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1965, No. 70

**An Act to amend the Sale of Liquor Act 1962**

[22 October 1965]

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 Sale of Liquor Amendment Act 1965, and shall be read together with and deemed part of the Sale of Liquor Act 1962 (hereinafter referred to as the principal Act).

*Licensed Restaurants*

**2. Restaurant licence**—(1) Section 65 of the principal Act is hereby amended by omitting from subsection (1) the words “except Sunday and Good Friday”.

(2) Section 253 of the principal Act is hereby consequentially amended—

(a) By omitting from subsection (1) the words “or at any time on any day when the restaurant premises are required to be closed for the sale of liquor”:

(b) By omitting from subsection (2) the words “other than a day when the restaurant premises are required to be closed for the sale of liquor”.

**3. Special liquor permit for licensed restaurant**—The principal Act is hereby amended by inserting, after section 217, the following section:

“217A. (1) The Commission may at any time, in its discretion, grant to the holder of a restaurant licence a special liquor permit authorising the licensee to sell and serve, in addition to the kinds of liquor that he is authorised to sell and serve under section 65 of this Act, any liquor, or any specified kind or kinds of liquor.

“(2) Notwithstanding anything in this Act, where any special liquor permit is in force in respect of any licensed restaurant—

“(a) Any person who is on the restaurant premises conducted under the licence for the purpose of partaking of a meal, and who does partake of a meal thereon, may in accordance with the terms of the permit be sold or supplied with liquor, at any time at which the licensee is authorised by the said section 65 to sell and serve liquor, for consumption by that person on the premises before or as part of the meal; and

“(b) Liquor so sold and supplied to any such person may be so consumed at any time when it is lawful for that person to consume liquor sold or supplied to him pursuant to the restaurant licence.

“(3) In determining whether to grant a special liquor permit under this section, the Commission shall have regard to—

“(a) The standard of the restaurant premises and the facilities and services provided thereon:

“(b) The quality of the meals provided on the premises:

“(c) Such other matters as it thinks fit.

“(4) Subject to the provisions of this section, the provisions of subsection (2) of section 65 of this Act (which relates to the conditions applicable to restaurant licences) shall apply to a special liquor permit as they apply to a restaurant licence.

“(5) A special liquor permit may, if the Commission thinks fit, be granted subject to any additional conditions and restrictions imposed by the Commission.

“(6) A special liquor permit may at any time be revoked by the Commission.

“(7) In any prosecution for an offence alleged to have been committed against this Act in relation to the unauthorised sale, supply, or consumption of liquor, the burden of proving that any person was at the time of the alleged offence entitled to be sold or supplied with or to consume liquor pursuant to this section shall be on the person alleging that fact.

“(8) For the purposes of this section, the term ‘meal’ has the same meaning as in section 65 of this Act.”

#### *Wine Reseller's Licence*

**4. Wine reseller's licence**—Section 156 of the principal Act is hereby amended by omitting from subsection (2) the word “quart”, and substituting the word “pint”.

**5. Commission to determine whether new wine reseller's licence needed**—The principal Act is hereby further amended by repealing section 157, and substituting the following section:

“157.(1) No wine reseller's licence shall be granted except with the authority of the Commission and in accordance with this Part of this Act.

“(2) If at any time the Commission is of opinion that the issue of any wine reseller's licence may be necessary or desirable in any locality or place, it may, at any public sitting held under section 74 of this Act, or at a public sitting held for the purposes of this section, of which public notice shall be given, determine whether the issue of any such licence is necessary or desirable.

“(3) The provisions of subsections (2) and (3) of section 74, section 78, and subsections (1), (3), and (5) of section 79 of this Act shall extend and apply for the purposes of the foregoing provisions of this section as if a wine reseller's licence were referred to in the said section 78 and in subsection (3) of the said section 79.

“(4) In determining whether the issue of any wine reseller’s licence is necessary or desirable, the Commission shall have regard to the facilities that are available or are likely to be made available, in the area that is likely to be served by the licence (if granted), for the sale of New Zealand wine in the quantities authorised to be sold under a wine reseller’s licence.

