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1976, No. 167

An Act to amend the Licensing Trusts Act 1949, the Sale of Liquor Act 1962, the Masterton Licensing Trust Act 1947, and the Invercargill Licensing Trust Act 1950

[14 December 1976]

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 1976.

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 Certain District Licensing Trusts

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

“Commission” means the Licensing Control Commission constituted under section 4 of the Sale of Liquor Act 1962:

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

“District licensing Trust” or “district 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 district licensing Trusts to suburban 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 district licensing Trust is hereby altered from that of a district licensing Trust to that of a suburban licensing Trust.

5. Provisions applying to converted Trusts on and after operative date—(1) Subject to the succeeding provisions of this section and sections 6 to 8 of this Act, the provisions of Part III of the principal Act (as inserted by section 9 of this Act) shall apply to each converted Trust on and after the operative date.

(2) Nothing in sections 4 (1), (2), and (2A), 5 (3), 10, and 20 (1) of the principal Act shall apply to a converted Trust.

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

(a) The Trust district of the Trust immediately before the operative date shall be deemed to be the Trust area of the Trust:

(b) The name of the Trust shall be the name specified in the notice in the *Gazette* by which the Trust was originally constituted:

(c) The number of elective members of the Trust shall be the number of elective members of the Trust immediately before the operative date:

- (d) If at any time before the operative date the Trust district was duly divided into wards for the purposes of the election of members of the Trust, the Trust area 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 the same as they were immediately before the operative date:
- (e) 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:
- (f) The number of members of the Trust to form a quorum at any meeting of the Trust shall be the number required for that purpose immediately before the operative date.
- (4) For the purposes of the principal Act and of the Sale of Liquor Act 1962, the following further provisions shall apply:
- (a) In the case of a loan secured over any premises owned be excluded from any licensing district constituted under the Sale of Liquor Act 1962:
- (b) All premises conducted by the Trust immediately before the operative date shall be deemed to have been established with the consent of the Commission:
- (c) Where any hotel premises licence or a tavern premises licence under the Sale of Liquor Act 1962 was authorised before the 10th day of October 1975 (being the date of the commencement of sections 3 to 8 of the Licensing Trusts Amendment Act 1975) in respect of any premises or proposed premises in the Trust area, the Trust shall be deemed to have complied with the requirements of section 54 of the principal Act (as inserted by section 9 of this Act) in respect of those premises or proposed premises:
- (d) Where the Trust has established any hotel or tavern premises before the operative date and, in respect of those premises, the Trust complied with the requirements of sections 33A and 33B of the principal Act

(as inserted by section 15 of the Licensing Trusts Amendment Act 1975), the Trust shall be deemed to have complied with the requirements of section 54 of the principal Act (as inserted by section 9 of this Act):

- (e) All fees paid by the Trust before the operative date under section 36 of the principal Act shall be deemed to have been duly paid by the Trust in accordance with section 70 (1) of the principal Act (as inserted by section 9 of this Act).

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 10th day of October 1975 (being the date of the commencement of sections 3 to 8 of the Licensing Trusts Amendment Act 1975) 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 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 licence had 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 had 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 or otherwise enter into possession of the premises, the provisions of section 74 of the principal Act (as inserted by section 9 of this Act), so far as they are applicable and with the necessary modifications, shall apply.

7. Saving of wholesale licences not held by Trust—

(1) Nothing in section 29A (2) of the principal Act (as inserted by section 20 of this Act) shall affect the validity of any wholesale licence issued in respect of any premises in the Trust area of any converted Trust, or removed to any such premises, if the licence was issued or the application for removal was made before the 20th day of August 1975.

(2) While any wholesale licence is lawfully in force in any suburban licensing Trust area, the provisions of the Sale of Liquor Act 1962 shall apply to and in respect of that licence, the holder of the licence, and the premises to which the licence relates; 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 area.

(3) Subject to the foregoing provisions of this section, but notwithstanding anything in the Sale of Liquor Act 1962, every application for a wholesale licence and every such licence issued in respect of any premises in the Trust area 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 every 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 was taken in accordance

with sections 81, 83, and 84 of the Sale of Liquor Act 1962 in any part of the Trust area (in this section referred to as the polled district); 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 Commission did not decide to grant such a licence notwithstanding the result of the poll.

(2) Notwithstanding anything in section 54 of the principal Act (as inserted by section 9 of this 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 district within 3 years after the date on which the poll was taken.

Special Provisions Relating to Suburban Licensing Trusts

9. New Part III (relating to suburban licensing Trusts) inserted in principal Act—The principal Act is hereby amended by inserting, after Part II, the following Part:

“PART III

“SUBURBAN LICENSING TRUSTS

“52. **Interpretation**—In this Part of this Act, unless the context otherwise requires,—

“‘Bottleshop’ means premises in or from which liquor is sold, whether in minimum quantities or otherwise, exclusively for consumption off the premises:

“‘Hotel’ means premises in which accommodation is provided for the travelling public and in which liquor is sold for consumption on the premises, whether or not liquor is also sold therein or therefrom for consumption off the premises:

“‘Tavern’ means premises in which accommodation is not provided for the travelling public and in which liquor is sold for consumption on the premises (otherwise than as part of a meal), whether or not liquor is also sold therein or therefrom for consumption off the premises; but does not include—

“(a) Any premises on which the sale and consumption of liquor is ancillary to the conduct of some other activity on those premises; or

“(b) Any premises on which no more than 60 patrons are permitted at any one time, and on which no patron is permitted to consume liquor otherwise than while seated at a table:

“ ‘Trust’ means a suburban licensing Trust constituted under section 9BA of the Licensing Amendment Act 1910; and includes a converted Trust within the meaning of section 3 of the Licensing Trusts Amendment Act 1976:

“ ‘Trust area’ or ‘area’, in relation to a suburban licensing Trust, means the area within which polls are taken for the election of members of the Trust.

