the premises passes; or
 - (ii) any area of the premises through which the most direct pedestrian route between the main body of the premises and any general point of sale passes.
- (6) For the purposes of this section and **section 105C**, **general point of sale** means anything that is—
 - (a) a checkout, till, or cashbox where goods other than alcohol (or alcohol and goods other than alcohol) may be bought; or
 - (b) a device by which goods other than alcohol (or alcohol and goods other than alcohol) may be paid for without the involvement of any person other than the buyer.

105C Effect of single-area conditions

- (1) Every single-area condition takes effect as a condition that the licensee of the premises concerned must ensure that—
 - (a) no display or promotion of, or advertisement for, alcohol occurs on the premises at any place outside the alcohol area; and
 - (b) the premises are not reconfigured or rearranged in a way whose effect (whether intentional or not) is that the alcohol area contains—
 - (i) any area of the premises through which the most direct pedestrian route between any entrance to the premises and the main body of the premises passes; or
 - (ii) any area of the premises through which the most direct pedestrian route between the main body of the premises and any general point of sale passes.

- (2) If the alcohol area has not been so described that it is divided into 2 or 3 sub-areas, a single-area condition also takes effect as a condition that the licensee of the premises concerned must ensure that no display or promotion of, or advertisement for, a product that is not alcohol occurs on the premises at any place inside the alcohol area.
- (3) If the alcohol area has been so described that it is divided into 2 sub-areas, a single-area condition also takes effect as a condition that the licensee of the premises concerned must ensure that—
 - (a) no display or promotion of, or advertisement for, a product that is not alcohol occurs on the premises at any place inside the sub-area designated as the core sub-area; and
 - (b) no display or promotion of, or advertisement for, a product that is not alcohol occurs on the premises at any place inside the sub-area designated as the secondary sub-area unless it occurs at a time when no display or promotion of, or advertisement for, alcohol is occurring inside that sub-area.
- (4) If the alcohol area has been so described that it is divided into 3 sub-areas, a single-area condition also takes effect as a condition that the licensee of the premises concerned must ensure that—
 - (a) no display or promotion of, or advertisement for, a product that is not alcohol occurs on the premises at any place inside the sub-area designated as the core sub-area; and
 - (b) no display or promotion of, or advertisement for, a product that is not alcohol occurs on the premises at any place inside the sub-area designated as the secondary sub-area unless it occurs at a time when—
 - (i) no display or promotion of, or advertisement for, alcohol is occurring inside that sub-area; and
 - (ii) no display or promotion of, or advertisement for, alcohol is occurring inside the sub-area designated as the overflow sub-area; and
 - (c) no display or promotion of, or advertisement for, a product that is not alcohol occurs on the premises at any place inside the sub-area designated as the overflow sub-area unless it occurs at a time when no display or promotion of, or advertisement for, alcohol is occurring inside that sub-area.
- (5) For the purposes of this section,—
 - (a) neither of the following is a promotion of alcohol:

- (i) a sign (consistent with other general signage in the supermarket or grocery store concerned) giving directions to, or describing the location of, an area where alcohol is available for purchase;
- (ii) a newspaper, magazine, or catalogue containing a promotion of or advertisement for alcohol; and
- (b) **described** means described under **section 105B**; and
- (c) **designated** means designated under **section 105B(3)(b)**.

105D Application of single-area conditions can be delayed for some renewals

- (1) In this section, **new single-area condition** means a single-area condition—
 - (a) that is imposed on the renewal of an off-licence that is not subject to a single-area condition; or
 - (b) that—
 - (i) is imposed on the renewal of an off-licence that is subject to a single-area condition; but
 - (ii) is (in the opinion of the licensing authority or licensing committee concerned) materially different from that condition.
- (2) When imposing a new single-area condition, the licensing authority or licensing committee concerned may state a period (not exceeding 18 months) from the day on which the renewal concerned takes effect during which the condition will not apply.
- (3) The period stated must be no longer than (in the opinion of the licensing authority or licensing committee concerned) is reasonably necessary to enable the licensee to configure the premises concerned so that the new single-area condition can be complied with.
- (4) When stating a period under **subsection (2)**, the licensing authority or licensing committee concerned may state any other conditions (being conditions the authority or committee thinks reasonable) to apply while the new single-area condition does not apply.
- (5) Until the new single-area condition applies, the other conditions take effect as conditions imposed under **section 107 or 120A**.
- (6) If the licensing authority or licensing committee concerned does not state a period under **subsection (2)** on renewing an off-licence subject to a new single-area condition, the new condition applies as soon as the renewal takes effect.

Clause 110(2)

After “manner” (at lines 27 and 28 on page 89) insert “and be accompanied by any prescribed fee”.

Clause 120

After *subclause (1)(b)* (after line 21 on page 95), insert:

- (ba) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made by virtue of **section 118**:

Clause 123

In *clause 123(3)*, replace “certificate” (at line 19 on page 97) with “licence”.

Clause 124

In *clause 124(2)*, after “manner” (lines 31 and 32 on page 97), insert “and be accompanied by the prescribed fee”.

