



ANALYSIS

<p>Title.</p> <p>1. Short Title.</p> <p style="text-align: center;">PART I</p> <p style="text-align: center;">SALE AND DELIVERY OF LIQUOR</p> <p>2. Commencement of this Part.</p> <p>3. Interpretation.</p> <p>4. Prohibiting sale of liquor through agents, other than full-time employees of licensees.</p> <p>5. Delivery of liquor by licensees or carriers.</p> <p>6. Section 110 of Licensing Amendment Act 1948 (as to records of sales) amended.</p> <p>7. Sale or delivery from bonded warehouse to be to licensee only.</p> <p style="text-align: center;">PART II</p> <p style="text-align: center;">MISCELLANEOUS</p> <p>8. Matters that may be considered by Licensing Control Commission before cancellation or surrender of licence.</p> <p>9. Time for holding quarterly licensing meetings.</p>	<p>10. Continuation of proceedings before Licensing Committee where another Committee acquires jurisdiction.</p> <p>11. Removal of licences.</p> <p>12. Section 291A of principal Act (as to redefining licensed premises) amended.</p> <p>13. Section 147A of principal Act amended.</p> <p>14. Increased penalties for refusal to supply accommodation.</p> <p>15. Offence for licensee to permit betting on licensed premises.</p> <p>16. Increased penalty for being found on licensed premises after hours.</p> <p>17. Offences against public order on licensed premises.</p> <p>18. Power of Justice to issue prohibition order on personal application.</p> <p>19. Hours for delivery of beer by brewers.</p> <p>20. Section 69 of Licensing Amendment Act 1948 (as to wine sellers' licences) amended.</p> <p>21. Section 23 of Licensing Amendment Act (No. 2) 1953 (as to wine makers' licences) amended. Schedule.</p>
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1955, No. 110

Title.

AN ACT to amend the Licensing Act 1908.

[28 October 1955

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Licensing Amendment Act 1955, and shall be read together with and deemed part of the Licensing Act 1908 (hereinafter referred to as the principal Act).

Short Title.
Reprinted 1951,
p. 946

PART I

SALE AND DELIVERY OF LIQUOR

2. This Part of this Act shall come into force on the first day of January, nineteen hundred and fifty-six.

Commencement
of this Part.

3. In this Part of this Act, unless the context otherwise requires,—

Interpretation.

“Carrier” means any person who carries any liquor for hire or reward, whether in the course of his business or not; but does not include any person carrying any liquor that is in the possession of any passenger in his vehicle:

“Licensed premises” means any licensed premises within the meaning of the principal Act; and includes any brewery, depot, or bottling store from which any brewer may lawfully deliver any liquor; and the expression “unlicensed premises” shall be construed accordingly:

“Licensee” means any licensee within the meaning of the principal Act; and includes any brewer.

4. (1) No person shall, for any payment, reward, or valuable consideration, receive any order for liquor on behalf of any licensee, unless he is the full-time employee of that licensee.

Prohibiting
sale of liquor
through agents,
other than
full-time
employees of
licensees.

(2) No person shall, for any payment, reward, or valuable consideration, forward or cause to be forwarded to any licensee any order for liquor, or supply to any other person any form of order for liquor for the purpose of enabling that other person to forward the order to any licensee, unless the first-mentioned person is the full-time employee of that licensee.

(3) No licensee shall cause or permit any person, not being the full-time employee of the licensee, to receive on his behalf or forward to him, for any payment, reward, or valuable consideration, any order for liquor.

(4) No licensee shall cause or permit any full-time employee to receive orders for liquor on his behalf at any unlicensed premises where any business is carried on by or on behalf of the licensee, unless notice in writing of the

intention to receive orders there has been given by the licensee to the member of the Police Force in charge of the police station nearest to the unlicensed premises.

(5) Where at the passing of this Act any company is registered as the owner of more than half of the issued ordinary shares in any other company that is a licensee under the principal Act, nothing in the foregoing provisions of this section shall prevent any person who is a full-time employee of the first-mentioned company from receiving any order for liquor on behalf of that licensee or from forwarding or causing to be forwarded to that licensee any order for liquor, so long as the first-mentioned company continues to be registered as the owner of more than half of such shares as aforesaid:

Provided that the first-mentioned company shall, before any orders for liquor are received on behalf of the licensee at any unlicensed premises where any business is carried on by it, give notice in writing of its intention to receive such orders there to the member of the Police Force in charge of the police station nearest to the unlicensed premises.