“53. **No licences required by Trust**—Subject to the provisions of this Part of this Act, liquor may be sold in the Trust area by or on behalf of the Trust in such premises as the Trust may determine, and it shall not be necessary for any licence under the Sale of Liquor Act 1962 to be issued to the Trust or to any person selling liquor on behalf of the Trust.

“54. **Number and situation of hotels, taverns, and bottle-shops**—(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, taverns, and bottle-shops as it thinks fit, and may establish them in such places within its area as it determines.

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

“(3) If at any time the Trust is of opinion that a hotel or tavern or bottle-shop is necessary or desirable in any locality or place within its area, it may apply to the Commission for its consent to the establishment of such premises in that locality or place.

“(4) The Trust shall give notice, by advertisement published twice in a newspaper circulating in the Trust area, with an interval of not less than 5 nor more than 10 days between each publication of the advertisement, of its intention to establish a hotel or tavern or bottle-shop and of its application for the Commission’s consent. The locality or place 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) As soon as practicable after receiving an application under this section the Commission shall give public notice, in the manner and containing the information specified in subsection (4) of this section, of its intention to hold a public sitting in the Trust area to consider the application.

“(6) At the public sitting the Commission may hold such inquiry as it thinks fit, and shall afford all interested persons an opportunity to give evidence or make representations.

“55. **Circumstances in which Commission may give its consent to establishment of hotel or tavern or bottleshop**—In determining whether it should give its consent to the establishment of a hotel or tavern or bottleshop the Commission shall have regard to—

“(a) The requirements of the residents of the Trust area and of the travelling public in relation to the provision of accommodation in the locality or place:

“(b) The requirements of residents of the Trust area in relation to the provision of facilities for the purchase and consumption of liquor in the locality or place:

“(c) The responsibilities of the Trust as set out in section 26 (1) of this Act:

“(d) The financial resources and commitments of the Trust, and the desirability of the Trust adopting and following an orderly development programme to ensure, so far as possible, the long-term financial stability of the Trust:

“(e) The desirability of ensuring that the Trust makes a reasonable contribution towards meeting the requirements of the public in relation to the provision of accommodation in the greater metropolitan district of which the Trust area forms a part having regard to the nature and situation of the Trust area and the likely demand for accommodation therein:

“(f) In the case of a bottleshop, the demand, in the area that is likely to be served by the premises, if consent is granted, for facilities for the supply of liquor—

“(i) To the public, for consumption off the premises; or

“(ii) To the holders of licences under the Sale of Liquor Act 1962—

and to the facilities available in the area for the supply of liquor by the holders of licences under the said Act:

“(g) The nature of the proposed premises:

“(h) Such other considerations as the Commission thinks fit to take into account.

“56. **Commission to define standards**—(1) Unless the Commission is of opinion that it should not consent to the establishment of a hotel or tavern or bottleshop it shall define, with such particularity as it thinks fit, the minimum standards of accommodation, services, and other facilities to be provided on the proposed premises.

“(2) In the case of a hotel or tavern the Commission, if it thinks fit, may direct that the facilities for any bar shall include facilities for sit-down drinking, or may direct that provision be made for a bar at which liquor and light refreshments may be served but not consumed, and for chairs and tables, or other facilities of a like nature, at which liquor and light refreshments may be consumed.

“(3) The fact that the Commission has prescribed minimum standards under the provisions of this section shall not affect the powers of the Commission at any time to give directions to the Trust, pursuant to this Act, as to the provision of accommodation, services, and other facilities.

“57. **Notice of intention to consent to establishment of hotel or tavern**—(1) Unless the Commission is of opinion that it should not consent to the establishment of a hotel or tavern, it shall give notice, by advertisement published twice in a newspaper circulating in the Trust area, with an interval of not less than 5 nor more than 10 days between each publication of the advertisement, that unless objections under section 58 of this Act are filed with it within 30 days after the first publication of the notice it intends to consent to the establishment by the Trust of premises of the kind specified in the notice.

“(2) The notice shall specify the locality or area within which the Trust proposes to establish the premises. The locality or area shall be sufficiently described or referred to in the notice to enable it to be readily identified without the necessity of reference to the plans or records of any office.

“(3) The notice shall contain sufficient brief details of any actual or minimum standards fixed by the Commission to indicate the general nature of the accommodation, services, or other facilities to be provided. Any local authority or

resident qualified to make or join in an application for a poll under section 58 of this Act shall be entitled, on application to the Commission, to be informed of the minimum standards fixed by the Commission.

“(4) The Commission may if it thinks fit, at any time before it has given its consent to the establishment of the premises, extend the time for filing objections as aforesaid. Any extension may be for such period as it thinks fit, not being longer than 30 days after the grant of the extension.

“58. **Objections**—The local authority of any district, or any 2 or more local authorities of adjoining districts, or any 50 or more persons residing in any such district or districts as aforesaid who are qualified as electors of any such local authority, may, at any time within 30 days after the first publication of the notice that the Commission intends to consent to the establishment by the Trust of a hotel or tavern in any area in any such district or districts as aforesaid, or within such further time as is allowed by the Commission under section 57 (4) of this Act, apply in writing to the Commission for the taking of a poll for the purpose of ascertaining whether a majority of the electors residing in the area desire that the premises be not established in the area.