Clause 125

After *clause 125(2)* (after line 31 on page 98), insert:

- (3) If (under **subsection (2)**) the licensing committee decides to consider an application for a special licence filed less than 20 working days before the day on which the event concerned begins,—
 - (a) it must, after consulting the Police and Medical Officer of Health, fix a period of less than 15 working days after receiving a copy of the application within which reports from the Police or Medical Officer of Health must be received; and
 - (b) it must notify the Police, an inspector, and the Medical Officer of Health of the period fixed when sending copies of the application under **section 129(1)**.
- (4) If the licensing committee fixes under **subsection (3)** a period of less than 15 working days, the references in **section 129** to 15 working days must (in relation to any report on the application concerned) be read as a reference to the period fixed.

Clause 127

In *clause 127(b)*, after “secretary” (at line 18 on page 99), insert “of the licensing committee concerned”.

Clause 128

In *clause 128(1)(b)*, after “secretary” (at line 28 on page 99), insert “of the licensing committee concerned”.

Clause 129

Replace the *heading to clause 129* (lines 4 and 5 on page 100) with “**Inquiry into applications by Police, inspector, and Medical Officer of Health**”.

In *clause 129(1)*, after “secretary” (at line 6 on page 100), insert “of the licensing committee concerned”.

After *clause 129(5)* (after line 37 on page 100), insert:

- (6) This section is subject to **section 125(4)**.

New clauses 139A and 139B

After *clause 139* (after line 31 on page 106), insert:

139A Effect of appeal against decision (by licensing committee or licensing authority) to grant licence or manager’s certificate

- (1) No decision to grant an application for a licence or a manager’s certificate has any effect until the time allowed for filing an appeal has expired if—
 - (a) an objection to the application has been duly filed and has not been withdrawn; or
 - (b) a report has been submitted by the Police or an inspector or a member of the fire service or a Medical Officer of Health recommending that the application be refused.
- (2) **Sections 142A, 147A, and 157A** override this section.

Compare: 1989 No 63 s 147

139B Effect of appeal against other decisions by licensing authority

- (1) Except as provided in **subsections (2) and (3)**, where an appeal is filed against any decision of the licensing authority (other than a decision to which **section 139A** applies) the decision continues in force and has effect pending the final determination of the appeal.
- (2) Where an appeal is filed against any decision of the licensing authority, other than a decision to which **section 139A** applies, the High Court may, of its own motion or on an application made for the purpose, order that the decision ceases to continue in force and has no effect pending the final determination of the appeal.
- (3) Where the High Court makes an order under **subsection (2)** in relation to a decision to refuse to renew, to suspend, or to cancel any licence or manager’s certificate, the licence or manager’s certificate must, if the appeal is not finally determined on or before the expiry of the licence or certificate by passage of time, be deemed to be extended until the final determination of the appeal.

Compare: 1989 No 63 s 147A

Clause 141

In *clause 141(6)*, after “secretary” (at line 32 on page 107), insert “of the licensing authority”.

Clause 142

Replace *clause 142(5)* (lines 27 to 29 on page 109) with:

- (5) The secretary of the licensing authority must also return to the secretary of the licensing committee any application, papers, and exhibits forwarded by the secretary of the licensing committee under **section 141(7)**.

Clause 142A(3)

Before “**272**” (at line 2 on page 110), insert “**269 or**”

Clause 143

Replace *clause 143* (lines 18 to 24 on page 110) with:

143 Who may appeal to High Court

Any party may appeal to the High Court against a decision of the licensing authority if—

- (a) the proceedings concerned commenced in the licensing authority; or
(b) a licensing committee referred the proceedings concerned to the licensing authority for decision.

Compare: 1989 No 63 s 137(6)–(9)

Clause 144

In *clause 144(2)*, replace “**145**” (at line 1 on page 111) with “**155**”.

Replace *clause 144(5)* (lines 4 to 7 on page 111) with:

- (5) Either before or immediately after the filing of the notice of appeal, the appellant must leave a copy with the secretary of the licensing authority.

Clause 145(1)

After “appeal” (at line 22 on page 111) insert “under **section 143**”.

Clause 146

In *subclause (3)*, delete “a” (at line 2 on page 113) where it secondly occurs.

Clause 147

Delete *clause 147* (lines 5 to 33 on page 113).

Clause 147A(2)

Replace “relating to a decision to suspend a licence under **section 272**” (at lines 5 and 6 on page 114) with “under **section 266, 267, or 271**”.

Clause 150

Delete *clause 150* (line 32 on page 115 to line 4 on page 116).

Clause 151

In *clause 151(2)*, delete “**147(2) to (4)**,” (at lines 26 and 27 on page 116).

Clauses 153 to 155

Delete *clauses 153 to 155* (lines 1 on page 117 to line 21 on page 118).

Clause 157A(2)

Replace “relating to a decision to suspend a licence under **section 272**” (at lines 14 and 15 on page 120) with “under **section 266, 267, or 271**”.

Clause 166

After *clause 166* (after line 7 on page 124) insert as *subclause (2)*:

- (2) The Minister must lay a copy of the report before the House of Representatives within 20 sitting days after the day on which he or she receives it.

Clause 175

In *clause 175(e)*, replace “bought” (at line 29 on page 126) with “brought”.

Clause 177

After *clause 177(2)* (after line 13 on page 127), insert:

- (2A) A territorial authority may appoint a member of that territorial authority to be deputy chairperson, and act in place of the chairperson if the chairperson is unable to act because of illness or absence from New Zealand, or for other sufficient reason.
- (2B) While acting in place of the chairperson, the deputy chairperson is a member of the committee and has all the powers and duties of the chairperson.
- (2C) No act done by the deputy chairperson serving as acting chairperson in the chairperson’s absence, and no acts done by the committee while the deputy chairperson is so serving, can in any proceedings be questioned on the ground that the occasion for his or her so serving had not arisen or had ceased.

