



## ANALYSIS

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| <p>Title</p> <p>1. Short Title and commencement</p> <p style="text-align: center;"><b>PART I</b><br/><b>LICENSING TRUSTS</b></p> <p>2. This Part to be read with Licensing Trusts Act 1949</p> <p style="padding-left: 2em;"><i>Conversion of Suburban Licensing Trusts</i></p> <p>3. Interpretation</p> <p>4. Conversion of suburban licensing Trusts to district status</p> <p>5. Provisions applying to converted Trusts on and after operative date</p> <p>6. Special provisions relating to covenants, etc., by Trust not to part with licence</p> <p>7. Saving of licences not held by Trust</p> <p>8. Trust not to establish hotel or tavern where previous poll against proposal</p> <p style="padding-left: 2em;"><i>Constitution of Licensing Trust Districts</i></p> <p>9. Constitution of licensing Trust district</p> <p style="padding-left: 2em;"><i>Miscellaneous Amendments</i></p> <p>10. Remuneration of Chairman</p> <p>11. Trust to appoint manager</p> <p>12. Application of Part VI of Sale of Liquor Act 1962 relating to managers</p> <p>13. Hours for sale of liquor in restaurants</p> <p>14. Hours for sale of liquor in cabarets</p> <p>15. Establishment of hotels and taverns</p> <p style="padding-left: 2em;">33A. Number and situation of hotels and taverns</p> <p style="padding-left: 2em;">33B. Objections to establishment of hotels or taverns</p> <p style="padding-left: 2em;">34. Number and situation of premises other than hotels and taverns</p> <p>16. Variation of usual hours for sale of liquor in hotel and tavern premises</p> | <p>17. Fees</p> <p>18. Enforcement by Minister of Trust's responsibilities in respect of premises and facilities</p> <p>19. Closure of premises for breach of health or fire safety requirements</p> <p>20. Financial statements</p> <p>21. Local Trust may be constituted to acquire existing licence</p> <p>22. Regulations</p> <p style="text-align: center;"><b>PART II</b><br/><b>MASTERTON LICENSING TRUST</b></p> <p>23. This Part to be read with Masterton Licensing Trust Act 1947</p> <p>24. Remuneration of Chairman</p> <p>25. Trust to appoint manager</p> <p>26. Application of Part VI of the Sale of Liquor Act 1962 relating to managers</p> <p>27. Notice of intention to establish hotel</p> <p>28. Fees</p> <p>29. Enforcement by Minister of Trust's responsibilities in respect of premises and facilities</p> <p>30. Closure of premises for breach of health or fire safety requirements</p> <p>31. Financial statements</p> <p style="text-align: center;"><b>PART III</b><br/><b>INVERCARGILL LICENSING TRUST</b></p> <p>32. This Part to be read with Invercargill Licensing Trust Act 1950</p> <p>33. Remuneration of Chairman</p> <p>34. Trust to appoint manager</p> <p>35. Application of Part VI of the Sale of Liquor Act 1962 relating to managers</p> <p>36. Notice of intention to establish hotel</p> <p>37. Fees</p> <p>38. Enforcement by Minister of Trust's responsibilities in respect of premises and facilities</p> <p>39. Closure of premises for breach of health or fire safety requirements</p> <p>40. Financial statements</p> |
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1975, No. 139

**An Act to amend the Licensing Trusts Act 1949, the Masterton Licensing Trust Act 1947, and the Invercargill Licensing Trust Act 1950**  
[10 October 1975]

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 and commencement**—(1) This Act may be cited as the Licensing Trusts Amendment Act 1975.

(2) Sections 13, 14, and 16 of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

(3) Except as otherwise provided in subsection (2) of this section, this Act shall come into force on the day on which it receives the Governor-General's assent.

## PART I

### LICENSING TRUSTS

**2. This Part to be read with 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).

#### *Conversion of Suburban Licensing Trusts*

**3. Interpretation**—For the purposes of sections 4 to 8 of this Act, unless the context otherwise requires,—

“Converted licensing Trust” or “converted Trust” means a licensing Trust the status of which has been altered by section 4 of this Act:

“Suburban licensing Trust” or “suburban Trust” means the Johnsonville Licensing Trust, the Wellington South Licensing Trust, the Portage Licensing Trust, the Waitakere Licensing Trust, the Mount Albert Licensing Trust, the Terawhiti Licensing Trust, and the Birkenhead Licensing Trust.

**4. Conversion of suburban licensing Trusts to district status**—As from the date of the commencement of this Act (in this Part of this Act referred to as the operative date) the status of each suburban licensing Trust is hereby altered from that of a suburban licensing Trust to that of a district licensing Trust.

**5. Provisions applying to converted Trusts on and after operative date**—(1) Subject to the provisions of this Act, the provisions of the principal Act except sections 3A, 4 (1), (2), and (2A), 5 (3), 10, and 20 (1) shall apply to each converted Trust on and after the operative date.