(6) The following provisions shall apply with respect to any unlicensed premises at which orders for liquor are received on behalf of any licensee, namely:

(a) The licensee shall cause to be kept on the unlicensed premises a record of every order for liquor received at those premises, and of the date on which the order is forwarded to the licensee; and the provisions of subsections two to six of section one hundred and ten of the Licensing Amendment Act 1948 shall apply, so far as they are applicable and with the necessary modifications, as if references therein to a sale were references to an order:

(b) Any Inspector of licensed premises, or any constable, may at all reasonable times enter and inspect the unlicensed premises for the purpose of ascertaining whether any of the provisions of the principal Act or of this Act are being contravened or not complied with.

(7) Every person commits an offence and is liable to a fine not exceeding one hundred pounds who—

(a) Acts in contravention of or fails to comply in any respect with any of the provisions of this section,

other than paragraph (a) of subsection six of this section:

- (b) Without reasonable excuse, refuses or fails to admit promptly any Inspector or constable demanding to enter any premises pursuant to paragraph (b) of subsection six of this section, or refuses to allow any inspection pursuant to that paragraph.

(8) In every prosecution for an offence against any of the provisions of subsections one to three of this section, the burden of proving that any person was a full-time employee shall be on the defendant.

(9) Nothing in this section shall be construed to limit or affect in any way the provisions of the principal Act relating to no-licence districts.

5. (1) Subject to the provisions of this section, every licensee who, in compliance with any order for liquor, sells any liquor that is not delivered to the purchaser in person at the licensed premises shall—

Delivery of liquor by licensees or carriers.

- (a) Before the liquor is despatched from the licensed premises, record in writing the name and address of the person to whom the liquor is to be delivered pursuant to the order and the nature and quantity of the liquor:

- (b) Despatch the liquor from the licensed premises to the person to whom it is to be delivered, pursuant to the order, in a package or packages, and cause to be legibly written or printed on the outside of every package the name and address of that person.

(2) The record required by paragraph (a) of subsection one of this section shall be kept by the licensee on the licensed premises.

(3) Subject as aforesaid, no licensee or carrier shall, either himself or by his employee or agent, carry in or deliver from any vehicle any such liquor as aforesaid unless—

- (a) The liquor has been despatched from the licensed premises in a package or packages, and there is legibly written or printed on the outside of every package the name and address of the person to whom it is to be delivered; and

(b) The person delivering the liquor carries a delivery book or docket or invoice in which there has been entered, before the liquor was despatched from the licensed premises, the name and address of the person to whom it is to be delivered and the nature and quantity of the liquor.

(4) Subject as aforesaid, the licensee and every carrier delivering the liquor, either himself or by his employee or agent, shall do all things reasonably necessary to ensure that it is delivered, pursuant to the order—

(a) On the day on which it leaves the licensed premises; or

(b) If delivery on that day is not practicable, with no more delay than is reasonably necessary.

(5) Every person commits an offence and is liable to a fine not exceeding fifty pounds who, without reasonable excuse, contravenes or fails to comply in any respect with any of the foregoing provisions of this section.

(6) No licensee or carrier shall be liable in respect of any contravention of or non-compliance with this section by his employee or agent, if he proves that the offence was committed without his knowledge or consent.

(7) Nothing in the foregoing provisions of this section shall apply to the delivery of any liquor to any licensee at his licensed premises for the purposes of his business, or to any chartered club at the premises of the club for the purposes of the club.

(8) Any Inspector of licensed premises, or any constable, may at any time—

(a) Inspect and examine the contents of any vehicle or package in respect of which he has reasonable grounds to suspect that any of the provisions of this section are being or have been contravened or not complied with:

(b) Enter and inspect any premises where he has reasonable grounds to suspect that any liquor is held while in transit to any person, and inspect and examine the contents of any vehicle or package found there which may contain liquor:

(c) Examine any entries in any delivery book or docket or invoice carried in any such vehicle as aforesaid.