Clause 178

In *clause 178(2)*, after “**section 98**” (at line 6 on page 128), insert **, 118, or 129**.

Clause 188(2)

Replace “to make a” (at line 3 on page 135) with “for”.

Clause 190A

In *clause 190A(1)(b)*, replace “an” (at line 9 on page 138) with “a”.

Clause 190B

In *clause 190B(1)(d)*, replace “licence” (at line 33 on page 138) with “certificate”.

In *clause 190B(1)(e)* after “requirements” (at line 36 on page 138), insert “under **section 272**”.

Clause 194

In *clause 194(1)*, delete “given” (at line 3 on page 141).

Clause 195

In *clause 195*, replace “on-licence, an off-licence (other than an on-licence endorsed under **section 39**)” (at lines 10 and 11 on page 142) with “on-licence (other than an on-licence endorsed under **section 39**), an off-licence”.

Clause 199

Replace *clause 199(1)* (lines 18 to 21 on page 143) with:

- (1) The requirement to have a manager on duty at all times when alcohol is being sold or supplied to the public on any licensed premises does not apply to—
 - (a) premises for which a club licence is held; or
 - (b) premises for which an on-licence endorsed under **section 39** is held; or
 - (c) premises for which an off-licence endorsed under **section 41A** is held; or
 - (d) premises for which an off-licence but no on-licence is held where fruit or vegetable wine or grape wine is made; or
 - (e) premises for which an off-licence but no on-licence is held that are situated on land from which there is harvested produce from which fruit or vegetable wine or grape wine is made.
- (1A) At any time, the requirement to have a manager on duty at all times when alcohol is being sold or supplied to the public on any licensed premises does not apply to any premises for which both an off-licence and an on-licence is held if—
 - (a) the premises are—
 - (i) premises where fruit or vegetable wine or grape wine is made; or
 - (ii) premises situated on land from which there is harvested produce from which fruit or vegetable wine or grape wine is made; and
 - (b) at that time no alcohol is being sold or supplied to the public for consumption on the premises.

Clause 209

In *clause 209(1)*, after “secretary” (at line 15 on page 148), insert “of the licensing committee concerned”.

Clause 211

In *clause 211*, replace “a licensing committee or the licensing authority, as the case may be,” (at lines 18 and 19 on page 149) with “, the licensing authority or licensing committee concerned”.

Clause 214

In *clause 214(1)(a)*, delete “the licensee or” (at line 29 on page 150).

In *clause 214(1)(b)*, delete “the licensee or” (at line 32 on page 150).

Clause 215(2)

Delete *paragraph (a)* (line 13 on page 151).

Clause 215A

Replace *clause 215A* (lines 1 to 9 on page 152) with:

215A Licensees to keep record of temporary and acting managers

- (1) Every licensee required by this Act to appoint a manager or managers for any premises must, in respect of each manager, acting manager, or temporary manager appointed for the premises, record (in a form that is readable or retrievable) the information prescribed by regulations made under this Act for the purposes of this section.
- (2) The licensee must keep the information recorded for at least 2 years after it is recorded.

Clause 220

In *clause 220(1)(d)*, after “offers” (at line 3 on page 155), insert “(otherwise than by means of an offer made only on licensed premises, and made only in relation to the buying of alcohol on those premises)”.

Clause 224

In the *heading to clause 224*, after “minors” (at line 27 on page 157), insert “**or people under purchase age**”.

After *clause 224(1)* (after line 28 on page 157), insert:

- (1A) A person who, in a manner that is not a responsible manner, supplies alcohol to a person who is not a minor but is under the purchase age (as defined in **section 11** in relation to the sale and purchase of alcohol on licensed premises for consumption somewhere else) commits an offence.

In *clause 224(2)*, after “**subsection (1)**” (at line 31 on page 157), insert “**or (1A)**”.

In *clause 224(3)(b)* (at lines 1 and 2 on page 158), delete “is not a minor or”.

In *clause 224(3)(c)*, before “consent” (at line 5 on page 158), insert “express”.

In *clause 224(4)*, replace “whether the alcohol was supplied in a responsible manner to the minor” (at lines 7 and 8 on page 158) with “for the purposes of **subsection (1A), (3)(a), or (3)(c)** whether alcohol was supplied to any person in a responsible manner”.

In *clause 224(4)(h)*, replace “minor” (at line 21 on page 158) with “person to whom the alcohol was supplied”.

In *clause 224(5)*, replace “**Subsection (1)** applies” (at line 24 on page 158) with “**Subsections (1) and (1A)** apply”.

Clause 230

Replace *clause 230(1)* (lines 14 to 17 on page 161) with:

- (1) A person who is the licensee or manager of any licensed premises must take all reasonably practicable steps to ensure that the licensee does not do any of the following things without the authority of this Act:
 - (a) sell or supply alcohol on the premises for consumption there; or
 - (b) let people consume alcohol on the premises; or
 - (c) sell or supply alcohol on the premises for consumption somewhere else.

Clause 238

Before *clause 238(1)(a)* (after line 26 on page 164), insert:

- (aa) is not a time when a special licence applies to the premises; and

In *clause 238(1)(a)*, replace “the premises cease to be required to be closed for the sale of alcohol” (at lines 27 and 28 on page 164) with “the next period of permitted trading hours for the premises begins”.