(2) For the purposes of the principal Act, the following provisions shall apply:

- (a) The area within which polls were taken for the election of members of the Trust before the operative date shall be deemed to be constituted a licensing Trust district:
- (b) The Trust shall be deemed to be the licensing Trust for that Trust district:
- (c) The name of the Trust shall be the name specified in the notice in the *Gazette* by which the Trust was originally constituted:
- (d) The number of elective members of the Trust shall be 6:

Provided that, if any other number has, before the operative date, been prescribed by notice in the *Gazette* pursuant to regulation 6A (4) (a) of the Local Licensing Trusts Regulations 1966, the number of elective members of the Trust shall be the number so prescribed:

- (e) If at any time before the operative date the Trust area was, by notice in the *Gazette* pursuant to regulation 6A of the said regulations, divided into wards for the purposes of the election of members of the Trust, the Trust district shall be deemed to be divided into the same number of wards for those purposes; and the names and boundaries of the wards and the number of elective members for each ward shall be as specified in that notice:
- (f) The persons who, immediately before the operative date, held office as Chairman and members of the Trust shall be deemed to have been duly elected to their respective offices in accordance with the provisions of the principal Act:

Provided that the term of office of the Chairman and of each member shall expire on the date on which it would have expired if this Act had not been passed:

- (g) The number of members of the Trust to form a quorum at any meeting of the Trust shall be 3:

Provided that, if any other number has, before the operative date, been prescribed by notice in the *Gazette* pursuant to regulation 6A (4) (c) of the said regulations, the number of members of the Trust to form a quorum at any meeting shall be the number so prescribed.

(3) For the purposes of the principal Act and of the Sale of Liquor Act 1962, the following further provisions shall apply:

- (a) The land comprised in the Trust district shall cease to be included in any licensing district constituted under the Sale of Liquor Act 1962:
- (b) All licences issued to the Trust under the Sale of Liquor Act 1962 shall be deemed to be cancelled; and every grant of an application for the issue of a licence to the Trust under that Act shall be deemed to be revoked:
- (c) All premises conducted by the Trust immediately before the operative date under any tavern premises licence issued under the Sale of Liquor Act 1962 shall be deemed to have been established with the prior approval of the Minister; and where any application for such a licence has been granted to the Trust in respect of any premises or proposed premises the Minister shall be deemed to have given his consent to the establishment of a tavern on those premises:
- (d) Where any application for a hotel premises licence or tavern premises licence under the Sale of Liquor Act 1962 has been granted to the Trust in respect of any premises or proposed premises, the Trust shall be deemed to have complied with the requirements of sections 33A and 33B of this Act in respect of those premises or proposed premises:
- (e) All sums paid by the Trust before the operative date by way of the fair price fixed for any wholesale licence granted to the Trust under section 117 of the Sale of Liquor Act 1962 shall be refunded to the Trust; and any liability on the part of the Trust to pay any sum by way of the fair price for any such licence shall be deemed to be discharged:
- (f) All fees paid by the Trust before the operative date under section 286 of the Sale of Liquor Act 1962 in respect of any licence held by it under that Act,

other than a tavernkeeper's licence, shall be deemed to have been duly paid by the Trust in accordance with section 36 of the principal Act:

- (g) All fees paid by the Trust before the operative date under the said section 286 in respect of any tavernkeeper's licence and transferred to the Licensing Fund shall be refunded to the Trust; and any liability on the part of the Trust to pay any fee under that section shall be deemed to be discharged.

**6. Special provisions relating to covenants, etc., by Trust not to part with licence—**(1) This section applies to any covenant or undertaking given or any agreement entered into at any time before the commencement of this Act by any suburban licensing Trust as a condition of or in relation to the making of any loan (whether by way of an advance of money, bank overdraft, or otherwise) to the Trust, or the giving of any guarantee in respect of the repayment by the Trust of any such loan, by any other person (in this section referred to as the lender) whereby the Trust covenanted, undertook, or agreed not to part with possession of any licence granted to it under the Sale of Liquor Act 1962 without the prior consent of the lender, or to do or omit to do anything that would render the licence liable to cancellation or suspension.

(2) Nothing in this Part of this Act shall be construed as a breach by the Trust of any covenant, undertaking, or agreement to which this section applies.

(3) Every covenant, undertaking, or agreement to which this section applies shall be construed—

- (a) In the case of a loan secured over any premises owned by the Trust and in respect of which a hotel premises, tavern premises, or wholesale licence has been granted to the Trust under the Sale of Liquor Act 1962, as a covenant, undertaking, or agreement by the Trust not to cease to conduct on the premises the kind of business authorised by the licence without the prior consent of the lender:
- (b) In any other case, as a covenant, undertaking, or agreement by the Trust not to cease to conduct on each of the premises in respect of which a licence has been granted to the Trust under the Sale of Liquor

Act 1962 the kind of business authorised by the respective licences without the prior consent of the lender.