“(5) Whenever under this section the Commission is of opinion that it should authorise the issue of a wine reseller’s licence, it shall issue a certificate authorising the Licensing Committee to receive and consider applications for such a licence. The Commission shall specify in the certificate the locality or area and any standards defined by it under this section.

“(6) Any person who desires to obtain a wine reseller’s licence in any locality or place may at any time request the Commission to hold a public sitting for the purposes of this section. In any such case the Commission shall as soon as practicable hold such a sitting accordingly, unless in its opinion, by reason of the time that has elapsed since the last inquiry was held under this section in respect of that locality or place, it is undesirable to do so.”

**6. New sections inserted**—The principal Act is hereby further amended by inserting, after section 157 (as substituted by section 5 of this Act), the following sections:

“157A. **Applications for wine reseller’s licence**—(1) As soon as practicable after the receipt by the Licensing Committee of the said certificate, the Committee shall cause public notice to be given of its intention to consider applications for the licence. The provisions of subsections (3) and (4) of section 86 of this Act shall apply to the notice.

“(2) Within sixty days after the last publication of the said notice, or within such further time as the Licensing Committee may allow, applications for the licence may be made in writing to the Licensing Committee.

“(3) Every such application shall be made by the person who, if a licence is granted, will be the owner of the wine reseller’s business for which the licence is sought, or by some person acting on his behalf and in his name; and the provisions of subsections (2) to (5) of section 88 of this Act (which relate to the disclosure of any estate or interest and of particulars of any agreement for sale, transfer, or other disposal) shall apply as if references therein to the premises were references to the wine reseller’s business and as if references therein to the Commission were references to the Committee.

“(4) The provisions of subsections (2) to (7) of section 107 of this Act shall apply to every such application, with the necessary modifications, as if references therein to a restaurant were references to a wine reseller’s premises and as if references therein to the Commission and to the Secretary were references to the Committee and to the Clerk.

“(5) The Clerk of the Licensing Committee shall forthwith send a copy of the application, and of every declaration and statement, and the original testimonials, accompanying the application, to the member of the Police in charge of the police station nearest to the Clerk’s office, and shall request that a Police report be made. It shall be the duty of the Police to inquire into the application and report on it to the Licensing Committee.

“(6) Every applicant under this section shall from time to time furnish to the Licensing Committee such further information and particulars as may be required by the Committee.

“157B. **Objections**—(1) Objections to the grant of a wine reseller’s licence may be made by any person of or over the age of twenty-one years who is resident in the licensing district in which the premises in respect of which the licence is sought are situated.

“(2) Every objection shall be made by notice in writing filed with the Clerk of the Licensing Committee within fourteen days after the first publication by the applicant of the notice of the making of the application, or within such further time as the Chairman of the Licensing Committee may allow.

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

“(a) That the applicant is of bad character or reputation or of drunken habits; or

“(b) That he has been convicted of an offence against this Act or the Licensing Act 1908; or

“(c) That the premises are or will be in the immediate vicinity of a place of public worship, hospital, or school.

“157c. **Hearing of applications for wine reseller’s licence**—(1) No application for a wine reseller’s licence shall be heard until the time prescribed or allowed for lodging applications has expired.

“(2) The Committee shall hold a public sitting to consider applications for the licence, after giving public notice, and

also notice to each applicant and to any person who has filed a notice of objection, of the time and place fixed for that sitting.

“(3) The Committee shall at that sitting, or at any adjourned sitting, consider and deal with all applications so received.

“(4) In determining whether to grant any such application the Committee shall have regard to—

“(a) The situation, standard, and suitability of the premises or proposed premises:

“(b) The number of wine makers whose wine is proposed to be sold by the applicant if a licence is granted:

“(c) Any other business that will be conducted on the premises:

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

“(5) No application for a wine reseller’s licence shall be granted if in the opinion of the Committee, whether on an objection under section 157B of this Act or not, the applicant is not a fit and proper person to be the holder of such a licence.

“(6) No such application shall be granted in respect of premises that in the opinion of the Committee are not suitable for the storage and sale of wine.