Replace *clause 238(3)(f)* (lines 9 to 12 on page 165) with:

- (f) an employee of the licensee who does not live on the premises, during the hours he or she is employed to work on the premises, and for 60 minutes after those hours have ended:

In *clause 238(3)(k)*, replace “**paragraph (j)**” (at line 25 on page 165) with “**paragraph (i) or (j)**”.

Clause 241

In *clause 241(a)*, delete “, **196,**” (at line 4 on page 167).

Clause 242

Replace *clause 242(1)(b)* (lines 24 and 25 on page 167) with:

- (b) any requirement or prohibition imposed by regulations of a kind described in **section 382A(2) or 384** made under **section 382(1)(c)**.

Clause 252

In *clause 252(1)*, replace “supply” (at line 34 on page 173) with “provide”.

In *clause 252(4)(a)*, replace “supply” (at line 18 on page 174) with “provide”.

In *clause 252(4)(b)*, replace “supplies” (at line 198 on page 174) with “provides”.

Clause 253

In *subclause (1)*, replace “a” (at line 24 on page 174) with “any” in the second place.

In *subclause (2)* replace “Any District Court Judge, Justice, Community Magistrate, or Registrar (not being a constable) may, on an application by a constable, issue a search warrant to search a” (at lines 26 to 28 on page 174) with “An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) may, on an application by a constable in the manner provided by in subpart 3 of Part 4 of that Act, issue a search warrant to search any”.

Clauses 254 to 257

Replace *clauses 254 to 257* (line 4 on page 175 to line 2 on page 177) with:

253A Search and Surveillance Act 2012 to apply

Part 4 of the Search and Surveillance Act 2012 applies to warrants issued under **section 253** and applications for them.

Clause 260

Before *subclause (3)* (before line 19 on page 178), insert:

- (2A) In any proceedings for an offence against any of **sections 227, 228, 230, 231, 238, and 239**, any element of the offence relating to any person being, at the time of the alleged offence, entitled to have alcohol sold or supplied to him or her, or to consume or procure it or have it in his or her possession on the licensed premises, or to be on the licensed premises or any particular part of the licensed premises, must be treated as having been proved unless at least 20 working days before the hearing the defendant puts the question in issue by written notice to that effect served on the prosecution.

Clause 264

In *clause 264(3)*, replace “medical Office” (at line 24 on page 180) with “Medical Officer”.

Clause 271

In *clause 271(4)*, after “secretary” (at line 17 on page 186), insert “of the licensing authority”.

Clause 273

In *subclause (1)(e)*, after “offered” (at line 18 on page 190), insert “(otherwise than by means of an offer made only on licensed premises, and made only in relation to the buying of alcohol on those premises)”.

Replace *subclause (1)(f)* (lines 21 to 24 on page 190) with:

- (f) promoted a competition that required or enabled people to enter it by buying alcohol (otherwise than—
- (i) by offering (by means of an offer made only on licensed premises, and made only in relation to the buying of alcohol on those premises) any goods or services, or the opportunity to obtain any goods or services, or the opportunity to win

a prize, on the condition that alcohol is bought;
or

- (ii) by simply stocking, displaying, and selling the alcohol concerned); or

Replace *subclause (1)(j)* (lines 33 to 35 on page 190) with:

- (j) sold or supplied alcohol to a person at a time when the licensee was not authorised by the licence or this Act to sell or supply alcohol to the person; or

Clause 275

In *clause 275(1)*, replace “court or the licensing authority (as the case may be)” (at line 3 on page 192) with “licensing authority”.

Clause 309

Replace *clause 309* (lines 28 to 36 on page 205) with:

309 Offence of acting as member of licensing trust while disqualified

A person who while disqualified under **section 307 or 308** does any act as a member of a licensing trust commits an offence and is liable on conviction to a fine of not more than \$1,000.

Compare: 1989 No 63 s 200(4)

Clause 319

In *clause 319(5)*, after “on” (at line 21 on page 200), insert “conviction”.

Clause 333

In *clause 333*, replace “**clause 1**” (at line 33 on page 215) with “**Part 1**”.

Clause 340

In *clause 340(5)*, replace “**298**” (at line 25 on page 219) with “**336**”.

Clause 382

In *clause 382(1)* replace *paragraphs (a) and (b)* (lines 16 to 20 on page 235), with:

- (aa) prescribing the procedure to be followed in respect of applications, objections, and reports to, and proceedings before, the licensing authority or district licensing committees:
- (a) prescribing fees payable to the licensing authority in relation to the performance of its functions:
- (b) prescribing fees payable to territorial authorities in relation to—
 - (i) the performance of the functions of their licensing committees; or
 - (ii) the performance of the functions of their inspectors; or

- (iii) the undertaking of enforcement activities:

In *clause 382(1)(ba)*, before “requiring” (at line 21 on page 235), insert “for the purpose only of any investigations to be undertaken in relation to the possibility of introducing minimum pricing schemes for alcohol.”

After *clause 382(2)* (after line 5 on page 236), insert:

- (3) Regulations made under **subsection (1)(c)** for the purposes of the definition in **section 5(1)** of public notice may prescribe different requirements for different matters, by reference to either or both of the following:
- (a) the kind of licence to which the notice relates;
 - (b) the kind of person required to give the notice.