“59. **Hearing of objections**—(1) On any application under section 58 of this Act the Commission may hold such inquiry and take such evidence as it thinks fit; and if it is of opinion that the application is made in good faith and that a poll should be taken, it shall, subject to the provisions of subsection (2) of this section, direct that a poll be taken.

“(2) The Commission may decline to direct that a poll be taken if it is of opinion that, having regard to the locality or area in which it is proposed to issue the licence, it is impracticable to define a reasonably substantial area having sufficient community of interest to justify the taking of a poll.

“60. **Commission may give directions as to poll**—(1) If the Commission directs that a poll be taken, it may, by the same or any further direction,—

“(a) Determine an area within which the poll is to be taken and define the boundaries of that area:

“(b) Fix a date for the taking of the poll:

“(c) Fix a date for the closing of the rolls of electors:

“(d) Appoint a Returning Officer to conduct the poll:

“(e) Give such directions as may be necessary in relation to the form of notices to be given by the Returning Officer in respect of the poll:

“(f) Determine the form of the ballot paper:

“(g) Direct how the costs of preparing rolls and conducting the poll shall be borne by the local authorities having jurisdiction in the area in which the poll is to be taken, or by any one or more of them:

“(h) Authorise or direct the doing of any other thing necessary or expedient for the taking of the poll.

“(2) The Commission may direct that the rolls of electors of the appropriate electoral district (including Maori electoral districts) for the time being in force, or the rolls of electors of the districts or portions of the districts of any local authorities for the time being in force, shall be suitably marked to indicate the persons entitled to vote and used as the rolls of electors for the purposes of the poll; and, for the purpose of ensuring that electors residing, on the date fixed for the closing of the rolls, in the area in which the poll is to be taken are entitled to vote, may direct that the Returning Officer shall prepare a supplementary roll.

“(3) Every poll under this section shall be a poll of the persons who are residing, on the date fixed for the closing of the rolls, in the area determined by the Commission as aforesaid, and who are qualified as electors of any local authority having jurisdiction in that area.

“(4) Subject to the provisions of this section, and of any regulations made under this Act, and of any directions given by the Commission as aforesaid, and subject to any necessary modifications, the provisions of the Local Elections and Polls Act 1976, so far as they are applicable, shall apply to the poll.

“(5) Every decision or direction given under this section shall be final and binding on all parties.

“61. Effect of poll where result is against establishment of premises—(1) If a majority in number of the valid votes recorded at the poll is in favour of the proposal that no hotel or tavern be established, the Commission shall refuse to give its consent to the establishment of such premises in the area in which the poll was taken unless in its opinion, having regard to the proportion that the total number of valid votes bears to the number of electors entitled to vote, the proportion that the number of valid votes recorded in favour of the proposal that no hotel or tavern be established bears to the total number of valid votes, the convenience of travellers in the case of proposed hotel premises, and all such other matters

as it considers relevant, there are special circumstances that make it desirable in the public interest that such premises should be established.

“(2) If in any such case the Commission does not decide to give its consent, the Trust shall not take any further steps relating to the establishment of any such premises in that area for a period of 3 years from the day of the poll.

“(3) At any time after the expiration of 3 years from the day of any such poll as aforesaid, the Trust may again apply to the Commission for its consent to establish a hotel or tavern in the area, and proceedings for the grant of the Commission’s consent may thereafter be taken in accordance with this Part of this Act.

“62. **Grant of consent to establishment of hotel or tavern or bottleshop**—(1) Subject to section 61 of this Act, unless, on the holding of an inquiry under section 54 of this Act, the Commission is of opinion that the establishment of a hotel or tavern in the locality or place would be undesirable, the Commission shall grant its consent to the establishment of such premises by the Trust in that locality or place.

“(2) Unless, on the holding of an inquiry under section 54 of this Act, the Commission is of opinion that the establishment of a bottleshop in the locality or place proposed would be undesirable, the Commission shall grant its consent to the establishment of such premises by the Trust in that locality or place.

“(3) In any case where the Commission refuses its consent to the establishment by the Trust of a hotel or tavern or bottleshop as aforesaid it shall notify the Trust of its decision and the reasons therefor in writing.

“63. **Commission may impose conditions on grant of consent**—(1) On granting its consent to the establishment of a hotel or tavern or bottleshop the Commission may impose such conditions, not inconsistent with this Act or any regulations made under this Act, and whether as to compliance with any minimum standards prescribed by the Commission or otherwise, as it thinks fit.

“(2) In particular, but without limiting the generality of subsection (1) of this section,—

“(a) Where the Commission gives its consent to the establishment of a tavern or bottleshop it may, if it is of opinion that there has been inordinate delay in the provision of accommodation by the Trust in the Trust area, impose a condition that the Trust shall,

within such period as the Commission may specify, make provision or further provision in the Trust area for hotel accommodation:

“(b) Where the Commission gives its consent to the establishment of a bottleshop, it may impose a condition that the Trust shall not, during such period as the Commission may specify, sell such kind or kinds of liquor as the Commission may specify.

“(3) The Commission may at any time, on application by the Trust, vary or revoke any condition imposed by it under this section.

“(4) If any condition imposed by the Commission under this section is not complied with by the Trust within the period specified or allowed by the Commission, or within such further period as the Commission may specify, the Commission may revoke its consent, whereupon the Trust shall forthwith close the premises, and shall not reopen them without the approval of the Commission.

“64. Number and situation of premises other than hotels, taverns, and bottleshops—(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 premises for the supply and consumption of liquor (other than hotels, taverns, and bottleshops) as it thinks fit, and may establish them in such localities and places within its area 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 the residents of the Trust area.