“(7) Except in special circumstances, no such application shall be granted in respect of premises that will not be used exclusively for the storage and sale of wine.

“(8) Notwithstanding anything in subsection (7) of this section, the Committee may, if it thinks fit, grant an application made by the holder of any other licence (not being a restaurant licence) under this Act:

“Provided that in any such case the application may, if the Committee thinks fit, be granted only in respect of the same premises as are specified in that other licence.

“(9) The grant of an application may be made subject to compliance with such requirements, not inconsistent with this Act or with the requirements of the Commission, as the Committee thinks fit in respect of the provision of services and facilities.

“(10) The Committee shall not be obliged to grant any application.

“157D. **Grant and issue of wine reseller’s licence—**(1) If the Licensing Committee grants any application for a wine reseller’s licence, it shall forthwith notify the applicant that the application has been granted, and that a licence will be

issued when the lawful requirements (if any) of the Commission and the Committee as to the provision of services and facilities have been complied with.

“(2) On being satisfied that all such requirements as aforesaid have been complied with or that provision for compliance therewith has been made to its satisfaction, the Committee shall authorise the Chairman to issue the licence. The Chairman shall issue the licence accordingly.

“(3) If by reason of any default by the applicant the licence is not issued within six months after the giving of the notification under subsection (1) of this section, or within such further time as the Committee may allow, the grant of the application shall lapse. In any such case the Committee may again cause public notice to be given of its intention to consider applications for the licence, and the provisions of this section and of sections 157A to 157C of this Act shall apply accordingly. The Committee may if it thinks fit accept as an application in the new proceedings any application previously made for the licence.”

**7. Renewal of wine reseller's licence**—Section 158 of the principal Act is hereby amended by adding the following subsection as subsection (2):

“(2) Without limiting the said provisions, the Licensing Committee may require the applicant to furnish particulars of the number of wine makers whose wine he has in stock, and if in its opinion that number is inadequate it may decline to renew the licence:

“Provided that this subsection shall not apply to any person who is the holder of such a licence at the commencement of this subsection.”

**8. Removal of wine reseller's licence**—The principal Act is hereby further amended by repealing section 160, and substituting the following section:

“160. (1) A wine reseller's licence may be removed pursuant to an order of the Commission in accordance with this section.

“(2) The provisions of sections 138 to 140, 141B (as inserted by section 6 of the Sale of Liquor Amendment Act 1964), 142, 145, and 147 of this Act, so far as they are applicable and with all necessary modifications, shall apply to the removal of any such licence as if the reference in the said section 141B to a wholesale licence were a reference to a wine reseller's licence.”

**9. Consequential amendment and repeals**—(1) Section 10 of the principal Act is hereby amended by omitting from paragraph (b) of subsection (1) the words “and wholesale licences”, and substituting the words “wholesale licences, and wine resellers’ licences”.

(2) Section 156 of the principal Act is hereby amended by repealing subsection (1).

(3) Section 2 of the Sale of Liquor Amendment Act 1963 is hereby amended by repealing subsections (2) and (3).

(4) Section 14 of the Licensing Amendment Act (No. 2) 1953 is hereby amended by inserting in the proviso to subsection (1), after the words “any licence”, the words “(other than a wine reseller’s licence)”.

(5) Section 14 of the Licensing Amendment Act (No. 2) 1953 is hereby further amended by adding to subsection (2) the following additional proviso:

“Provided also that nothing in this subsection shall apply with respect to a wine reseller’s licence.”

#### *Miscellaneous Provisions*

**10. Application for special hotel premises licence**—Section 96 of the principal Act is hereby amended by omitting from subsection (4) the words “(which shall not be held earlier than thirty days after the first publication of the notice)”.

**11. Order for removal**—Section 147 of the principal Act is hereby amended by inserting in subsection (2), after the words “have been complied with”, the words “or that provision for compliance therewith has been made to the satisfaction of the Committee”.