New clauses 382A and 383B

After *clause 382* (after line 5 on page 236), insert:

382A Regulations regulating sale of alcohol containing less than 15% ethanol (other than beer, mead, and wine)

- (1) This subsection applies to alcohol that—
- (a) is not alcohol of one of the following kinds:
 - (i) beer;
 - (ii) fruit or vegetable wine;
 - (iii) grape wine;
 - (iv) mead; and
 - (b) contains less than 15% ethanol by volume measured at 20°C.
- (2) Regulations made under **section 382** may regulate or prohibit the sale on licensed premises of alcohol to which **subsection (1)** applies.
- (3) The regulations may apply to all alcohol to which **subsection (1)** applies, or alcohol of that kind of a stated description.
- (4) The description may be stated by reference to any or all of the following characteristics:
- (a) the volume of the vessel in which the alcohol is sold;
 - (b) the proportion by volume (at 20°C) of ethanol in the alcohol;
 - (c) the amount by volume (at 20°C) of ethanol in the alcohol.
- (5) The regulations may apply to all licensed premises, or premises for which a licence of a stated description is held.

382B Consultation on regulations regulating sale of alcohol containing less than 15% ethanol (other than beer, mead, and wine)

Before recommending the making of regulations regulating or prohibiting the sale on licensed premises of alcohol to which **section 382A(1)** applies, the Minister must, to the extent that

is reasonably practicable having regard to the circumstances of the particular case, consult the persons the Minister has reason to believe are representative of interests likely to be substantially affected by the regulations.

Clause 385

In *subclause (1)*, replace “**382(a)**” (at line 2 on page 238) with “**382(1)(a)**”.

Replace *subclause (1)(a)* (lines 3 to 14 on page 238) with:

- (a) may do anything reasonably necessary to ensure that, so far as is practicable, the total costs of the licensing authority are recovered out of the fees paid to it under this Act:
- (aa) may do anything reasonably necessary to ensure that, so far as is practicable, the following are recovered out of the fees paid to territorial authorities under this Act:
 - (i) the total costs to territorial authorities of the performance by their district licensing committees of their functions:
 - (ii) the total costs to territorial authorities of inspectors employed or contracted by them (or, where inspectors employed or contracted by them perform both the functions of an inspector and other functions, the appropriate proportion of the total costs of those inspectors):
 - (iii) the total costs to territorial authorities (in addition to those referred to in **subparagraph (ii)**) of their undertaking (directly or by agents or contractors) of enforcement activities under this Act:

Replace *subclause (1)(b)(i)* (line 18 on page 238) with:

- (i) the kinds of premises involved (whether premises for which licences of different kinds are held, premises of different kinds or descriptions for which licences of the same kind are held, or both); and
- (ia) the kinds of licence held for the premises involved; and

Clause 389

Replace *clause 389* (line 30 on page 240 to line 13 on page 241) with:

389 Disposal of certain applications made within 6 months after day of assent

- (1) This section applies to an application made under the 1989 Act for a licence, the cancellation, renewal, or suspension of a licence, or a variation of a licence, if it was filed before the day 6 months after the day of assent.
- (2) An application to which this section applies must be dealt with by the licensing authority or District Licensing Agency—
 - (a) under the 1989 Act; and

- (b) as if this Act had not been enacted.
- (3) If the application for it was made after the day of assent, a licence granted (by virtue of **subsection (2)**) under the 1989 Act has effect as a temporary licence only, and if not earlier renewed, expires 12 months after it is issued.
- (4) The person who made an application to which this section applies may ask the licensing authority or District Licensing Agency (as the case requires) to consider it under **section 389A** instead of this section; and in that case, it must be dealt with under that section as if it were an application to which that section applies, but not before the day that is 6 months after the day of assent.
- (5) **Subsections (3) and 4)** override **subsection (2)**.
- (6) In this section and **sections 389A and 390**,—
1989 Act means the Sale of Liquor Act 1989
day of assent means the day on which this Act received the Royal assent
District Licensing Agency means the appropriate District Licensing Agency under the 1989 Act.

389A Disposal of applications made between 6 and 12 months after day of assent

- (1) This section applies to an application made under the 1989 Act for a licence, the cancellation, renewal, or suspension of a licence, or a variation of a licence, if it was filed—
 - (a) after the day 6 months after the day of assent; but
 - (b) before the day 12 months after the day of assent.
- (2) An application to which this section applies must be dealt with by the licensing authority or District Licensing Agency under the 1989 Act, but—
 - (a) as if such of the new provisions stated below as have corresponding provisions in the 1989 Act had effect in place of those corresponding provisions; and
 - (b) as if such of the new provisions stated below (if any) as do not have corresponding provisions in the 1989 Act were provisions of the 1989 Act; and
 - (c) as if references in the new provisions stated below to a licensing committee were references to the appropriate District Licensing Agency; and
 - (d) otherwise as if this Act (other than this section) had not been enacted.
- (3) This section, the 1989 Act, and the new provisions stated below must be given such fair, large, and liberal interpretation as is necessary to enable applications to which this section applies to be dealt with fairly and disposed of efficiently.

- (4) In this section, the **new provisions stated below**—
- (a) means **sections 3, 4, 5, 97, 98, 100, 100A, 117, 118, 120, 120A, 128, 129, and 130**; and
 - (b) includes any part of any of those sections.

Heading to clause 393

In the *heading to clause 393*, replace “**club**” (at line 1 on page 243) with “**cer-tain**”.

Clause 396

Replace *clause 396(2)(c) and (d)* (lines 33 and 34 on page 244) with:

- (c) the payment of annual or other fees.

