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1959, No. 39

**An Act to amend the Licensing Trusts Act 1949, the Masterton Licensing Trust Act 1947, and the Invercargill Licensing Trust Act 1950** [15 October 1959]

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 Trusts Amendment Act 1959.

## PART I

## LICENSING TRUSTS

**2. This Part to be read with the Licensing Trusts Act 1949**—This Part of this Act shall be read together with and deemed part of the Licensing Trusts Act 1949 (in this Part referred to as the principal Act).

**3. Social and other gatherings in Trust premises**—The principal Act is hereby amended by inserting, after section thirty-five, the following section:

“35A. (1) Notwithstanding anything in the Licensing Act 1908 or this Act, it shall be lawful for the Trust from time to time to permit any portion of any premises maintained by it to be used, at any time when licensed premises are required by the Licensing Act 1908 to be closed, for the purpose of any gathering of persons, whether the gathering is for social purposes or for the purposes of entertainment or recreation or of any meeting or otherwise, if—

“(a) No liquor is sold or supplied by the Trust, or by any other person, to any person while he is present at the gathering; and

“(b) No liquor is taken into or consumed in that portion of the premises while the gathering is being held.

“(2) No person attending any gathering held under the authority of this section shall, by reason only of his presence at the gathering, be deemed for the purposes of the Licensing Act 1908 to be unlawfully on licensed premises or to commit any other offence against the Licensing Act 1908, unless he is a party to any breach of any of the provisions of paragraph (a) or paragraph (b) of subsection one of this section.”

**4. Permits for dancing, etc., in Trust premises**—Section thirty-five of the principal Act is hereby amended by inserting, after subsection four, the following subsection:

“(4A) In the application of the provisions of section one hundred and sixty-four of the Licensing Act 1908, the references in subsection two of that section to the Chairman and any two members of the Licensing Committee shall be read as references to a Magistrate.”

**5. Filling of extraordinary vacancies**—(1) Section sixteen of the principal Act is hereby amended by repealing subsection one, and substituting the following subsections:

“(1) In the event of an extraordinary vacancy in the office of an elective member of the Trust occurring within twelve months of the date fixed for the next triennial election of members, the Trust may by resolution determine—

- “(a) That the vacancy shall be filled by election in the manner prescribed by the provisions in that behalf of the Local Elections and Polls Act 1953; or
- “(b) That the vacancy shall not be filled until the next triennial election of members is held; or
- “(c) If the term of office of that member would have expired on the day appointed for the next triennial election of members, that the vacancy shall be filled by appointment by the Trust of a person qualified to be elected as a member.

“(1A) Where the Trust determines under this section that the vacancy shall not be filled until the next triennial election of members is held, and the term of office of the member whose office has become vacant would not have expired on the day appointed for that election, the vacancy shall be filled at the next triennial election of members as if it were an ordinary vacancy. For the purposes of that election the number of vacancies to be filled shall be increased accordingly, and the following provisions shall apply:

- “(a) If the number of candidates exceeds the number of vacancies to be so filled, the member elected by the smallest number of votes shall be deemed to have been elected to fill the extraordinary vacancy; and where there is an equality of votes between the members elected by the smallest number of votes one of those members, to be determined by lot at the next meeting of the Trust, shall be deemed to have been elected to fill the extraordinary vacancy:
- “(b) If the number of candidates is equal to the number of vacancies to be so filled, one of the members duly declared elected, to be determined by lot at the next meeting of the Trust, shall be deemed to have been elected to fill the extraordinary vacancy:
- “(c) If the number of candidates is equal only to the number of ordinary vacancies, the members duly declared elected shall fill the ordinary vacancies, and the provisions of section thirteen of this Act shall apply to the extraordinary vacancy:

“(d) If the number of candidates is less than the number of ordinary vacancies, the members duly declared elected shall fill ordinary vacancies, and the remaining vacancies shall be filled by appointment pursuant to the said section thirteen, and one of the members so appointed shall be appointed to fill the extraordinary vacancy.”

(2) The said section sixteen is hereby further amended by inserting in subsection four, after the words “subsection one”, the words “or subsection one A”.

**6. Borrowing powers of Trust**—(1) Section thirty-seven of the principal Act is hereby amended by repealing subsection two A, as inserted by section five of the Licensing Trusts Amendment Act 1955, and substituting the following subsection:

“(2A) Without limiting the generality of the provisions of subsection two of this section or affecting any mortgage, debenture, or other charge given thereunder, but subject to the provisions of the said subsection two, the Trust may borrow money by the issue of debentures or stock, whether charged on any property of the Trust or not; and in any such case the following provisions shall apply:

“(a) Any local authority or local authorities to whom section thirty-seven A of this Act applies may guarantee the repayment of the money so borrowed and the payment of interest thereon, and in respect of any such guarantee the provisions of the said section thirty-seven A shall apply accordingly:

“Provided that nothing in the proviso to subsection one of that section or in subsection three of that section shall apply:

“(b) In respect of any loan raised by the issue of debentures or stock under this subsection the provisions of sections fifty-two to fifty-five, fifty-seven to ninety-six, ninety-eight to one hundred and three, one hundred and five, one hundred and ten, one hundred and twelve to one hundred and fourteen, one hundred and eighteen, one hundred and nineteen, one hundred and twenty-two to one hundred and twenty-five, and one hundred and twenty-nine of the Local Authorities Loans Act 1956 shall apply, so far as they are applicable and with the necessary modifications, as if the Trust were a

local authority within the meaning of those provisions and as if the loan were raised pursuant to that Act:

“Provided that such debentures may be for sums of not less than five pounds.”

(2) Section five of the Licensing Trusts Amendment Act 1955 is hereby consequentially repealed.

## PART II

### MASTERTON LICENSING TRUST

**7. This Part to be read with the Masterton Licensing Trust Act 1947**—This Part of this Act shall be read together with and deemed part of the Masterton Licensing Trust Act 1947 (in this Part referred to as the principal Act).

**8. Social and other gatherings in Trust premises**—The principal Act is hereby amended by inserting, after section thirty-five, the following section:

“35A. The provisions of section thirty-five A of the Licensing Trusts Act 1949 (as enacted by section three of the Licensing Trusts Amendment Act 1959) shall apply to the Trust and to persons attending any gathering held on premises of the Trust under the said section thirty-five A.”

**9. Permits for dancing, etc., in Trust premises**—Section thirty-five of the principal Act is hereby amended by adding the following subsection:

“(5) In the application of the provisions of section one hundred and sixty-four of the Licensing Act 1908, the references in subsection two of that section to the Chairman and any two members of the Licensing Committee shall be read as references to a Magistrate.”

**10. Filling of extraordinary vacancies**—Section sixteen of the principal Act is hereby amended by repealing subsection one, and substituting the following subsections:

“(1) In the event of an extraordinary vacancy in the office of an elective member of the Trust occurring within twelve months of the date fixed for the next triennial election of members, the Trust may by resolution determine—

“(a) That the vacancy shall be filled by election in the manner prescribed by the provisions in that behalf of the Local Elections and Polls Act 1953; or

“(b) That the vacancy shall not be filled until the next triennial election of members is held; or

“(c) If the term of office of that member would have expired on the day appointed for the next triennial election of members, that the vacancy shall be filled by appointment by the Trust of a person qualified to be elected as a member.

“(1A) Where the Trust determines under this section that the vacancy shall not be filled until the next triennial election of members is held, and the term of office of the member whose office has become vacant would not have expired on the day appointed for that election, the vacancy shall be filled at the next triennial election of members as if it were an ordinary vacancy. For the purposes of that election the number of vacancies to be filled shall be increased accordingly, and the following provisions shall apply:

“(a) If the number of candidates exceeds the number of vacancies to be so filled, the member elected by the smallest number of votes shall be deemed to have been elected to fill the extraordinary vacancy; and where there is an equality of votes between the members elected by the smallest number of votes one of those members, to be determined by lot at the next meeting of the Trust, shall be deemed to have been elected to fill the extraordinary vacancy:

“(b) If the number of candidates is equal to the number of vacancies to be so filled, one of the members duly declared elected, to be determined by lot at the next meeting of the Trust, shall be deemed to have been elected to fill the extraordinary vacancy:

“(c) If the number of candidates is equal only to the number of ordinary vacancies, the members duly declared elected shall fill the ordinary vacancies, and the provisions of section thirteen of this Act shall apply to the extraordinary vacancy:

“(d) If the number of candidates is less than the number of ordinary vacancies, the remaining vacancies shall be filled by appointment pursuant to the said section thirteen, and one of the members so appointed shall be appointed to fill the extraordinary vacancy.”

**11. Borrowing powers of Trust**—Section thirty-seven of the principal Act is hereby amended by inserting, after subsection two, the following subsection:

“(2A) Without limiting the generality of the provisions of subsection two of this section or affecting any mortgage, debenture, or other charge given thereunder, but subject to the provisions of the said subsection two, the Trust may borrow money by the issue of debentures or stock, whether charged on any property of the Trust or not, as if it were a Licensing Trust constituted under the Licensing Trusts Act 1949; and in any such case the provisions of paragraphs (a) and (b) of subsection two A of section thirty-seven of that Act (as enacted by section six of the Licensing Trusts Amendment Act 1959) shall apply, with the necessary modifications, as if those paragraphs were incorporated in this subsection.”