(4) Where, in any case to which subsection (3) (a) of this section applies, the Trust fails to comply with any term or condition expressed or implied in the memorandum of mortgage or other instrument evidencing the loan and by reason of that default the lender is entitled, in accordance with the provisions of that instrument, to sell the premises, the following provisions shall apply:

- (a) The lender may give to the Licensing Control Commission notice in writing of the fact that he has become so entitled and intends to sell the premises:
- (b) Where notice has been duly given under paragraph (a) of this subsection the lender, or any person who has acquired or agreed to acquire the premises from the lender, may apply to the Commission for a licence of the kind originally held in respect of the premises by the Trust:
- (c) On being satisfied that the application is authorised by this subsection, and that the applicant is or is entitled to become the owner of the premises, the Commission shall grant the application, and shall forthwith notify the applicant that the application has been granted and that a licence will be issued when all the requirements of the Commission (being requirements lawfully imposed) as to the provision of accommodation, services, and other facilities (as the case may require) have been complied with:
- (d) As from the date of the grant of the application all the provisions of the Sale of Liquor Act 1962, except section 29 (2), so far as they are applicable and with the necessary modifications, shall apply as if—
  - (i) The application were granted under section 92 (1) or, as the case may require, section 117 (1) of that Act; and
  - (ii) References to the Licensing Committee (or to the Chairman or Clerk of the Committee) were references to the Licensing Committee (or to the Chairman or Clerk of the Committee) of the licensing district adjoining the Trust district.

(5) The provisions of this section shall be read subject to the provisions of section 72 of the Sale of Liquor Act 1962.

**7. Saving of licences not held by Trust**—(1) Nothing in section 29 (2) of the Sale of Liquor Act 1962 shall prevent, or affect the validity of, the granting of any application for a wine reseller's licence in respect of any premises or proposed premises in the licensing Trust district of any converted Trust, or for the removal of any such licence to any such premises, if the application was made before the 20th day of August 1975.

(2) Nothing in the said section 29 (2) shall affect the validity of any wholesale licence or wine reseller's licence issued in respect of any premises in the licensing Trust district of any converted Trust, or removed to any such premises, if the application for the licence or removal of the licence was made before the 20th day of August 1975.

(3) While any wholesale licence or wine reseller's licence is lawfully in force in any licensing Trust district the provisions of the Sale of Liquor Act 1962 shall apply to and in respect of that licence; and references in that Act to the Licensing Committee (or to the Chairman or Clerk of the Committee) shall be deemed to be references to the Licensing Committee (or to the Chairman or Clerk of the Committee) of the licensing district adjoining the Trust district.

(4) Subject to the foregoing provisions of this section, but notwithstanding anything in the Sale of Liquor Act 1962, every wholesale licence and every wine reseller's licence issued in respect of any premises in the licensing Trust district of any converted Trust or removed to any such premises shall be deemed to be cancelled on the operative date.

**8. Trust not to establish hotel or tavern where previous poll against proposal**—(1) This section applies to any case where—

- (a) At any time within the period of 3 years immediately preceding the operative date in respect of any converted Trust a poll has been taken in accordance with sections 81, 83, and 84 of the Sale of Liquor Act 1962 in any part of the Trust district (in this section referred to as the polled area); and
- (b) A majority in number of the valid votes recorded at the poll was in favour of the proposal that no hotel or tavern premises licence be granted; and

(c) The Licensing Control Commission has not decided to grant such a licence notwithstanding the result of the poll.

(2) Notwithstanding anything in section 34 of the principal Act, in any case to which this section applies the Trust shall not take any steps to establish a hotel or tavern in the polled area within 3 years after the date on which the poll was taken.

### *Constitution of Licensing Trust Districts*

**9. Constitution of licensing Trust district**—The principal Act (as amended by section 3 (4) (b) of the Licensing Amendment Act 1963) is hereby amended by inserting in Part I, under the heading "*Licensing Trust Districts*", the following section:

"3A. Whenever, at any poll taken in any no-licence district pursuant to section 9A of the Licensing Amendment Act 1910, the determination of the electors is in favour of the proposal that a licensing Trust be established to conduct hotels and other premises for the sale of liquor in the district, the Governor-General may, by Order in Council, do one or more of the following things, namely:

- "(a) Declare the whole or any specified part of the district to be a licensing Trust district;
- "(b) Amalgamate the whole or any specified part of the district with any existing licensing Trust district;
- "(c) Include the whole or any specified part of an existing licensing Trust district within a licensing Trust district constituted by the order."

### *Miscellaneous Amendments*

**10. Remuneration of Chairman**—(1) Section 8 of the principal Act (as substituted by section 2 (1) of the Licensing Trusts Amendment Act 1969) is hereby amended by repealing subsection (1), and substituting the following subsection:

"(1) A Trust may pay to the Chairman by way of remuneration for his services a sum not exceeding in any year the amount for the time being fixed by the Minister of Finance after consultation with the Minister of Justice."

(2) The following enactments are hereby consequentially repealed:

- (a) Subsections (1) and (2) of section 2 of the Licensing Trusts Amendment Act 1971;
- (b) The Licensing Trusts Amendment Act 1972.

**11. Trust to appoint manager**—(1) Section 23 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) The Trust shall from time to time appoint a manager in respect of each establishment in which it conducts the sale of liquor under this Act.”

(2) The said section 23 is hereby further amended by adding to subsection (2) the following proviso:

“Provided that no person shall be appointed as manager of more than one establishment under subsection (1A) of this section.”

**12. Application of Part VI of Sale of Liquor Act 1962 relating to managers**—(1) Section 34A of the principal Act (as inserted by section 6 (1) of the Licensing Trusts Amendment Act 1962) is hereby amended by inserting in subsection (1), after the word “Parts”, the expression “VI,”.

(2) The First Schedule to the principal Act (as substituted by section 6 (2) of the Licensing Trusts Amendment Act 1962) is hereby amended by omitting from paragraph (e) of clause 1 the expression “214”, and substituting the expression “213”.

