



## ANALYSIS

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1957, No. 105

**An Act to amend the Licensing Act 1908**

[25 October 1957]

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

**1. Short Title**—This Act may be cited as the Licensing Amendment Act 1957, and shall be read together with and deemed part of the Licensing Act 1908 (hereinafter referred to as the principal Act).

**2. Supply of liquor for medicinal purposes**—(1) Section three of the principal Act is hereby amended by repealing paragraph (b), as substituted by subsection one of section

ninety-three of the Licensing Amendment Act 1948, and substituting the following paragraph:

“(b) To any pharmaceutical chemist within the meaning of the Pharmacy Act 1939 who supplies, keeps for sale, or sells any spirituous, distilled, or fermented liquor exclusively for medicinal purposes; nor to any person who supplies, sells, or keeps for sale exclusively to pharmaceutical chemists any such liquor as aforesaid for the purposes of the foregoing provisions of this paragraph; nor”.

(2) Section one hundred and forty-seven of the principal Act is hereby amended by repealing paragraph (h) of subsection one, and substituting the following paragraphs:

“(h) Nothing in this section or in the last preceding section shall apply to any person selling any spirituous or distilled perfume *bona fide* as perfumery:

“(i) Nothing in this section or in the last preceding section shall apply to any pharmaceutical chemist within the meaning of the Pharmacy Act 1939 who supplies, keeps for sale, or sells any spirituous, distilled, or fermented liquor exclusively for medicinal purposes, or to any person who supplies, sells, or keeps for sale exclusively to pharmaceutical chemists any such liquor as aforesaid for the purposes of the foregoing provisions of this paragraph.”

(3) The following enactments are hereby consequentially repealed, namely:

(a) So much of the Sixth Schedule to the Licensing Amendment Act 1910 as relates to subsection one of section one hundred and forty-seven of the principal Act:

(b) Section ninety-three of the Licensing Amendment Act 1948.

**3. Sale of liquor at public auction—**(1) Section three of the principal Act is hereby further amended by repealing paragraph (d), and substituting the following paragraph:

“(d) To any auctioneer within the meaning of the Auctioneers Act 1928 who sells any liquor at public auction pursuant to a permit granted under subsection two of this section, being liquor that is owned by some other person; nor”.

(2) The said section three is hereby further amended by adding the following subsection as subsection two thereof:

“(2) For the purposes of paragraph (d) of subsection one of this section, any Licensing Committee at any meeting, or the Chairman of any Licensing Committee at any time, may grant to any auctioneer a permit in writing authorising the sale by him of any liquor at public auction, if the Committee or, as the case may require, the Chairman is satisfied that it is necessary or expedient that the owner of the liquor to which the permit relates, whether he is a licensed person or not, should dispose of the liquor at public auction and that the sale of the liquor is not by way of trade and is not primarily for the purposes of profit.”

**4. Right of authorised persons to supply liquor to guests on licensed premises without charge**—Section two hundred and five of the principal Act is hereby amended by adding the following subsection as subsection two thereof:

“(2) Nothing in paragraph (e) of subsection one of this section shall prevent any person lawfully authorised to manage or conduct the business of the licensed premises of any innkeeper during the absence of the licensee, or the wife of that person, or the wife of the licensee, or any person being really a lodger living or staying in the licensed premises, from supplying liquor to his or her guests for consumption on the licensed premises, without charge and by way of hospitality.”

**5. Definition of “elector”**—Section four of the principal Act is hereby amended by repealing the definition of the terms “elector” and “electors”, and substituting the following definition:

“‘Elector’, in respect of any district, means a person qualified to vote at an election of a member of the House of Representatives for that district.”

**6. Rights of Maoris to vote at local polls**—(1) This section shall apply with respect to—

- (a) Every poll taken in any no-licence district on the restoration question under section eight of the Licensing Amendment Act 1910, and every poll taken on the Trust question under section nine A of that Act:
- (b) Every other poll (not being the general licensing poll under section twelve of the principal Act) taken in any other licensing district or in any area or special area for any of the purposes of the principal Act.