**12. Power of local authority to make advances to or guarantee loans of Trust**—The principal Act is hereby amended by inserting, after section thirty-seven, the following section:

“37A. Any local authority whose district is situated wholly or partly within the Trust district shall have in respect of the Trust the same power to advance money, or to enter into any guarantee, as a local authority has under section thirty-seven A of the Licensing Trusts Act 1949 (as enacted by section three of the Licensing Trusts Amendment Act 1951) in respect of any Trust under that Act; and the provisions of the said section thirty-seven A shall apply accordingly, with the necessary modifications.”

## PART III REPRINTED

### INVERCARGILL LICENSING TRUST

**13. This Part to be read with the Invercargill Licensing Trust Act 1950**—This Part of this Act shall be read together with and deemed part of the Invercargill Licensing Trust Act 1950 (in this Part referred to as the principal Act).

**14. Social and other gatherings in Trust premises**—The principal Act is hereby amended by inserting, after section thirty-six, the following section:

“36A. The provisions of section thirty-five A of the Licensing Trusts Act 1949 (as enacted by section three of the Licensing Trusts Amendment Act 1959) shall apply to the Trust and to persons attending any gathering held on premises of the Trust under the said section thirty-five A.”

**15. Permits for dancing, etc., in Trust premises**—Section thirty-six of the principal Act is hereby amended by inserting, after subsection four, the following subsection:

“(4A) In the application of the provisions of section one hundred and sixty-four of the Licensing Act 1908, the references in subsection two of that section to the Chairman and any two members of the Licensing Committee shall be read as references to a Magistrate.”

**16. Filling of extraordinary vacancies**—(1) Section seventeen of the principal Act is hereby amended by repealing subsection one, and substituting the following subsections:

“(1) In the event of an extraordinary vacancy in the office of an elective member of the Trust occurring within twelve months of the date appointed for the next triennial election of members, the Trust may by resolution determine—

“(a) That the vacancy shall be filled by election in the manner prescribed by the provisions in that behalf of the Local Elections and Polls Act 1953; or

“(b) That the vacancy shall not be filled until the next triennial election of members is held; or

“(c) If the term of office of that member would have expired on the day appointed for the next triennial election of members, that the vacancy shall be filled by appointment by the Trust of a person qualified to be elected as a member.

“(1A) Where the Trust determines under this section that the vacancy shall not be filled until the next triennial election of members is held, and the term of office of the member whose office has become vacant would not have expired on the day appointed for that election, the vacancy shall be filled at the next triennial election of members as if it were an ordinary vacancy. For the purposes of that election the number of vacancies to be filled shall be increased accordingly, and the following provisions shall apply:

“(a) If the number of candidates exceeds the number of vacancies to be so filled, the member elected by the smallest number of votes shall be deemed to have been elected to fill the extraordinary vacancy; and where there is an equality of votes between the members elected by the smallest number of votes one of those members, to be determined by lot at the next meeting of the Trust, shall be deemed to have been elected to fill the extraordinary vacancy:

- “(b) If the number of candidates is equal to the number of vacancies to be so filled, one of the members duly declared elected, to be determined by lot at the next meeting of the Trust, shall be deemed to have been elected to fill the extraordinary vacancy:
- “(c) If the number of candidates is equal only to the number of ordinary vacancies, the members duly declared elected shall fill the ordinary vacancies, and the provisions of section fourteen of this Act shall apply to the extraordinary vacancy:
- “(d) If the number of candidates is less than the number of ordinary vacancies, the members duly declared elected shall fill ordinary vacancies, and the remaining vacancies shall be filled by appointment pursuant to the said section fourteen, and one of the members so appointed shall be appointed to fill the extraordinary vacancy.”

(2) The said section seventeen is hereby further amended by inserting in subsection four, after the words “subsection one”, the words “or subsection one A”.

**17. Borrowing powers of Trust**—Section thirty-eight of the principal Act is hereby amended by adding the following subsection:

“(3) Without limiting the generality of the provisions of subsection two of this section or affecting any mortgage, debenture, or other charge given thereunder, but subject to the provisions of the said subsection two, the Trust may borrow money by the issue of debentures or stock, whether charged on any property of the Trust or not, as if it were a Licensing Trust constituted under the Licensing Trusts Act 1949; and in any such case the provisions of paragraphs (a) and (b) of subsection two A of section thirty-seven of that Act (as enacted by section six of the Licensing Trusts Amendment Act 1959) shall apply, with the necessary modifications, as if those paragraphs were incorporated in this subsection.”

**18. Power of local authority to make advances to or guarantee loans of Trust**—The principal Act is hereby amended by inserting, after section thirty-eight, the following section:

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“38A. Any local authority whose district is situated wholly or partly within the Trust district shall have in respect of the Trust the same power to advance money, or to enter into any guarantee, as a local authority has under section thirty-seven A of the Licensing Trusts Act 1949 (as enacted by section three of the Licensing Trusts Amendment Act 1951) in respect of any Trust under that Act; and the provisions of the said section thirty-seven A shall apply accordingly, with the necessary modifications.”

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