(9) Every person commits an offence and is liable to a fine not exceeding twenty pounds who, without reasonable excuse, refuses or fails to admit any Inspector or constable to any premises on being required by him to do so, or refuses to allow any such inspection or examination as aforesaid.

(10) Nothing in this section shall apply with respect to the delivery of any liquor in any no-licence district.

6. Section one hundred and ten of the Licensing Amendment Act 1948 is hereby amended by repealing subsection two, and substituting the following subsection:

Section 110 of Licensing Amendment Act 1948 (as to records of sales) amended. Reprinted 1951, p. 1135

“(2) The record required by this section shall show—

“(a) The date of each sale:

“(b) The name and address of each purchaser, the nature and quantity of the liquor sold to him, and the name and address of the person to whom the liquor is to be delivered:

“(c) If the sale is in compliance with an order lawfully received by any employee of the licensee at any unlicensed premises, the address of those premises.”

AM.D.
No.

7. (1) Section eighty of the principal Act is hereby amended by repealing the proviso to subsection one, and substituting the following proviso:

Sale or delivery from bonded warehouse to be to licensee only.

“Provided that nothing in this section shall prevent the holder of a wholesale licence from selling or delivering from any bonded warehouse to any licensee any liquor that the last-mentioned licensee is entitled to sell under his licence.”

(2) Nothing in this section shall prevent any person who at the passing of this Act is the holder of a wholesale licence and is selling or delivering liquor from any bonded warehouse to persons other than licensees from continuing to sell or deliver liquor from that bonded warehouse, as if this section had not been passed, during the period of five years commencing with the passing of this Act.

PART II

MISCELLANEOUS

Matters that may be considered by Licensing Control Commission before cancellation or surrender of licence.
Reprinted 1951, p. 1102

8. (1) Section thirty-five of the Licensing Amendment Act 1948 is hereby amended by repealing subsection two, and substituting the following subsections:

“(2) The Commission may also, in its discretion, have regard—

“(a) To the distribution throughout New Zealand of publicans’, accommodation, wholesale, and tourist-house licences, or of any class of such licences:

“(b) To the convenience of the public of New Zealand:

“(c) To the requirements of any locality or localities in New Zealand:

“(d) To the number of publicans’, accommodation, wholesale, and tourist-house licences, or of any class of such licences, available for granting as new licences in New Zealand, and the extent to which the requirements of any locality or localities in New Zealand may be met by the grant of new licences:

“(e) Subject to the considerations set out in subsection one of this section, to such other circumstances as it considers relevant.

“(3) On any appeal to the Supreme Court against the cancellation of any licence under section thirty-one of this Act, the Commission may file in the Court a report setting out the considerations to which the Commission has had regard under subsection two of this section in determining to cancel the licence, and any conclusions formed by the Commission in respect thereof; and in determining the appeal the Court shall have regard to any report so filed. A copy of every report so filed shall be given or sent to every party to the appeal forthwith after it is filed, and any such party shall be entitled to be heard and to tender evidence on any matter referred to in the report.”

(2) The said section thirty-five is hereby further amended by adding to subsection one the following paragraph:

“(d) The condition of the licensed premises, and the nature and standard of the accommodation and essential services provided therein.”

9. Section fifty-four of the principal Act is hereby amended by omitting from subsection one the words "ten days", and substituting the words "twenty days".

Time for holding quarterly licensing meetings.

10. The principal Act is hereby amended by inserting, after section fifty, the following section:

Continuation of proceedings before Licensing Committee where another Committee acquires jurisdiction.

"50A. (1) Where any proceedings have been commenced before any Licensing Committee, whether before or after the commencement of this section, and the Licensing Committee ceases to have jurisdiction in respect of the licensed premises, or, as the case may be, in respect of the site of the proposed licensed premises, to which the proceedings relate, the proceedings may be continued and completed before any other Licensing Committee that acquires jurisdiction in respect of the premises or site.

"(2) Where, before or after the commencement of this section, the Licensing Control Commission has authorized any Licensing Committee to receive and consider applications for any licence, and the Licensing Committee ceases to have jurisdiction in respect of any locality or area within which, or any place at which, the licence is proposed to be granted, all acts and things necessary to give effect to the authorization may be done or completed by any other Licensing Committee that acquires jurisdiction in respect of the locality, area, or place, and all proceedings in respect of the proposed licence may be commenced, continued, and completed before that other Licensing Committee.