“(3) If at any time the Trust is of opinion that any such premises are necessary or desirable in any locality or place within its area, it may apply to the Commission for its consent to the establishment of such premises in that locality or place.

“65. Notice of intention to consent to establishment of premises other than hotel, tavern, or bottleshop—(1) As soon as practicable after receiving an application under section 64 of this Act, the Commission shall, unless it is of opinion that it should not consent to the establishment of the premises, give notice, by advertisement published twice in a newspaper circulating in the Trust area, with an interval of not less than 5 nor more than 10 days between each publication of the advertisement, that unless objections under section 66 of this Act are filed with it within 30 days after the first

publication of the notice it intends to consent to the establishment by the Trust of premises of the type specified in the notice.

“(2) The provisions of subsections (2) and (3) of section 57 of this Act, so far as they are applicable and with the necessary modifications, shall apply with respect to the notice.

“66. Objections to establishment of premises other than hotels, taverns, and bottleshops—(1) Objections to the establishment by the Trust of any premises (other than a hotel or tavern or bottleshop) may be made by any person of or over the age of 18 years who is resident in the Trust area.

“(2) Every objection shall be made by notice in writing filed with the Commission within 30 days after the first publication of the notice referred to in section 65 (1) of this Act.

“(3) The grounds on which any such objection may be made are—

“(a) That the establishment of such premises will have a prejudicial effect on residents in the immediate neighbourhood of the premises; or

“(b) That the type of premises proposed is not suitable for the sale and consumption of liquor.

“67. Circumstances to be taken into account—In determining whether to consent to the establishment by the Trust of any premises (other than a hotel or tavern or bottleshop) the Commission shall have regard to—

“(a) The requirements of the public in the area or areas from which persons might reasonably be expected to resort to the premises, if consent is granted:

“(b) Any prejudicial effect that the establishment of the premises might have on residents in the immediate neighbourhood of the premises:

“(c) The suitability of the premises or proposed premises, and the facilities to be provided, the services to be given, and, where appropriate, the quality of the meals to be supplied on those premises:

“(d) Such other considerations as the Commission thinks fit to take into account.

“68. Grant of consent to establishment of premises other than hotel, tavern, or bottleshop—(1) Unless, after considering any objections under section 66 of this Act, the Com-

mission is of opinion that the establishment of any premises (other than a hotel, tavern, or bottleshop) in the locality or place proposed would be undesirable, the Commission shall grant its consent to the establishment of such premises by the Trust in that locality or place.

“(2) In any case where the Commission refuses its consent to the establishment by the Trust of any such premises as aforesaid it shall notify the Trust of its decision and the reasons therefor in writing.

“(3) Where the Commission consents to the establishment of any such premises as aforesaid the provisions of section 63 of this Act, with any necessary modifications, shall apply.

“69. Trust may appeal against Commission’s decision—

(1) Where the Trust is dissatisfied with any decision of the Commission under this Part of this Act it may appeal to the Supreme Court against the decision on the ground that, having regard to the provisions of this Act and to all the circumstances of the case, the decision of the Commission was unreasonable.

“(2) Every appeal under this section shall be heard and determined by the Administrative Division of the Supreme Court.

“(3) The provisions of subsections (8) to (10), and (12) of section 229 and section 230 of the Sale of Liquor Act 1962, so far as they are applicable and with the necessary modifications, shall apply with respect to every appeal under this section.

“70. Fees—(1) The Trust shall pay in respect of each establishment in which liquor is sold by or on behalf of the Trust, other than a tavern or a bottleshop, an annual fee of \$50.

“(2) The fees shall be paid within 14 days after the commencement of each financial year of the Trust, or, in the case of premises first used during any financial year for the sale of liquor, within 14 days after the premises are so first used.

“(3) The fees payable under this section shall be paid to the Treasurer of the local authority within whose district the premises are situated.

“71. Levy on purchases for taverns and bottleshops—

(1) Subject to subsection (3) of this section, the Trust shall pay in respect of each tavern and each bottleshop conducted

by it an annual fee of a sum equal to 3 percent of purchases of liquor for the tavern or bottleshop during every financial year.

“(2) Out of each fee payable under subsection (1) of this section the sum of \$100 shall be paid to the Consolidated Revenue Account, and the balance shall be paid to the Licensing Fund established under section 17 of the Sale of Liquor Act 1962.

“(3) The Commission may, at any time, on application by the Trust, exempt the Trust from paying the levy imposed by subsection (1) of this subsection in respect of any tavern or bottleshop conducted by the Trust if the Commission is satisfied that the tavern or bottleshop should be linked, for the purposes of this section, to any hotel premises conducted by the Trust.

“(4) In considering any application under subsection (3) of this section the Commission shall have regard to—

“(a) The nature and extent of the accommodation, services, and other facilities provided on the hotel premises:

“(b) Any additions or improvements undertaken to be made in respect of the accommodation, services, or other facilities, if the application is granted:

“(c) The distance between the hotel premises and the tavern or bottleshop:

“(d) The public interest in the supply of accommodation:

“(e) Such other matters as the Commission thinks fit.

“(5) The provisions of section 286A of the Sale of Liquor Act 1962 (as inserted by section 3 (1) of the Sale of Liquor Amendment Act 1967), so far as they are applicable and with the necessary modifications, shall apply with respect to every fee payable by the Trust under this section as if—

“(a) References to the licensee were references to the Trust; and

“(b) 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) for the licensing district adjoining the Trust area.

“(6) Nothing in this section shall apply with respect to any wholesale outlet conducted by the Trust.