After *clause 396(2)* (after line 34 on page 244), insert:

- (2A) Every provision of this Act creating an offence, **section 250**, and **sections 251 and 252**, apply to the holder of a permanent club charter and to the club premises as if—
 - (a) the club concerned were the holder of a club licence for the premises; and
 - (b) the premises were the premises for which the club licence were held.

Clause 396A

Replace *clause 396A* (lines 3 to 7 on page 245) with:

396A Matters not completed by District Licensing Agencies

- (1) A matter before a District Licensing Agency that has not been completed before the Agency goes out of existence (whether a matter relating to licensing or a matter relating to a manager’s certificate) may be completed by the appropriate district licensing committee; and the committee has all powers necessary to complete it.
- (2) **Subsection (1)** is subject to **sections 389 and 389A**.

Clause 399

Replace *clause 399(2)* (lines 32 and 33 on page 245) with:

- (2) Sections 4, 10, 11, 13, 19, 20, 22(a), 22(c), 22(d), 32, 33, 35, 42, 43, 45(a), 45(c), 45(d), 56, 57, 59, 65, 66, 68(a), 68(c), 68(d), and 77 to 79, of the Sale of Liquor Act 1989 are repealed.

Clause 402: new section 147

In *clause 402, new section 147(3)*, replace “use of a vehicle” (at lines 2 and 3 on page 247) with “consumption of alcohol in vehicles, or vehicles of stated kinds or descriptions,”.

Clause 411

In *clause 411(a)*, replace “**228**” (at line 18 on page 256) with “**402**”.

Schedule 2

In the item relating to the Gambling Act 2003 replace proposed *new paragraph (b)(iva)* of the definition of **key person** in section 4(1) of that Act (line 27 on page 263 to line 9 on page 264) with:

“(iva) any other person whom the Secretary reasonably believes to have a significant interest in the management, ownership, or operation of a venue operator, except for the following persons holding office, elected, or appointed under the **Sale and Supply of Alcohol Act 2012**:

“(A) a member of a licensing trust elected in accordance with **sections 293 to 299** of that Act or appointed under **section 300** of that Act; or

“(B) a trustee of a community trust holding office under **section 354** of that Act or elected in accordance with **sections 355 to 358** of that Act or appointed under **section 359** of that Act:

In the item relating to the Civil Aviation Act 1990 replace “**section 7**” in proposed *new section 96(1)(a)* of that Act (at line 21 on page 261) with “**section 9**”.

In the item relating to the Civil Aviation Act 1990 replace “**section 8**” in proposed *new section 96(1)(b)* of that Act (at line 25 on page 261) with “**section 10**”.

Replace the item relating to the Private Investigators and Security Guards Act 1974 (lines 13 to 16 on page 266) with:

**Private Security Personnel and Private Investigators Act 2010
(2010 No 115)**

In section 10(b) replace “Sale of Liquor Act 1989” with “**Sale and Supply of Alcohol Act 2012**”.

In section 18(b) replace “Sale of Liquor Act 1989” with “**Sale and Supply of Alcohol Act 2012**”.

After the item relating to the Residential Tenancies Act 1986 insert:

Search and Surveillance Act

Replace the item relating to the Sale of Liquor Act 1989 with:

Sale and Supply of Alcohol Act 2012	253	Constable may obtain and execute search warrant if issuing officer is satisfied that there are reasonable grounds for believing that certain contraventions of Sale and Supply of Alcohol Act 2012 are occurring	All
--	------------	---	-----

Explanatory note

Unless expressly referred to in this explanatory note, proposed amendments set out in this Supplementary Order Paper are technical or verbal only.

Clause 2

The amendment to *clause 2* adjusts the sequence of commencements provided for by that clause. At present, it provides that—

- certain formal provisions come into force on assent;
- *clause 60(3)* (which requires holders of off-licences to take reasonable steps to verify that a buyer of alcohol sold by remote sale, and any person receiving it on behalf of the buyer, is not under the purchase age) is to be brought into force by Order in Council;
- all other provisions come into force either 6 months or 12 months after assent.

The adjustments have the effect of providing for a more orderly initiation of the mechanisms provided for by the Bill, by—

- changing the commencement of a number of provisions from 6 months after assent to 12 months after assent; and
- changing the commencement of a number of other provisions from 12 months after assent to 6 months after assent.

Clause 5

Several amendments to *clause 5(1)* (which contains definitions of terms used in the Bill) are proposed.

First, a redrafted definition of **alcohol** is proposed. In essence, it is the same as the present definition. But it is expanded slightly to allow for the possibility of new methods of processing and delivering alcohol (for example, aerosols).

Secondly, a new definition of **intoxicated**, aligning more closely with the criteria used by the Police in day-to-day policing, is proposed.

Thirdly, new definitions of **alcohol area**, **beer**, **fruit or vegetable wine**, **grape wine**, **mead**, **principal business**, and **single-area condition** are proposed. The definitions of **alcohol area**, **principal business**, and **single-area condition** arise out substantive amendments proposed later in this paper. The definitions of **beer**, **fruit or vegetable wine**, **grape wine**, and **mead** replace equivalent definitions at present contained in *clause 59(3)*.

Proposed new clause 5A

Proposed new clause 5A is a global provision enabling people (if they wish) to use electronic means of recording information for the purposes of the Bill, rather than paper-based records. The clause does not apply to obligations to display a notice or sign.