"(3) All acts and things done and all proceedings commenced, continued, or completed at any time before the commencement of this section that would have been valid if at that time this section had been in force are hereby validated."

11. (1) The principal Act is hereby further amended by repealing section one hundred and twenty-seven, and substituting the following section:

Removal of licences.

"127. (1) If the holder of any licence, not being a packet licence, a works canteen licence, or a conditional licence, desires to remove his licence to any other premises within the limits fixed by this section, he may give notice, in the appropriate form in the Eighth Schedule to this Act, of his intended application in the same manner as notice is required to be given of an application for a licence.

“(2) A copy of the notice shall be served upon the owner of the premises from which the licence is to be removed, either by delivering it to him personally or by sending it by registered letter.

“(3) An application and an order may be made under this section for the removal of a licence to premises then existing or to premises proposed to be erected.

“(4) Subject to the provisions of subsections five and six of this section, the provisions of this Act relating to objections to the granting of licences, and relating to the determination by the Licensing Control Commission and Licensing Committees of requirements in respect of the provision of accommodation and other services in premises proposed to be licensed, shall apply, so far as they are applicable and with the necessary modifications, to proceedings for the removal of any licence under this section and to the premises or proposed premises to which the licence is intended to be removed:

“Provided that in the case of premises proposed to be erected, no objection may be made after the order for removal is made.

“(5) Where an application is made for the removal of any publican’s licence, and the Licensing Committee is of opinion that an order of removal should be made, it shall not make the order immediately, but shall—

“(a) Notify the applicant that, subject to the provisions of this section, the order will be made, and that when all requirements lawfully imposed pursuant to this Act have been complied with the order will be endorsed on the licence pursuant to section one hundred and twenty-nine of this Act; and

“(b) Cause public notice to be given of its intention to make the order of removal. For the purposes of this paragraph, the expression “public notice” has the same meaning as in subsection one of section fifty-two of the Licensing Amendment Act 1948.

“(6) In the case of an application for the removal of a publican’s licence, objections may be made and a poll applied for, and the order for removal may be made, in the same manner as if the application were for the grant of a publican’s licence; and the provisions of subsections

four, five, and seven of section fifty-five of the Licensing Amendment Act 1948 and of section fifty-six and subsections one A to one C of section fifty-seven of that Act shall apply, with the necessary modifications, as if references in those provisions to the grant of a licence in respect of any premises were references to the making of an order for the removal of the licence to those premises.

Reprinted 1951,
p. 1113
1953, No. 90,
ss. 31 (1), 32
1952, No. 79,
s. 10 (1)

“(7) No accommodation licence shall be removed from the premises in respect of which it was granted to any other premises beyond the boundary of the borough, or of the ward of a divided borough, or of the town district, or of the riding of the county, or of the road district, within which the first-mentioned premises are situated, nor shall it in any case be removed to any premises situated more than half a mile by the nearest road from the first-mentioned premises if those premises are in a borough or a town district or a road district, or one mile if in a county.

“(8) No New Zealand wine licence shall be removed from the premises in respect of which it was granted to any other premises beyond the boundary of the borough, or of the ward of a divided borough, within which the first-mentioned premises are situated.

“(9) No other licence shall be removed from the premises in respect of which it was granted to any other premises situated more than five miles from the first-mentioned premises.

“(10) Notwithstanding anything in this section, no order for the removal of any publican's, accommodation, tourist-house, or wholesale licence shall be made without the prior approval of the Licensing Control Commission.”

(2) Section one hundred and twenty-nine of the principal Act is hereby amended by adding to subsection two the following additional proviso:

“Provided also that the Licensing Committee shall not make the endorsement on the licence until all requirements of the Licensing Control Commission and of the Licensing Committee lawfully imposed pursuant to this Act have been complied with or provision for compliance therewith has been made to the satisfaction of the Licensing Committee.”

(3) The following enactments are hereby consequentially repealed, namely:

Reprinted 1951,
p. 1125

(a) Subsection ten of section sixty-eight of the Licensing Amendment Act 1948:

1949, No. 31

(b) Section ten of the Licensing Amendment Act 1949.