“(7) For the purposes of this section ‘wholesale outlet’ means premises used exclusively for either or both of the following purposes:

“(a) The sale and supply of liquor in quantities of not less than 9 litres to any person at any one time for consumption off the premises only:

“(b) The sale and supply of liquor to any person holding a licence under the Sale of Liquor Act 1962 or to any premises conducted by a Trust in accordance with this Part of this Act.

“(8) This section shall not apply to any liquor purchased by the Trust before the date to be appointed for the purposes of this section by the Governor-General by Order in Council, being a date not earlier than the 1st day of September 1977.

“72. Application of Part I to suburban licensing Trusts—

(1) Subject to the provisions of this Part of this Act, the provisions of Part I of this Act, except sections 4 (1), 28A, 28B, 29, 30, 31 (3), (4), 32 (except subsections (5) to (7)), 33A, 33B, 34, 34A, 35, 36, 46, and 46A, so far as they are applicable and with the necessary modifications, shall apply with respect to each suburban licensing Trust and each Trust area.

“(2) Section 33 (3) of this Act shall apply with respect to each suburban Trust as if for the word ‘Minister’ there were substituted the word ‘Commission’.

“73. Application of Sale of Liquor Act 1962 to suburban licensing Trusts and Trust areas—(1) All the provisions of the Sale of Liquor Act 1962, so far as they are applicable and with the necessary modifications, shall apply within the Trust area with respect to—

“(a) All licences, permits, and club charters that may be or have been lawfully issued under the Sale of Liquor Act 1962 in respect of any premises situated in the area:

“(b) Premises in respect of which and persons to whom any such licence, permit, or charter has been or may hereafter be lawfully issued.

“(2) Subject to the modifications set out in the First Schedule to this Act, and to all other necessary modifications, the provisions of Parts VI, VII, VIII, XI, and XII, and sections 60, 64, 67 (except subsection (4)), 71, 288A to 289A, 292 to 294, and 296 to 298 of the Sale of Liquor Act 1962, except so far as they are inconsistent with any of the provisions of this Act, shall apply to each suburban licensing Trust and to each Trust area, and to premises maintained by each such Trust in which liquor is sold or supplied by it or on its behalf, as if the Trust were a licensed person and the premises were licensed premises.

“(3) For the purposes of such of the provisions of the Sale of Liquor Act 1962 as by virtue of this section are applicable to the Trust or to premises maintained by the Trust, the provisions of paragraphs (a) to (d), (da) (as inserted by section 11 (4) of the Licensing Trusts Amendment Act 1974), (e) to (g), and (h) (as added by section 11 (5) of that Act) of section 34A of this Act (as inserted by section 6 (1) of the Licensing Trusts Amendment Act 1962) shall apply.

“74. **Special provisions relating to covenants and leases, etc., in respect of loans**—(1) This section applies to any case where a suburban Trust has, at any time after the date of the commencement of the Licensing Trusts Amendment Act 1976, given or entered into a covenant, undertaking or agreement as a condition of or in relation to the making of any loan (whether by way of an advance of money, a 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 cease to conduct on specified premises business of a specified kind without the prior consent of the lender.

“(2) This section also applies to any case where,—

“(a) A suburban Trust has, at any time after the date of the commencement of the Licensing Trusts Amendment Act 1976, given or entered into any covenant, undertaking, or agreement to or with any other person (in this section referred to as the lessor) whereby the Trust covenanted, undertook, or agreed—

“(i) To transfer or assign to the lessor all its estate and interest in any premises; and

“(ii) To accept a lease of the premises from the lessor; and

“(iii) To conduct on the premises business of a specified kind; and

“(b) The lessor has agreed to grant to the Trust an option to purchase the premises at the expiry of the lease at market valuation.

“(3) Where, in any case to which this section applies, the Trust fails to comply with any term or condition expressed or implied in the memorandum of mortgage, memorandum of lease, or other instrument evidencing the covenant, undertaking, or agreement and by reason of that default the lender or, as the case may require, the lessor is

entitled, in accordance with the provisions of that instrument, to sell or otherwise enter into possession of the premises, the following provisions shall apply:

- “(a) The lender or lessor may give to the Commission notice in writing of the fact that he has become so entitled and intends to sell or otherwise enter into possession of the premises:
 - “(b) Where notice has been duly given under paragraph (a) of this subsection, the lender or lessor, or any person who has acquired or agreed to acquire the premises from the lender or lessor, may apply to the Commission for the issue of a licence of an appropriate kind under the Sale of Liquor Act 1962 in respect of the premises:
 - “(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 29A (as inserted by section 20 of the Licensing Trusts Amendment Act 1976), so far as they are applicable and with the necessary modifications, shall apply as if—
 - “(i) The application for the licence were granted under the relevant provision 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 area.
- “(4) The provisions of this section shall be read subject to the provisions of section 72 of the Sale of Liquor Act 1962.”

Miscellaneous Amendments

10. Interpretation—Section 2 of the principal Act is hereby amended by inserting, before the definition of the term “elector”, the following definition:

“ ‘Commission’ means the Licensing Control Commission constituted under section 4 of the Sale of Liquor Act 1962:”.

11. Enforcement of standards, duties, and responsibilities—

(1) Section 28A of the principal Act (as inserted by section 3 (1) of the Licensing Trusts Amendment Act 1961) is hereby amended—

- (a) By omitting from subsection (3) the word “Minister”, and substituting the word “Commission”;
- (b) By omitting from that subsection the word “his”, and substituting the word “its”;
- (c) By omitting from that subsection the word “he”, and substituting the word “it”.