(3) The said First Schedule is hereby further amended by inserting in clause 3, after the word “Parts”, the expression “VI,”; and also by inserting in that clause, after the expression “VIII”, the expression “and section 227”.

**13. Hours for sale of liquor in restaurants**—(1) Section 28A of the principal Act (as inserted by section 3 (1) of the Licensing Trusts Amendment Act 1961) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) The Trust may within the Trust district establish and maintain restaurants, in which it may sell and serve table wine, beer, and stout to any person actually partaking of a meal therein, for consumption by that person as part of the meal, at any time between the hours of 12 noon on any day and 1 o'clock in the morning of the following day:

“Provided that any such liquor served in any such restaurant before 1 o'clock in the morning of any day to any person partaking of a meal as aforesaid may be consumed in the restaurant by that person at any time before 1.30 o'clock in the morning of that day.”

(2) The said section 28A is hereby further amended by omitting from subsection (4) (c) the words “3 o’clock in the afternoon or immediately after 12 o’clock at night, as the case may require”, and substituting the words “1.30 o’clock in the morning”.

(3) The Licensing Trusts Amendment Act 1962 is hereby consequentially amended by repealing so much of the Fourth Schedule as relates to section 28A (2) of the principal Act.

**14. Hours for sale of liquor in cabarets—**(1) Section 28B of the principal Act (as inserted by section 5 of the Licensing Trusts Amendment Act 1974) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) The Trust may within the Trust district establish and maintain cabarets, in which it may sell and dispose of liquor, for consumption only on the premises of the cabaret, at any time between the hours of 6 o’clock in the evening of any day, other than a Sunday or Good Friday, and 1 o’clock in the morning of the following day:

“Provided that any liquor served in a cabaret before 1 o’clock in the morning of any day may be consumed in the cabaret by the person to whom it was served at any time before 1.30 o’clock in the morning of that day.”

(2) The said section 28B is hereby further amended by omitting from subsection (4) (b) the words “12 o’clock at night”, and substituting the words “1.30 o’clock in the morning”.

**15. Establishment of hotels and taverns—**(1) Section 34 of the principal Act is hereby repealed.

(2) The principal Act is hereby amended by inserting, after section 33, the following sections:

**“33A. Number and situation of hotels and taverns—**  
(1) Subject to the provisions of this Act and of any regulations that may be made under this Act, the Trust may establish and maintain such number of hotels and taverns as it thinks fit, and may establish them in such areas within its district as it determines:

“Provided that the total number of hotels and taverns established by the Trust shall not exceed 1 for every 500 electors of the Trust district at the date of the constitution of the district.

“(2) In determining from time to time the number and type of hotels and taverns to be established, the Trust shall have regard to the requirements of the travelling public and the residents of the Trust district.

“(3) The Trust shall give notice, by advertisement published twice in a newspaper circulating in the Trust district, with an interval of not less than 5 nor more than 10 days between each publication of the advertisement, of its intention to establish any hotel or tavern. The area in which it is proposed to establish the premises shall be sufficiently described in the notice to enable it to be readily identified without the necessity of reference to the plans or records of any office.

“(4) The Trust shall include in the notice a statement to the effect that written representations may be made to the Trust, by any interested persons, within 30 days after the first publication of the notice. After the expiration of that period the Trust shall hold a public hearing to consider all such representations.

**“33B. Objections to establishment of hotels or taverns—**

(1) If, after complying with the requirements of section 33A of this Act, any converted Trust determines to establish a hotel or tavern in the area it shall give notice, by advertisement published twice in a newspaper circulating in the Trust district, with an interval of not less than 5 nor more than 10 days between each publication of the advertisement, that unless a poll is sought in accordance with this section within 30 days after the first publication of the notice, or within such further time as the Trust may allow, it intends to proceed with the establishment of the hotel or tavern.

“(2) The notice shall specify the area within which it is proposed to establish the premises with sufficient particularity to enable it to be readily identified without the necessity of reference to plans or records of any office.

“(3) At any time within 30 days after the first publication of the notice under subsection (1) of this section, or within such further time as the Trust may allow,—

“(a) The local authority of any district in which the area is wholly or partly situated; or

“(b) At least 1 percent of persons residing in the area who are qualified as electors of any such local authority—

may apply to the Trust for the taking of a poll for the purpose of ascertaining whether a majority of electors

residing in the area desire that the premises be not established in the area.

“(4) Where such an application is duly made to the Trust, the Trust shall arrange for the taking of a poll in accordance with regulations made under this Act.

“(5) When, on the taking of such a poll, the number of valid votes recorded in favour of the proposal that the premises be not established in the area is not less than 60 percent of all the valid votes recorded on the poll the majority of electors residing in the area shall be deemed to desire that the premises be not established in the area.

“(6) In any case to which subsection (5) of this section applies the Trust shall not take any further steps to establish any such premises in that area for a period of 3 years after the date of the poll. If, at any time after the expiration of that period the Trust determines to establish a hotel or tavern in that same area it shall again comply with the provisions of section 33A of this Act and this section.

“(7) Nothing in this section shall limit or affect the provisions of subsection (2) of section 32 of this Act.