Section 291A
of principal
Act (as to
redefining
licensed
premises)
amended.

12. Section two hundred and ninety-one A of the principal Act, as inserted by section thirty-nine of the Licensing Amendment Act (No. 2) 1953, is hereby amended by inserting, after subsection one, the following subsections:

1953, No. 90

“(1A) For the purposes of this section, the Licensing Committee may at any time, by notice in writing to the owner and the licensee of any licensed premises, call upon the owner and the licensee to lodge with the Committee detailed plans of all land and buildings or parts of buildings alleged by the owner and the licensee to comprise the licensed premises. The plans to be so lodged shall contain such measurements and other particulars as may be required by the Committee for the purpose of enabling the boundaries of the land and the limits of the buildings or parts of buildings to be readily ascertained and defined. Any notice under this subsection shall be deemed to be a direction given pursuant to subsection one of section fifty-eight of the Licensing Amendment Act 1948, and the provisions of subsections five to seven of that section shall apply accordingly, with all necessary modifications.

Reprinted 1951,
p. 1116
1952, No. 79,
s. 11 (4)

“(1B) On the lodging of such plans as aforesaid, the Licensing Committee may determine the boundaries of the land and the limits of the buildings or parts of buildings comprising the licensed premises, and may issue a certificate defining those premises.”

Section 147A
of principal
Act amended.
1953, No. 90

13. Section one hundred and forty-seven A of the principal Act, as inserted by section thirty-six of the Licensing Amendment Act (No. 2) 1953, is hereby amended as follows:

(a) By omitting from subsection one the words “any of the no-licence districts of Oamaru, Clutha, and Mataura”, and substituting the words “the no-licence district of Oamaru”:

(b) By omitting from subsection six the words “the no-licence districts of Oamaru, Clutha, and Mataura”, and substituting the words “the no-licence district of Oamaru”.

14. (1) Section one hundred and sixty-five of the principal Act is hereby amended by omitting the words "ten pounds", and substituting the words "fifty pounds".

Increased penalties for refusal to supply accommodation.

(2) The said section one hundred and sixty-five is hereby further amended by adding the following subsections as subsections two and three thereof:

"(2) Subject to the provisions of subsection three of this section, the convicting Court may in its discretion, in addition to or instead of imposing any such fine as aforesaid, suspend the licence of the person convicted for any period not exceeding seven days. While the licence is so suspended the holder thereof shall be deemed not to be a licensed person and the premises shall be deemed not to be licensed premises:

"Provided that while the licence is suspended the holder of the licence shall continue to be liable to supply lodging, meals, and accommodation to travellers in accordance with this Act as if he were an innkeeper, and the provisions of this section and of sections one hundred and seventy-one to one hundred and seventy-six of this Act and of section one hundred and nine of the Licensing Amendment Act 1948 shall continue to apply.

Reprinted 1951, p. 1134

"(3) In determining whether the licence should be suspended, the Court shall have regard to the facilities available to the public in the locality in which the licensed premises are situated."

15. Section one hundred and eighty-five of the principal Act is hereby amended by inserting, after the word "gambling", the words "or betting".

Offence for licensee to permit betting on licensed premises.

16. Section one hundred and ninety-four of the principal Act is hereby amended by omitting from subsection one the words "two pounds", and substituting the words "ten pounds".

Increased penalty for being found on licensed premises after hours.

17. The principal Act is hereby further amended in the manner indicated in the Schedule to this Act.

Offences against public order on licensed premises.

18. (1) Section two hundred and twelve of the principal Act, as amended by section seven of the Licensing Amendment Act 1952, is hereby further amended by repealing subsection two, and substituting the following subsection:

Power of Justice to issue prohibition order on personal application.

1952, No. 79, s. 7

“(2) Any person who desires that a prohibition order shall be made against himself may apply in person to any Magistrate or Justice for the issue of the order, and the Magistrate or Justice may make the order without dealing with the case in open Court.”

(2) Section seven of the Licensing Amendment Act 1952 is hereby consequentially repealed.