(2) Section 28B of the principal Act (as inserted by section 5 (1) of the Licensing Trusts Amendment Act 1974) is hereby amended—

- (a) By omitting from subsection (3) the word “Minister”, and substituting the word “Commission”;
- (b) By omitting from that subsection the word “his”, and substituting the word “its”;
- (c) By omitting from that subsection the word “he”, and substituting the word “it”.

(3) Section 32 of the principal Act (as substituted by section 4 of the Licensing Trusts Amendment Act 1962) is hereby amended by omitting from subsection (4) the word “Minister”, and substituting the word “Commission”.

(4) Section 36A of the principal Act (as inserted by section 9 of the Licensing Trusts Amendment Act 1962) is hereby amended—

- (a) By omitting from subsection (1) the word “Minister”, and substituting the word “Commission”;
- (b) By omitting from subsection (2) the words “Secretary for Justice”, and substituting the word “Commission”.

(5) Section 36AA of the principal Act (as inserted by section 18 (1) of the Licensing Trusts Amendment Act 1975) is hereby amended—

- (a) By omitting from subsection (1) the words “Secretary for Justice”, and substituting the word “it”;
- (b) By omitting from subsections (1), (2), (3), (4), and (5) the word “Minister” wherever it occurs, and substituting in each case the word “Commission”:

- (c) By omitting from subsections (3), (5), and (6) the word "he" wherever it occurs, and substituting in each case the word "it":
 - (d) By omitting from subsections (3), (5), and (6) the word "his" wherever it occurs, and substituting in each case the word "its":
 - (e) By omitting from subsection (6) the word "Minister's", and substituting the word "Commission's".
- (6) Section 36B of the principal Act (as inserted by section 10 of the Licensing Trusts Amendment Act 1962 and amended by section 6 (1) of the Licensing Trusts Amendment Act 1974 and by section 19 of the Licensing Trusts Amendment Act 1975) is hereby amended—
- (a) By omitting from subsections (1), (2), (3), (4), (6), and (7) the words "Secretary for Justice" wherever they occur, and substituting in each case the word "Commission":
 - (b) By omitting from subsections (4), (6), and (7) the word "Minister" wherever it occurs, and substituting in each case the word "Commission":
 - (c) By omitting from subsections (6) and (7) the word "he" in both places where it occurs, and substituting in each case the word "it":
 - (d) By omitting from subsection (6) the word "his", and substituting the word "its".

12. Premises in which liquor may be sold—Section 32 of the principal Act (as substituted by section 4 of the Licensing Trusts Amendment Act 1962) is hereby further amended by inserting in subsection (4), after the words "section 28A of this Act", the words "or of any cabaret premises of a standard approved by the Commission under section 28B of this Act".

13. Sale of liquor in restaurants and cabarets—(1) Section 28A of the principal Act (as inserted by section 3 (1) of the Licensing Trusts Amendment Act 1961) is hereby amended by omitting from subsection (2) (as substituted by section 13 (1) of the Licensing Trusts Amendment Act 1975) the words "table wine, beer, and stout", and substituting the word "liquor".

- (2) Section 28B of the principal Act is hereby amended:
 - (a) By omitting from subsection (2) (as substituted by section 14 (1) of the Licensing Trusts Amendment Act 1975) the words "other than a Sunday or", and substituting the words "except Good Friday":

- (b) By omitting from that subsection (as so substituted) the expression "1 o'clock" in both places where it occurs, and substituting in each case the expression "3 o'clock":
- (c) By omitting from that subsection (as so substituted) the expression "1.30 o'clock", and substituting the expression "3.30 o'clock":
- (d) By omitting from subsection (4) (b) (as amended by section 14 (2) of the Licensing Trusts Amendment Act 1975) the expression "1.30 o'clock", and substituting the expression "3.30 o'clock".

14. Variation of usual hours for sale of liquor in hotel and tavern premises—(1) Section 34B of the principal Act (as inserted by section 3 (1) of the Licensing Trusts Amendment Act 1967 and amended by section 16 of the Licensing Trusts Amendment Act 1975) is hereby amended—

- (a) By inserting in paragraph (e), after the word "Saturday", the words "or on Christmas Eve":
- (b) By omitting from that paragraph the words " , for the sale of liquor for consumption only on the premises":
- (c) By omitting from paragraph (f) the words "midnight, for the sale of liquor for consumption only on the premises", and substituting the words "0.30 o'clock in the morning of New Year's Day".

(2) The said section 34B is hereby further amended by adding the following subsection:

"(14) Notwithstanding any of the foregoing provisions of this section, the Trust shall not fix an hour for the closing of any hotel or tavern later than the usual hour of closing without the consent of a Magistrate. In any case where the Trust applies for such consent the provisions of sections 221A and 221B of the Sale of Liquor Act 1962, so far as they are applicable and with the necessary modifications, shall apply."

15. First Schedule amended—The First Schedule to the principal Act (as substituted by section 6 (2) of the Licensing Trusts Amendment Act 1962) is hereby amended by inserting in clause 1, after the expression "section 34A", the words "or, as the case may require, section 73".

16. Repeals—Section 3A of the principal Act (as inserted by section 9 of the Licensing Trusts Amendment Act 1975), and sections 3 to 8 and section 9 of the Licensing Trusts Amendment Act 1975 are hereby repealed.

PART II**AMENDMENTS OF SALE OF LIQUOR ACT 1962 RELATING TO
SUBURBAN LICENSING TRUSTS**

17. This Part to be read with Sale of Liquor Act 1962—
This Part of this Act shall be read together with and deemed part of the Sale of Liquor Act 1962 (in this Part referred to as the principal Act).