“(8) In this section the term ‘converted Trust’ has the meaning assigned to it by section 3 of the Licensing Trusts Amendment Act 1975.

**“34. Number and situation of premises other than hotels and taverns—**(1) Subject to the provisions of this section and of any regulations that may be made under this Act, the Trust may establish and maintain such number of premises (other than hotels and taverns) for the sale and supply of accommodation, liquor, and refreshments as it thinks fit, and may establish them in such area within its district as it determines.

“(2) In determining from time to time the number of such premises to be established and maintained and the type and location of such premises the Trust shall have regard to the requirements of travelling public and the residents of the Trust district.

“(3) The Trust shall not establish any such premises within any area in which the requirements of the travelling public and the residents of the area are already being met by the holder of any wine reseller’s licence or wholesale licence issued under the Sale of Liquor Act 1962 in respect of premises situated within the Trust district.

“(4) The Trust shall give notice, by advertisement published twice in a newspaper circulating in the Trust district,

with an interval of not less than 5 nor more than 10 days between each publication of the advertisement, of its intention to establish any such premises. The area in which it is proposed to establish the premises shall be sufficiently described in the notice to enable it to be readily identified without the necessity of reference to the plans or records of any office.

“(5) The Trust shall include in the notice a statement to the effect that written representations may be made to the Trust, by any interested persons, within 30 days after the first publication of the notice. After the expiration of that period the Trust shall hold a public hearing to consider all such representations.”

**16. Variation of usual hours for sale of liquor in hotel and tavern premises**—Section 34B of the principal Act (as inserted by section 3 (1) of the Licensing Trusts Amendment Act 1967) is hereby amended by adding to subsection (3) the following paragraphs:

“(e) The closing of the premises after the usual hour of closing on any Friday or Saturday, but not later than 11 o'clock in the evening, for the sale of liquor for consumption only on the premises:

“(f) The closing of the premises after the usual hour of closing on New Year's Eve, but not later than midnight, for the sale of liquor for consumption only on the premises.”

**17. Fees**—(1) Section 36 of the principal Act is hereby amended by repealing subsection (1), and substituting the following section:

“(1) The Trust shall pay in respect of each establishment in which liquor is sold by or on behalf of the Trust an annual fee of \$50.”

(2) Section 8 of the Licensing Trusts Amendment Act 1962 is hereby consequentially repealed.

**18. Enforcement by Minister of Trust's responsibilities in respect of premises and facilities**—(1) The principal Act is hereby amended by inserting, after section 36A (as inserted by section 9 of the Licensing Trusts Amendment Act 1962), the following section:

“36AA. (1) After considering any report sent to the Secretary for Justice under section 36A of this Act, the Minister

may, by writing under his hand, request the Chairman of the Licensing Committee of any licensing district adjoining the Trust district to hold a public hearing to inquire into the subject matter of the report, and to make recommendations to the Minister in respect thereof. The Trust and all interested persons shall be entitled to be heard at the hearing.

“(2) After considering the recommendations made under subsection (1) of this section, the Minister may, by notice in writing, order the Trust to cause to be carried out—

“(a) The rebuilding of the premises:

“(b) Such additions, alterations, repairs, or improvements in or to the premises, or any services or facilities provided on the premises that under this Act it is the responsibility of the Trust to provide, as the Minister may specify:

“(c) The provision of any services or facilities that under this Act it is the responsibility of the Trust to provide:

“(d) The doing of such other acts or things as the Minister thinks proper in respect of the services and facilities.

“(3) Where the Minister makes an order under this section he may at the same time, or at any time thereafter, fix a period within which his directions are to be complied with, and may from time to time extend the period so fixed as he thinks fit.

“(4) The Minister shall serve a copy of the order on the Trust, and shall inform it, either in the order or by notice in writing, of any period fixed for compliance with the directions and of any extension thereof. Any interested person shall, on request, be entitled to a copy of the order.

“(5) Before making any order under this section the Minister may require the Trust to submit plans for any new building or additions to any building or for the rebuilding or alteration of any building, and may from time to time require such modifications or alterations as he thinks fit to be made in the plans. In any such case the Minister may at any time notify the Trust of his provisional approval of the plans.

“(6) Where within the period fixed, or any extension thereof, the Minister’s directions are not complied with to his satisfaction, he may order the Trust to close the premises and to keep them closed until his directions are complied with.”

(2) Section 28A of the principal Act (as inserted by section 3 (1) of the Licensing Trusts Amendment Act 1961) is here-

by consequentially amended by omitting from subsection (3) the words "If at any time the premises, services, and facilities are not maintained in accordance with the standard so approved the Minister may, if he thinks fit, require that the premises be closed, and thereupon the Trust shall close the premises."

(3) Section 28B of the principal Act (as inserted by section 5 of the Licensing Trusts Amendment Act 1974) is hereby consequentially amended by omitting from subsection (3) the words "If at any time the premises, services, and facilities are not maintained in accordance with the standard so approved the Minister may, if he thinks fit, require that the premises be closed, and thereupon the Trust shall close the premises."