Clause 35A

Clause 35A is a key provision of the Bill, in that it is a mechanism for decision-makers to use in determining whether premises are a grocery store. One criterion is that the principal business carried on in the premises must be the sale of food products. To help decision-makers decide what is a food product, *subclause (1)*

contains a partial definition of **food product** providing that neither ready-to-eat prepared food nor snack food is a food product.

It is now proposed to add 2 further partial definitions—of **ready-to-eat prepared food** and **snack food**. These will not displace the everyday meanings of those terms. Rather they will enable those meanings to be clarified by regulation. Regulations will be able to make clear that (for the purposes of the Bill) either of the categories described by those terms includes or does not include food of a particular description.

In addition, the new definition of **principal business** proposed to be inserted into *clause 5(1)* will have the effect of requiring decision-makers to determine what the principal business of a shop is by using a means prescribed by regulation.

Clause 57

At present, *clause 57* requires the holder of an on-licence or off-licence to display at all times a sign attached to the outside of the premises, so as to be easily read by people immediately outside each principal entrance, stating the ordinary hours of business during which the premises are open for the sale of alcohol. It is proposed to amend the clause so that the requirement is that there should, for each principal entrance to the premises be displayed a sign attached to the inside or outside of the premises, so as to be easily read by people immediately outside the entrance.

Clause 59

It is proposed to replace *clause 59* with a simplified clause to largely the same effect. It now relies on the definitions of **beer**, **mead**, **fruit or vegetable wine**, and **grape wine** proposed to be inserted into *clause 5(1)*; and it no longer contains any link to the New Zealand food standards under section 11C of the Food Act 1981.

Clause 100

Clause 100 states the criteria for issue of licences. One criterion is whether, in the opinion of the licensing authority or licensing committee making the decision, “the amenity and good order of the locality would be likely to be reduced, by more than a minor extent, by the effects of the issue of the licence”. This does not engage directly with a situation where the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that they would be unlikely to be reduced further by the effects of the issue of another licence.

It is now proposed to add another criterion making clear that the authority or committee may refuse a licence in such a situation.

Clauses 105A to 105D

Another key provision of the Bill is *clause 105A*, which requires off-licences for premises that are a supermarket or grocery store to be subject to a condition describing one part of the premises (not containing a thoroughfare) as a permitted area for the display and promotion of alcohol. Such a condition takes effect as a condition that the licensee—

- must ensure that no display, advertisement, or promotion of alcohol occurs outside the part described; and

- must not arrange the premises in such a way that any part of the part described becomes a thoroughfare.

It is now proposed to replace that clause with different and more detailed provisions.

Clause 105A states the purpose of *clauses 105A to 105C* (which is to limit (so far as is reasonably practicable) the exposure of shoppers in supermarkets and grocery stores to displays and promotions of alcohol, and advertisements for alcohol), and requires off-licences for premises that are a supermarket or a grocery store to be subject to a condition (a **single-area condition**) describing one area within the premises (the **alcohol area**) as a permitted area for the display and promotion of alcohol.

The following explanation refers only to displays of alcohol (or products that are not alcohol). But the provisions to which the explanation relates apply equally to promotions of and advertisements for alcohol (or products that are not alcohol).

Clause 105B states the process by which it is to be determined how an alcohol area is to be described for any premises.

It must be described by means of a plan of the footprint of the premises, which must show the configuration and arrangement of the premises and the perimeter of the area.

It must not contain any area that, in the opinion of the decision-maker,—

- is an area through which the most direct pedestrian route between any entrance to the premises and the main body of the premises passes; or
- is an area through which the most direct pedestrian route between the main body of the premises and any point of sale passes.

An alcohol area may be (but does not have to be) described so that it is divided into 2 or 3 sub-areas. In that case the areas will be designated as—

- the core area and the secondary area; or
- the core area, the secondary area, and the overflow area.

Clause 105C states the effect on licensed premises of a single-area condition, which is that—

- no display of alcohol can occur outside the alcohol area:
- the premises cannot be rearranged in a way whose effect (whether intentional or not) is that the alcohol area contains—
 - an area through which the most direct pedestrian route between any entrance to the premises and the main body of the premises passes; or
 - an area through which the most direct pedestrian route between the main body of the premises and any point of sale passes.

If the alcohol area has not been divided into sub-areas, the condition also has the effect that no display of a product that is not alcohol can occur within the alcohol area.

If the alcohol area has been divided into 2 sub-areas, the condition also has the effect that—

- no display of a product that is not alcohol can occur within the core sub-area:
- a display of a product that is not alcohol can occur within the secondary sub-area if no display of alcohol is occurring there.

If the alcohol area has been divided into 3 sub-areas, the condition also has the effect that—

- no display of a product that is not alcohol can occur within the core sub-area:
- a display of a product that is not alcohol can occur within the secondary sub-area if no display of alcohol is occurring either there or in the overflow sub-area:
- a display of a product that is not alcohol can occur within the overflow sub-area if no display of alcohol is occurring there.

Clause 105C(5) makes clear that (for the purpose of the various restrictions on promotions of alcohol) neither of the following is a promotion of alcohol:

- a sign (consistent with other general signage in the supermarket or grocery store concerned) giving directions to, or describing the location of, an area where alcohol is available:
- a newspaper, magazine, or catalogue containing a promotion of or advertisement for alcohol.