(2) Every Maori shall be qualified to vote at any poll to which this section applies if, on the date on which the poll is taken,—

- (a) He is an elector, within the meaning of the principal Act, of a Maori electoral district within which is situated the whole or any part of the licensing district, area, or special area in which the poll is being taken; and
- (b) He is resident in the licensing district, area, or special area in which the poll is being taken.

(3) For the purpose of exercising his vote under this section, every person who is not voting as a special voter within the meaning of the Electoral Act 1956 shall sign a declaration specifying his place of residence. The declaration may be in the form prescribed under that Act for special voters, with the necessary modifications. The provisions of that Act and of any regulations thereunder relating to special votes shall apply, so far as they are applicable and with the necessary modifications.

**7. Restricting sale of liquor at licensing poll. Time off to vote—**(1) The principal Act is hereby amended by repealing section thirty-nine (as substituted by subsection one of section ninety-five of the Licensing Amendment Act 1948), and substituting the following section:

“39. (1) The provisions of sections ninety-seven and ninety-eight of the Electoral Act 1956 shall apply, so far as they are applicable and with the necessary modifications, in respect of the licensing poll, and in respect of all licensed premises, in every district on the day on which that poll is taken.

“(2) For the purposes of subsection two of the said section ninety-eight, the carrying on of the business of any inn-keeper, except with respect to the sale of intoxicating liquor, shall be deemed to be the carrying on of an essential work or service.”

(2) Subsection one of section ninety-five of the Licensing Amendment Act 1948 is hereby consequentially repealed.

**8. Disqualification of members of Licensing Committees—**(1) Section forty-three of the principal Act is hereby amended by repealing subsection two, and substituting the following subsections:

“(2) Except as provided in subsection two A of this section, no person shall be qualified to be elected or to act as a member of a Licensing Committee who—

- “(a) Is the owner of an estate in fee simple or any less estate in any licensed premises; or
- “(b) Is the holder of any licence under this Act; or
- “(c) Carries on the business of a brewer, maltster, or distiller; or
- “(d) Is in partnership with any person owning any such estate or holding any such licence or carrying on any such business; or
- “(e) Is a member or employee of an incorporated company owning any such estate or holding any such licence or carrying on any such business; or
- “(f) Is the wife or husband of any person disqualified under any of the provisions of this section.

“(2A) No person shall be disqualified under subsection two of this section by reason only of the fact that he is a member of a public company (not being a company whose sole or principal business is that of a brewer, maltster, distiller, or wholesale wine and spirit merchant) in which he holds not more than one-twentieth in value of the issued shares (including stock) and of which he is not a director or an employee.”

(2) The said section forty-three is hereby further amended by repealing paragraph (a) of the proviso to subsection three.

**9. Licensing Committees to consider reports of Medical Officers of Health and Inspectors under Health Act 1956—**Section sixty of the principal Act is hereby amended by inserting, after paragraph (j), the following paragraph:

- “(jj) In considering any application for the grant or renewal of any licence, the Licensing Committee shall take into consideration any report that may be made to it by any Medical Officer of Health or any Inspector within the meaning of section two of the Health Act 1956 with reference to the sanitary condition of the premises to which the application relates:”.

**10. Shops may be authorised within licensed hotels—**The Licensing Amendment Act 1948 is hereby amended by inserting, after section one hundred and eight, the following section:

“108A. (1) This section shall apply to any premises in respect of which a tourist house licence or a publican’s licence is in force or is granted or proposed to be granted.

“(2) Notwithstanding anything in the principal Act, the Licensing Control Commission may from time to time, in its discretion, authorise the use of any portion of any premises to which this section applies as a shop or store for the purposes of the retail sale of goods other than liquor.

“(3) No shop or store in respect of which any authority is given under this section shall—

“(a) Be in any bar, or in any room or place that is habitually used for the sale, supply, or consumption of liquor:

“(b) Open by means of any door, entrance, hatch, or other opening into any bar or into any such room or place as aforesaid.

“(4) Any authority given under this section may, in the discretion of the Commission, be given subject to such conditions or restrictions, not inconsistent with this section, as the Commission thinks fit with respect to the situation or area of the shop or store to which the authority relates.

“(5) Every authority given under this section shall be in writing, and may be revoked or varied at any time.