**19. Closure of premises for breach of health or fire safety requirements**—Section 36B of the principal Act (as inserted by section 10 of the Licensing Trusts Amendment Act 1962) is hereby amended by adding the following subsections:

"(6) After considering any report sent to the Secretary for Justice under the foregoing provisions of this section, the Minister may, by notice in writing, require the Trust to take any steps recommended in the report, and, in the case of default, he may order the Trust to close the premises until his requirements have been complied with.

"(7) If, after considering any report sent to the Secretary for Justice under the foregoing provisions of this section, the Minister is satisfied that, because of the failure of the Trust to comply with any standards or requirements prescribed by or under this or any other Act, applicable to the premises to which the report relates, relating to public health or to the provision of safeguards against or means of warning or escape in case of fire, the health of persons using the premises is likely to be injured or their safety is likely to be endangered, the Minister shall require the Trust to close the premises and to keep them closed until he is satisfied that all work necessary or desirable to remedy the default has been carried out."

**20. Financial statements**—Section 43 (1) of the principal Act is hereby amended by omitting the words "30th day of April", and substituting the words "30th day of June".

**21. Local Trust may be constituted to acquire existing licence**—(1) Notwithstanding any other enactment, it shall be lawful for any local authority to acquire an option to

purchase any premises conducted under any hotel or tavern premises licence within the meaning of the Sale of Liquor Act 1962, on behalf of a local Trust intended to be formed.

(2) Any such option shall be expressed to be entered into by the local authority on behalf of a local Trust intended to be formed to conduct the premises as licensed premises.

(3) If, on an application made under subsection (4) of this section, any such local Trust is so formed while the option continues in force, the Trust shall be deemed to be substituted for the local authority as the holder of the option, and may, notwithstanding any rule of law to the contrary, exercise the option according to the terms thereof.

(4) Subject to subsection (5) of this section, in any case where a local authority has entered into an option to purchase any premises under this section it may apply to the Minister for the constitution of a local Trust to acquire and hold the premises as licensed premises.

(5) On making an application to the Minister the local authority shall give notice, by advertisement published twice in a newspaper circulating in the area in which the premises are situated, with an interval of not less than 5 nor more than 10 days between each publication of the advertisement, of its intention to make the application.

(6) Within 30 days after the first publication of the notice any 100 or more persons residing in the area who are qualified as electors of the local authority may apply to the Minister for the taking of a poll for the purpose of ascertaining whether a majority of the electors residing in the area desire that a local Trust be not constituted.

(7) In any case where an application for such a poll is made the provisions of sections 83 and 84 of the Sale of Liquor Act 1962, so far as they are applicable and with the necessary modifications, shall apply as if references to the Commission were references to the Minister.

(8) If on a poll taken under this section a majority in number of the valid votes recorded at the poll is in favour of the proposal that a local Trust be not constituted, the Minister shall not constitute a local Trust under this section.

(9) The Minister shall not constitute a local Trust under this section in any case where he is of opinion—

- (a) That, having regard to the proximity to the premises concerned of any other premises conducted under the Sale of Liquor Act 1962 by any other local

Trust, the constitution of a further local Trust would not be warranted; or

- (b) That, having regard to the area in which the premises are situated, it is impracticable to define a reasonably substantial area having sufficient community of interest to justify the constitution of a local Trust.

(10) Subject to the foregoing provisions of this section, on any application made to him under subsection (3) of this section the Minister may constitute a local Trust in accordance with regulations made under this Act.

(11) Where any application under this section is made or is proposed to be made by any local authority the provisions of section 46 (5) of the principal Act, so far as they are applicable and with the necessary modifications, shall apply.

(12) In any case where any such application is granted but for any reason the licence is not transferred to the Trust within such reasonable time as the Minister may require, the Minister may order the Trust to be wound up in accordance with regulations made under this Act.

(13) For the purposes of this section, the expression "local authority" means the local authority of any district, or any two or more local authorities of adjoining districts, where the area in which the premises are situated—

- (a) Is wholly or partly within such district or districts; or
- (b) Is an area to which a substantial proportion of the residents of the district or districts are accustomed to pay visits for purposes of business or entertainment or other like purposes.

**22. Regulations**—In addition to the power to make regulations conferred by sections 45 and 46 of the principal Act, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Prescribing the procedure to be followed in making and dealing with any applications under section 21 of this Act for the constitution of a local Trust;
- (b) Empowering the Minister to authorise or direct any local authority that makes or intends to make any such application to take a poll of the electors of the local authority's district or any specified part thereof on the question whether those electors desire that the licence should be granted to a local Trust; and empowering the Minister to define the area within

which the poll is to be taken, and to give such directions as may be necessary or expedient with respect to the taking of the poll and the payment of the costs and expenses thereof:

- (c) Any of the purposes referred to in paragraphs (d) to (f) of section 46 (1) of the principal Act.

## PART II

### MASTERTON LICENSING TRUST

**23. This Part to be read with 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).

**24. Remuneration of Chairman**—(1) Section 9 of the principal Act (as substituted by section 2 (1) of the Masterton Licensing Trust Amendment Act 1969) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The Trust may pay to the Chairman by way of remuneration for his services a sum not exceeding in any year the amount for the time being fixed by the Minister of Finance after consultation with the Minister of Justice.”

(2) Subsections (1) and (2) of section 2 of the Masterton Licensing Trust Amendment Act 1971 are hereby consequentially repealed.