Clause 105D applies to new single-area conditions, whether—

- a single-area condition imposed on the renewal of an off-licence that has not been subject to a single-area condition; or
- a single-area condition imposed on the renewal of an off-licence that has been subject to a materially different single-area condition.

It allows the operation of a new single-area condition to be postponed for up to 18 months so as to allow the licensee to make any necessary changes to the premises.

New clauses 139A and 139B

New clauses 139A and 139B relate to the effect on certain kinds of decision made under the Bill of the lodging of an appeal, and take the place of existing *clauses 154 and 155*.

New clause 139A relates to decision to grant a licence or a manager's certificate, Such a decision has no effect until the time allowed for filing an appeal has expired if—

- an objection to the application for it has been filed and not withdrawn; or
- a report by the Police, an inspector, a member of the fire service, or a Medical Officer of Health recommended that the application be refused.

New clause 139B relates to decisions of the licensing authority (other than decisions to which *clause 139A* applies) that are appealed against. As a general rule, such a decision continues in force pending the final determination of the appeal.

But if there is an appeal from the licensing authority to the High Court, the High Court can freeze the decision pending the final determination of the appeal.

Clause 199

At present, *clause 199(1)* provides that the requirement to have a manager on duty at all times when alcohol is being sold or supplied to the public on any licensed premises does not apply to a club licence or a licence for a BYO restaurant.

It is proposed to replace this provision with 2 new subclauses that exempt a larger range of premises from the requirement.

The requirement will not apply to:

- club premises:
- BYO restaurants:
- premises from which alcohol is sold remotely:
- winery premises for which an off-licence but no on-licence is held.

And at a time when no alcohol is being sold or supplied for consumption on the premises, it will not apply to winery premises for which both an off-licence and an on-licence is held.

Clause 224

Two significant amendments to *clause 224* (which creates offences in relation to the supply of alcohol to young people) are proposed.

First, it is proposed to insert a *new subclause (1A)*, making it an offence to supply alcohol irresponsibly to a person aged 18 or 19. This will apply whether or not the supplier is a parent or guardian, or has the consent of a parent or guardian.

Secondly, one of the 3 defences stated in *clause 224(3)* in relation to the offence of supplying alcohol to a minor is tightened.

At present it is a defence if the supplier believes on reasonable grounds that he or she has the consent of a parent or guardian of the minor, and supplies the alcohol in a responsible manner. It is now to be a defence only if the supplier believes on reasonable grounds that he or she has the *express* consent of a parent or guardian of the minor (and supplies the alcohol in a responsible manner).

Clauses 254 to 257

Now that the Search and Surveillance Act 2012 is in force, it is proposed to replace *clauses 254 to 257* (which relate to search warrants, powers of entry and search, and powers of people assisting a constable executing a search warrant) with a new *clause 253A*, simply providing that Part 4 of the Search and Surveillance Act 2012 applies to warrants issued under *clause 253*.

Clause 260

It is proposed to make to *clause 260* an amendment having the effect of reinstating some elements of an evidential/procedural provision whose effective deletion was recommended to the Justice and Electoral Select Committee, but is now seen to have effects that go further than originally expected.

Proposed *new subclause (2A)* relates to offences containing an element to the effect that the defendant—

- was not entitled to have alcohol sold or supplied to him or her; or
- was not entitled to consume or procure alcohol or have it in his or her possession on licensed premises (or any particular part of any licensed premises).

The subclause provides that such an element must be treated as having been proved, unless at least 20 working days before the hearing the defendant puts the question in issue by notice to the prosecution.

New clauses 382A and 383B

New clauses 382A and 383B apply to alcohol that is not beer, mead, and wine, but contains less than 15% ethanol.

New clause 382A empowers the making of regulations regulating or prohibiting the sale on licensed premises of alcohol of this kind. The regulations may apply to all alcohol of this kind, or only certain categories. And they may apply to all licensed premises, or only to premises for which a licence of a particular description is held.

New clause 382B requires the Minister to consult persons representative of interests likely to be substantially affected by regulations to be made under *clause 382A* before recommending that they be made.

New clauses 389 and 389A

It is proposed to replace *clause 389* (which provides for certain applications made under the Sale of Liquor Act 1989 to be disposed of under that Act) with 2 more elaborated clauses.

New clause 389 relates to applications for a licence, the cancellation, renewal, or suspension of a licence, or a variation of a licence, made under the 1989 Act before the day 6 months after the day on which the Bill receives the Royal assent (the **day of assent**). If the clause applies to an application, the application must be dealt with by the licensing authority or District Licensing Agency—

- under the 1989 Act; and
- as if the Bill had not been enacted.

But any licence granted takes effect as an interim licence only, expires 12 months after it is issued, and cannot be renewed.

An applicant can, however, opt to have an application dealt with under *clause 389A* instead, and obtain a renewable licence.

New clause 389A relates to certain applications made under the 1989 Act between 6 and 12 months after the day of assent. (This will be possible, because some provisions of the Bill do not come into force immediately, and the corresponding provisions of the 1989 Act stay in force until they do.) An application for a licence, the cancellation, renewal, or suspension of a licence, or a variation of a licence to which the clause applies must be dealt with by the licensing authority or District Licensing Agency under the 1989 Act; but—

- as if certain provisions of the Bill had effect in place of the corresponding provisions of the 1989 Act ; and

- as if certain provisions of the Bill that do not have corresponding provisions in the 1989 Act were provisions of the 1989 Act.
-