“(6) Notwithstanding anything in section nineteen of the Shops and Offices Act 1955, all the provisions of that Act shall apply, so far as they are applicable, to every shop or store authorised under this section.”

**11. Minimum sales by holders of wine sellers' and wine makers' licences—**(1) Section sixty-nine of the Licensing Amendment Act 1948 is hereby amended by repealing subsection two (as substituted by section twenty of the Licensing Amendment Act 1955), and substituting the following subsection:

“(2) Subject to the provisions of this Act, a wine seller's licence shall authorise 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:

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

“Provided that any such wine may be 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 half a gallon to any one person at any one time.”

(2) Section twenty-three of the Licensing Amendment Act (No. 2) 1953 is hereby amended by repealing subsection one (as substituted by section twenty-one of the Licensing Amendment Act 1955), and substituting the following subsection:

“(1) Every wine maker’s licence shall authorise 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 one 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 half a gallon to any one person at any one time:

“Provided that any such wine may be 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 half a gallon to any one person at any one time.”

(3) Sections twenty and twenty-one of the Licensing Amendment Act 1955 are hereby consequentially repealed.

## **12. Records of sales by wine makers and wine sellers—**

(1) Section one hundred and ten of the Licensing Amendment Act 1948 is hereby amended by repealing subsection two A (as inserted by subsection one of section four of the Licensing Amendment Act 1956), and substituting the following subsection:

“(2A) Notwithstanding the provisions of subsection one and paragraphs (a) and (b) of subsection two of this section, it shall not be necessary for the holder of a wine maker’s licence or the holder of a wine seller’s licence to keep a record of any sale of wine, cider, or perry, if—

“(a) The quantity sold is less than two gallons; and

“(b) The sale is not in compliance with an order received by an employee of the licensee at any unlicensed premises.”

(2) Subsection one of section four of the Licensing Amendment Act 1956 is hereby consequentially repealed.

**13. Hours for delivery of wine by holders of wine makers' licences**—Section twenty-three of the Licensing Amendment Act (No. 2) 1953 is hereby further amended by adding to subsection two the following proviso:

“Provided that wine may be delivered at any time after six o'clock in the morning and before eight o'clock in the evening on any day, not being a day during which licensed premises are required to be closed, to the holder of any publican's, accommodation, tourist-house, wholesale, or wine seller's 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.”

**14. Holder of wine-still licence may hold wine maker's licence**—Section fifteen of the Distillation Act 1908 is hereby amended by adding the following subsection:

“(4) Nothing in this section shall apply, or be deemed ever to have applied, to any person holding a wine maker's licence under the Licensing Act 1908, whether or not that licence is held in conjunction with any other licence under that Act.”

**15. No-licence districts**—The Licensing Amendment Act 1910 is hereby amended by repealing section thirteen, and substituting the following section:

“13. (1) The no-licence districts to which the provisions of the principal Act and this Act apply at the commencement of this section are the no-licence districts of Auckland Suburbs, Grey Lynn, Eden, Roskill, Wellington West, Wellington South, Wellington East, and Oamaru, as declared from time to time in the report of the Representation Commission under section five A of the principal Act.

“(2) When pursuant to this Act any of the said districts ceases to be a no-licence district, the Governor-General may by Order in Council amend subsection one of this section by omitting therefrom the name of that district.”

**16. Schedule to Licensing Amendment Act 1918 amended**—Form 2 in the Schedule to the Licensing Amendment Act 1918, as set out in the First Schedule to the Licensing Amendment Act 1956, is hereby amended by omitting the words “Licensing District of”.

**17. Postponing elections of Licensing Committees in year 1958—**(1) Notwithstanding anything in section forty-four of the principal Act, no election of members of any Licensing Committee shall be held in any licensing district in the year nineteen hundred and fifty-eight.

(2) Every member of a Licensing Committee holding office at the passing of this Act shall, unless he sooner vacates his office, continue in office until the date on which the general election of members of local authorities next following the passing of this Act is held pursuant to subsection one of section four of the Local Elections and Polls Act 1953; and any vacancy in the office of a member of a Licensing Committee occurring before that date may be filled in accordance with the principal Act.

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