**25. Trust to appoint manager**—(1) Section 23 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) The Trust shall from time to time appoint a manager in respect of each establishment in which it conducts the sale of liquor under this Act.”

(2) The said section 23 is hereby further amended by adding to subsection (2) the following proviso:

“Provided that no person shall be appointed as manager of more than one establishment under subsection (1A) of this section.”

**26. Application of Part VI of the Sale of Liquor Act 1962 relating to managers**—(1) Section 34A of the principal Act (as inserted by section 15 (1) of the Licensing Trusts

Amendment Act 1962) is hereby amended by inserting in subsection (1), after the word "Parts", the expression "VI,".

(2) The Third Schedule to the principal Act (as substituted by section 15 (2) of the Licensing Trusts Amendment Act 1962) is hereby amended by omitting from paragraph (e) of clause 1 the expression "214", and substituting the expression "213".

(3) The said Third Schedule is hereby further amended by inserting in clause 3, after the word "Parts", the expression "VI,"; and also by inserting in that clause, after the expression "VIII", the expression "and section 227".

**27. Notice of intention to establish hotel**—(1) Section 34 of the principal Act (as amended by section 14 of the Licensing Trusts Amendment Act 1962) is hereby amended by adding to subsection (3) the words ", and shall include in the notice a statement to the effect that written representations may be made to the Trust, by any interested persons, within 30 days after the first publication of the notice. After the expiration of that period the Trust shall hold a public hearing to consider all such representations."

(2) The said section 34 (as so amended) is hereby further amended by repealing subsections (5) and (6).

**28. Fees**—(1) Section 36 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

"(1) The Trust shall pay in respect of each establishment in which liquor is sold by or on behalf of the Trust an annual fee of \$50."

(2) Section 17 of the Licensing Trusts Amendment Act 1962 is hereby consequentially repealed.

**29. Enforcement by Minister of Trust's responsibilities in respect of premises and facilities**—The principal Act is hereby amended by inserting, after section 36A (as inserted by section 18 of the Licensing Trusts Amendment Act 1962), the following section:

"36AA. (1) After considering any report sent to the Secretary for Justice under section 36A of this Act, the Minister may, by writing under his hand, request the Chairman of the Licensing Committee of any licensing district adjoining the Trust district to hold a public hearing to inquire into the subject matter of the report, and to make recommendations

to the Minister in respect thereof. The Trust and all interested persons shall be entitled to appear and be heard at the hearing.

“(2) After considering the recommendations made under subsection (1) of this section, the Minister may, by notice in writing, order the Trust to cause to be carried out—

“(a) The rebuilding of the premises:

“(b) Such additions, alterations, repairs, or improvements in or to the premises, or any services or facilities provided on the premises that under this Act it is the responsibility of the Trust to provide, as the Minister may specify:

“(c) The provision of any services or facilities that under this Act it is the responsibility of the Trust to provide:

“(d) The doing of such other acts or things as the Minister thinks proper in respect of the services and facilities.

“(3) Where the Minister makes an order under this section he may at the same time, or at any time thereafter, fix a period within which his directions are to be complied with, and may from time to time extend the period so fixed as he thinks fit.

“(4) The Minister shall serve a copy of the order on the Trust, and shall inform it, either in the order or by notice in writing, of any period fixed for compliance with the directions and of any extension thereof. Any interested person shall, on request, be entitled to a copy of the order.

“(5) Before making any order under this section the Minister may require the Trust to submit plans for any new building or additions to any building or for the rebuilding or alteration of any building, and may from time to time require such modifications or alterations as he thinks fit to be made in the plans. In any such case the Minister may at any time notify the Trust of his provisional approval of the plans.

“(6) Where within the period fixed, or any extension thereof, the Minister's directions are not complied with to his satisfaction, he may order the Trust to close the premises and to keep them closed until his directions are complied with.”

**30. Closure of premises for breach of health or fire safety requirements**—Section 36B of the principal Act (as inserted by section 19 of the Licensing Trusts Amendment Act 1962) is hereby amended by adding the following subsections:

“(6) After considering any report sent to the Secretary for Justice under the foregoing provisions of this section, the

Minister may, by notice in writing, require the Trust to take any steps recommended in the report, and, in the case of default, he may order the Trust to close the premises until his requirements have been complied with.

“(7) If, after considering any report sent to the Secretary for Justice under the foregoing provisions of this section, the Minister is satisfied that, because of the failure of the Trust to comply with any standards or requirements prescribed by or under this or any other Act, applicable to the premises to which the report relates, relating to public health or to the provision of safeguards against or means of warning or escape in case of fire, the health of persons using the premises is likely to be injured or their safety is likely to be endangered, the Minister shall require the Trust to close the premises and to keep them closed until he is satisfied that all work necessary or desirable to remedy the default has been carried out.”

**31. Financial statements**—Section 43 (1) of the principal Act is hereby amended by omitting the words “30th day of April”, and substituting the words “30th day of June”.

### PART III

#### INVERCARGILL LICENSING TRUST

**32. This Part to be read with 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).

**33. Remuneration of Chairman**—(1) Section 9 of the principal Act (as substituted by section 2 (1) of the Invercargill Licensing Trust Amendment Act 1969) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The Trust may pay to the Chairman by way of remuneration for his services a sum not exceeding in any year the amount for the time being fixed by the Minister of Finance after consultation with the Minister of Justice.”