Hours for
delivery of beer
by brewers.
See Reprint
of Statutes,
Vol. VII,
p. 258

19. (1) Section forty-six of the Finance Act 1917 is hereby amended by repealing subsection one, and substituting the following subsection:

“(1) A brewer shall not be entitled to sell or deliver any beer—

“(a) On any day during which licensed premises within the meaning of the Licensing Act 1908 are required to be closed; or

“(b) On any other day, at any time before seven o’clock in the morning or after six o’clock in the evening:

“Provided that beer may be delivered before seven o’clock in the morning or after six o’clock in the evening to the holder of any publican’s, accommodation, tourist-house, or wholesale licence, or to any chartered club, or to the Licensing Trust of any licensing Trust district, if the delivery is made at the licensed premises of the holder of that licence or, as the case may be, at the premises of the club or the Trust premises.”

(2) The said section forty-six is hereby further amended by repealing subsection three.

Reprinted 1951,
p. 981

(3) Subsection two of section eight of the Sale of Liquor Restriction Act 1917 is hereby repealed.

Section 69 of
Licensing
Amendment
Act 1948 (as
to wine sellers’
licences)
amended.

20. Section sixty-nine of the Licensing Amendment Act 1948 is hereby amended by repealing subsection two, and substituting the following subsection:

Reprinted 1951,
p. 1125

“(2) Subject to the provisions of this Act, a wine-seller’s licence shall authorize the holder thereof to sell wine, cider, or perry, being the produce of fruit grown in New Zealand as aforesaid, in the following quantities:

“(a) In the case of wine containing not more than twenty-five parts per cent of proof spirit, or in the case of cider or perry, in quantities of not less than one reputed quart to any one person at any one time:

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“(b) In the case of wine containing more than twenty-five parts per cent of proof spirit, in quantities of not less than two gallons to any one person at any one time:

“(c) In any case where wine containing more than twenty-five parts per cent of proof spirit is sold together with cider or perry or wine containing not more than twenty-five parts per cent of proof spirit, in quantities of not less, in the aggregate, than two gallons to any one person at any one time:

“Provided that in any case to which paragraph (b) or paragraph (c) of this subsection applies the minimum quantity that may, at any time during the period ending with the thirty-first day of December, nineteen hundred and fifty-seven, be sold to any one person at any one time shall be half a gallon.”

21. Section twenty-three of the Licensing Amendment Act (No. 2) 1953 is hereby amended by repealing subsection one, and substituting the following subsection:

“(1) Every wine maker’s licence shall authorize the holder thereof to sell wine manufactured by him pursuant to his licence in the following quantities:

“(a) In the case of wine containing not more than twenty-five parts per cent of proof spirit, in quantities of not less than one reputed quart to any person at any one time:

“(b) In the case of wine containing more than twenty-five parts per cent of proof spirit, in quantities of not less than two gallons to any one person at any one time:

“(c) In any case where wine containing more than twenty-five parts per cent of proof spirit is sold together with wine containing not more than twenty-five parts per cent of proof spirit, in quantities of not less, in the aggregate, than two gallons to any one person at any one time:

“Provided that in any case to which paragraph (b) or paragraph (c) of this subsection applies the minimum quantity that may, at any time during the period ending with the thirty-first day of December, nineteen hundred and fifty-seven, be sold to any one person at any one time shall be half a gallon.”

Section 23 of
Licensing
Amendment
Act (No. 2)
1953 (as to
wine makers’
licences)
amended.
1953, No. 90

Schedule.

SCHEDULE

Section 17

AMENDMENTS RELATING TO OFFENCES AGAINST PUBLIC ORDER

Section Affected	Nature of Amendment
Section 181 . . .	By omitting the word "innkeeper", and substituting the word "licensee".
Section 182 ..	By omitting from subsection (1) the word "innkeeper", and substituting the word "licensee".
Section 183 . . .	By omitting the word "innkeeper", and substituting the word "licensee".
Section 184 ..	By omitting from subsection (1) the word "innkeeper", and substituting the word "licensee".
Section 186	By omitting the word "innkeeper", and substituting the word "licensee".
Section 187	By omitting the word "innkeeper", and substituting the word "licensee".
Section 188 . . .	By omitting the word "innkeeper", in both places where it occurs, and substituting in each case the word "licensee".