18. Interpretation—Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “restaurant”, the following definition:

“‘Suburban licensing Trust’ or ‘suburban Trust’ means a suburban licensing Trust constituted under section 9BA of the Licensing Amendment Act 1910; and includes a converted Trust within the meaning of section 3 of the Licensing Trusts Amendment Act 1976.”

19. Payments into and advances from Licensing Fund—
(1) Section 17 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) There shall from time to time be paid into the Fund—

“(a) All money payable by way of the fair price on the issue of any new wholesale licence:

“(b) All sums payable to the Fund pursuant to Part XIV of this Act in respect of fees paid for tavern-keeper’s licences and wholesale licences, and for the renewal of such licences:

“(c) All sums payable to the Fund pursuant to section 71 of the Licensing Trusts Act 1949 in respect of fees paid by suburban licensing Trusts in respect of liquor purchases for taverns and bottleshops maintained by the Trusts:

“(d) All fees paid for theatre licences, and for the renewal of such licences:

“(e) All fees paid for airport licences, and for the renewal of such licences:

“(f) Any other money that may be lawfully payable into the Fund pursuant to this Act or any other enactment.”

(2) Section 20 of the principal Act is hereby amended by inserting, after subsection (2A) (as inserted by section 11 (1) of the Sale of Liquor Amendment Act 1964), the following subsection:

“(2B) For the purposes of subsection (2) of this section a suburban licensing Trust shall, in respect of each premises in which it provides or is to provide accommodation for the travelling public, be deemed to be the holder of a hotel premises licence.”

(3) The following enactments are hereby consequentially repealed:

- (a) Section 17 (2) of the Sale of Liquor Amendment Act (No. 2) 1969:
- (b) Section 16 (3) of the Sale of Liquor Amendment Act 1970:
- (c) So much of the Schedule to the Sale of Liquor Amendment Act (No. 2) 1971 as relates to section 17 (2) of the principal Act.

20. Exclusion of suburban Trust areas—The principal Act is hereby amended by inserting, after section 29 (as amended by section 35 (2) of the Sale of Liquor Amendment Act (No. 2) 1971), the following section:

“29A. (1) Notwithstanding anything in this Part of this Act, no suburban Trust area or part thereof shall at any time be included in any licensing district.

“(2) It shall not be lawful to grant or issue in, or in respect of any premises in, a suburban Trust area any hotel premises, tavern premises, hotelkeeper’s, tavernkeeper’s, or wholesale licence.”

21. Objections, etc., in respect of licences in suburban Trust areas—(1) Section 109 (1) of the principal Act is hereby amended by omitting the words “or licensing trust district”, and substituting the words “, licensing trust district, or suburban Trust area”.

(2) Section 109 (4) of the principal Act is hereby amended—

- (a) By inserting, after the words “licensing trust district”, the words “or suburban Trust area”:
- (b) By inserting, after the words “of that district”, the words “or area”.

(3) Section 112 (2) of the principal Act is hereby amended by inserting, after the words “licensing trust district”, the words “or suburban Trust area”.

(4) Section 131 (1) of the principal Act is hereby amended—

(a) By inserting, after the words “licensing Trust district”, the words “or suburban Trust area”:

(b) By adding the words “or area”.

(5) Section 141A of the principal Act (as inserted by section 5 of the Sale of Liquor Amendment Act 1964) is hereby amended by omitting from subsection (1) the words “or licensing trust district”, and substituting the words “, licensing trust district, or suburban Trust area”.

(6) The said section 141A is hereby further amended—

(a) By inserting in subsection (4), after the words “licensing Trust district”, the words “or suburban Trust area”:

(b) By inserting in that subsection, after the words “of that district”, the words “or area”.

(7) Section 157B of the principal Act (as inserted by section 6 of the Sale of Liquor Amendment Act 1965) is hereby amended by inserting in subsection (1), after the words “the licensing district”, the words “or suburban Trust area”.

22. Removal of licences into suburban Trust areas—

(1) Section 147 (2) of the principal Act is hereby amended by inserting, after the words “the licensed premises are situated”, the words “or, where the premises are situated in a licensing trust district or suburban Trust area, to the Chairman of the Licensing Committee for an adjoining district”.

(2) Section 147 of the principal Act is hereby further amended by inserting, after subsection (3), the following subsection:

“(3A) If the new premises are situated in a licensing trust district or a suburban Trust area the documents referred to in subsection (2) of this section shall be sent to the Clerk of the Licensing Committee for an adjoining district.”

23. Wine makers’ licences in suburban Trust areas—

Section 153 (3) of the principal Act is hereby amended by inserting, after the words “licensing trust district”, the words, “or suburban Trust area”.

24. Wine resellers' licences in suburban Trust areas—Section 157 of the principal Act (as substituted by section 5 of the Sale of Liquor Amendment Act 1965) is hereby amended by inserting, after subsection (5), the following subsection:

“(5A) Where the Commission is of opinion that it should authorise the issue of a wine reseller's licence in a suburban Trust area, it shall issue the certificate referred to in subsection (5) of this section to the Licensing Committee for an adjoining licensing district.”

25. Club charters in suburban Trust areas—Section 173 of the principal Act is hereby amended by adding the words “or suburban Trust area”.

26. Suburban licensing Trusts deemed to be holders of wholesale licences—Section 293 of the principal Act is hereby amended by inserting, after the words “trust district”, the words “and every suburban licensing Trust”.