(2) Subsections (1) and (2) of section 2 of the Invercargill Licensing Trust Amendment Act 1971 are hereby consequentially repealed.

**34. Trust to appoint manager**—(1) Section 24 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) The Trust shall from time to time appoint a manager in respect of each establishment in which it conducts the sale of liquor under this Act.”

(2) The said section 24 is hereby further amended by adding to subsection (2) the following proviso:

“Provided that no person shall be appointed as manager of more than one establishment under subsection (1A) of this section.”

**35. Application of Part VI of the Sale of Liquor Act 1962 relating to managers—**(1) Section 35A of the principal Act (as inserted by section 24 (1) of the Licensing Trusts Amendment Act 1962) is hereby amended by inserting in subsection (1), after the word “Parts”, the expression “VI”.

(2) The Second Schedule to the principal Act (as substituted by section 24 (2) of the Licensing Trusts Amendment Act 1962) is hereby amended by omitting from paragraph (e) of clause 1 the expression “214”, and substituting the expression “213”.

(3) The said Second Schedule is hereby further amended by inserting in clause 3, after the words “Parts,”, the expression “VI”; and also by inserting in that clause, after the expression “VIII”, the expression “and section 217”.

**36. Notice of intention to establish hotel—**(1) Section 35 of the principal Act (as amended by section 23 of the Licensing Trusts Amendment Act 1962) is hereby amended by adding to subsection (3) the words “, and shall include in the notice a statement to the effect that written representations may be made to the Trust, by any interested persons, within 30 days after the first publication of the notice. After the expiration of that period the Trust shall hold a public hearing to consider all such representations.”

(2) The said section 35 (as so amended) is hereby further amended by repealing subsections (5) and (6).

**37. Fees—**(1) Section 37 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The Trust shall pay in respect of each establishment in which liquor is sold by or on behalf of the Trust an annual fee of \$50.”

(2) Section 26 of the Licensing Trusts Amendment Act 1962 is hereby consequentially repealed.

**38. Enforcement by Minister of Trust's responsibilities in respect of premises and facilities**—The principal Act is hereby amended by inserting, after section 37A (as inserted by section 27 of the Licensing Trusts Amendment Act 1962), the following section:

“37AA. (1) After considering any report sent to the Secretary for Justice under section 37A of this Act, the Minister may, by writing under his hand, request the Chairman of the Licensing Committee of any licensing district adjoining the Trust district to hold a public hearing to inquire into the subject matter of the report, and to make recommendations to the Minister in respect thereof. The Trust and all interested persons shall be entitled to appear and be heard at the hearing.

“(2) After considering the recommendations made under subsection (1) of this section, the Minister may, by notice in writing, order the Trust to cause to be carried out—

“(a) The rebuilding of the premises:

“(b) Such additions, alterations, repairs, or improvements in or to the premises, or any services or facilities provided on the premises that under this Act it is the responsibility of the Trust to provide, as the Minister may specify:

“(c) The provision of any services or facilities that under this Act it is the responsibility of the Trust to provide:

“(d) The doing of such other acts or things as the Minister thinks proper in respect of the services and facilities.

“(3) Where the Minister makes an order under this section he may at the same time, or at any time thereafter, fix a period within which his directions are to be complied with, and may from time to time extend the period so fixed as he thinks fit.

“(4) The Minister shall serve a copy of the order on the Trust, and shall inform it, either in the order or by notice in writing, of any period fixed for compliance with the directions and of any extension thereof. Any interested person shall, on request, be entitled to a copy of the order.

“(5) Before making any order under this section the Minister may require the Trust to submit plans for any new building or additions to any building or for the rebuilding or alteration of any building, and may from time to time require such modifications or alterations as he thinks fit to be made in the plans. In any such case the Minister may at

any time notify the Trust of his provisional approval of the plans.

“(6) Where within the period fixed, or any extension thereof, the Minister’s directions are not complied with to his satisfaction, he may order the Trust to close the premises and to keep them closed until his directions are complied with.”

**39. Closure of premises for breach of health or fire safety requirements**—Section 37B of the principal Act (as inserted by section 28 of the Licensing Trusts Amendment Act 1962) is hereby amended by adding the following subsections:

“(6) After considering any report sent to the Secretary for Justice under the foregoing provisions of this section, the Minister may, by notice in writing, require the Trust to take any steps recommended in the report, and, in the case of default, he may order the Trust to close the premises until his requirements have been complied with.

“(7) If, after considering any report sent to the Secretary for Justice under the foregoing provisions of this section, the Minister is satisfied that, because of the failure of the Trust to comply with any standards or requirements prescribed by or under this or any other Act, applicable to the premises to which the report relates, relating to public health or to the provision of safeguards against or means of warning or escape in case of fire, the health of persons using the premises is likely to be injured or their safety is likely to be endangered, the Minister shall require the Trust to close the premises and to keep them closed until he is satisfied that all work necessary or desirable to remedy the default has been carried out.”

**40. Financial statements**—Section 45 (1) of the principal Act is hereby amended by omitting the words “the last day of May”, and substituting the words “the 30th day of June”.

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This Act is administered in the Department of Justice.

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