27. Repeals—The following enactments are hereby repealed:

- (a) Section 79A of the principal Act (as inserted by section 3 of the Sale of Liquor Amendment Act 1974):
- (b) Section 139A of the principal Act (as inserted by section 8 of the Sale of Liquor Amendment Act 1974):
- (c) Sections 3 and 8 of the Sale of Liquor Amendment Act 1974.

PART III

MASTERTON LICENSING TRUST

28. 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).

29. Interpretation—Section 2 of the principal Act is hereby amended by inserting, before the definition of the term “elector”, the following definition:

“‘Commission’ means the Licensing Control Commission constituted under section 4 of the Sale of Liquor Act 1962:”.

30. Enforcement of standards, duties, and responsibilities—

(1) Section 32 of the principal Act (as substituted by section 13 of the Licensing Trusts Amendment Act 1962) is hereby amended by omitting from subsection (4) the word “Minister”, and substituting the word “Commission”.

(2) Section 36A of the principal Act (as inserted by section 18 of the Licensing Trusts Amendment Act 1962) is hereby amended—

(a) By omitting from subsection (1) the word “Minister”, and substituting the word “Commission”:

(b) By omitting from subsection (2) the words “Secretary for Justice”, and substituting the word “Commission”.

(3) Section 36AA of the principal Act (as inserted by section 29 of the Licensing Trusts Amendment Act 1975) is hereby amended—

(a) By omitting from subsection (1) the words “Secretary for Justice”, and substituting the word “it”:

(b) By omitting from subsections (1), (2), (3), (4), and (5) the word “Minister” wherever it occurs, and substituting in each case the word “Commission”:

(c) By omitting from subsections (3), (5), and (6) the word “he” wherever it occurs, and substituting in each case the word “it”:

(d) By omitting from subsections (3), (5), and (6) the word “his” wherever it occurs, and substituting in each case the word “its”:

(e) By omitting from subsection (6) the word “Minister’s”, and substituting the word “Commission’s”.

(4) Section 36B of the principal Act (as inserted by section 19 of the Licensing Trusts Amendment Act 1962 and amended by section 12 (1) of the Licensing Trusts Amendment Act 1974 and by section 30 of the Licensing Trusts Amendment Act 1975) is hereby amended—

(a) By omitting from subsections (1), (2), (3), (4), (6), and (7) the words “Secretary for Justice” wherever they occur, and substituting in each case the word “Commission”:

(b) By omitting from subsections (4), (6), and (7) the word “Minister” wherever it occurs, and substituting in each case the word “Commission”:

(c) By omitting from subsections (6) and (7) the word “he” in both places where it occurs, and substituting in each case the word “it”:

(d) By omitting from subsection (6) the word “his”, and substituting the word “its”.

31. Premises in which liquor may be sold—Section 32 of the principal Act (as substituted by section 13 of the Licensing Trusts Amendment Act 1962) is hereby further amended by inserting in subsection (4), after the words “section 28A of this Act”, the words “or of any cabaret premises of a standard approved by the Commission under section 28B of this Act”.

PART IV

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. Interpretation—Section 2 of the principal Act is hereby amended by inserting, before the definition of the term “elector”, the following definition:

“‘Commission’ means the Licensing Control Commission constituted under section 4 of the Sale of Liquor Act 1962.”.

34. Enforcement of standards, duties, and responsibilities—(1) Section 33 of the principal Act (as substituted by section 22 of the Licensing Trusts Amendment Act 1962) is hereby amended by omitting from subsection (4) the word “Minister”, and substituting the word “Commission”.

(2) Section 37A of the principal Act (as inserted by section 27 of the Licensing Trusts Amendment Act 1962) is hereby amended—

(a) By omitting from subsection (1) the word “Minister”, and substituting the word “Commission”;

(b) By omitting from subsection (2) the words “Secretary for Justice”, and substituting the word “Commission”.

(3) Section 37AA of the principal Act (as inserted by section 38 of the Licensing Trusts Amendment Act 1975) is hereby amended—

(a) By omitting from subsection (1) the words “Secretary for Justice”, and substituting the word “it”;

(b) By omitting from subsections (1), (2), (3), (4), and (5) the word “Minister” wherever it occurs, and substituting in each case the word “Commission”;

(c) By omitting from subsections (3), (5), and (6) the word “he” wherever it occurs, and substituting in each case the word “it”;

(d) By omitting from subsections (3), (5), and (6) the word “his” wherever it occurs, and substituting in each case the word “its”:

(e) By omitting from subsection (6) the word “Minister’s”, and substituting the word “Commission’s”.

(4) Section 37B of the principal Act (as inserted by section 28 of the Licensing Trusts Amendment Act 1962 and amended by section 19 (1) of the Licensing Trusts Amendment Act 1974 and by section 39 of the Licensing Trusts Amendment Act 1975) is hereby amended—

(a) By omitting from subsections (1), (2), (3), (4), (6), and (7) the words “Secretary for Justice” wherever they occur, and substituting in each case the word “Commission”:

(b) By omitting from subsections (4), (6), and (7) the word “Minister” wherever it occurs, and substituting in each case the word “Commission”:

(c) By omitting from subsections (6) and (7) the word “he” in both places where it occurs, and substituting in each case the word “it”:

(d) By omitting from subsection (6) the word “his”, and substituting the word “its”.

35. Premises in which liquor may be sold—Section 33 of the principal Act (as substituted by section 22 of the Licensing Trusts Amendment Act 1962) is hereby further amended by inserting in subsection (4), after the words “section 29A of this Act”, the words “or of any cabaret premises of a standard approved by the Commission under section 29B of this Act”.

This Act is administered in the Department of Justice.