**12. Extended hours permit for tourist house**—Section 216 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Notwithstanding anything in this Act, any Magistrate may from time to time, in his discretion, on application made to him in the prescribed manner, grant to the holder of a tourist-house keeper’s licence, or to the manager of any premises conducted under any such licence, a permit authorising the holder thereof to supply liquor, for consumption on the tourist-house premises, after such time on any day as may be specified in the permit, to persons attending any social gathering, being a social gathering to be held on a day specified in the permit, held or promoted by any person or body of persons (whether incorporated or not).”

**13. Special permit for social gatherings in tourist house—**Section 217 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Notwithstanding anything in this Act, the Commission may at any time, in its discretion, grant to the holder of a tourist-house keeper’s licence a special permit authorising the holder thereof from time to time to supply liquor, for consumption on the tourist-house premises, after such time on any day as may be specified in the permit, to persons attending social gatherings of any kind or kinds specified in the permit. Any such permit may at any time be revoked by the Commission.”

**14. Wholesale licence—**Section 67 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) Notwithstanding anything in the foregoing provisions of this section, where pursuant to his licence the holder of a wholesale licence sells any beer or stout to any person who is the holder of a licence authorising him to sell beer or stout, the holder of the wholesale licence may arrange for delivery of the beer or stout to be made to that person by the holder of a brewer’s licence under the Finance Act 1915 from a place and in the manner permitted by the last-mentioned licence, as if the sale had been made by the holder of the brewer’s licence; and where the delivery is so made the sale and delivery shall be deemed for the purposes of this Act to have been made by the holder of the wholesale licence from the premises described in his licence and in the manner specified in this section.”

**15. Circumstances in which wholesale licence may be authorised—**Section 77 of the principal Act is hereby amended by adding the following subsection:

“(4) Subsection (3) of this section shall not apply in respect of a borough or town district that is contiguous to any borough in which a hotel or tavern premises licence exists, or is contiguous to any borough which is itself contiguous to a borough in which such a licence exists. For the purposes of this subsection a borough or town district that is not contiguous to a borough shall be deemed to be contiguous thereto if it is separated from that borough by any public highway, river, harbour, or arm of the sea, or by any other natural feature.”

**16. Extended hotel premises licence**—(1) Section 99 of the principal Act is hereby amended by adding the following subsection:

“(11) Where a company is the holder of a hotel premises licence, and another company is the holder of a tavern premises licence for premises to which subsection (1) of this section applies or has entered into an agreement under which it is entitled to acquire the licence for such tavern premises as aforesaid, and one of those companies holds at least ninety per cent of the issued share capital of the other company, an application under this section may be made jointly by those companies, and the foregoing provisions of this section shall apply accordingly, with all necessary modifications. Where an application is made under this subsection,—

“(a) Any licence issued pursuant to the application shall be issued to and held by the companies jointly:

“(b) The companies may apply for and hold jointly an extended hotelkeeper’s licence in respect of the licensed premises:

“(c) The companies shall for the purposes of this Act be jointly and severally subject to the liabilities and obligations of the licensee in respect of any licence so held and in respect of the licensed premises.”

(2) Section 316A of the principal Act (as inserted by section 29 of the Sale of Liquor Act 1964) is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) The provisions of subsection (11) of section 99 of this Act shall extend and apply for the purposes of this section, with all necessary modifications, as it applies for the purposes of that section.”

**17. Grounds for declining to renew licence**—Section 126 of the principal Act is hereby amended by omitting from paragraph (e) of subsection (6) the words “sections 183, 184”, and substituting the words “sections 183 to 185”.

**18. Wine makers’ licences**—Section 152 of the principal Act is hereby amended by omitting from subsection (1) the word “quart”, and substituting the word “pint”.

**19. Consumption or possession of liquor on licensed premises by person under twenty-one**—(1) Section 259 of the principal Act is hereby amended by inserting, after subsection (4), the following subsection:

“(4A) Every person commits an offence and is liable to a

fine not exceeding ten pounds who, being under the age of twenty-one years, consumes or is found in possession of any liquor on any licensed premises.”

(2) The said section 259 is hereby further amended—

- (a) By inserting in subsection (5), and also in subsection (6), after the word “purchase” in each case, the words “or consumption or possession”:
- (b) By inserting in subsection (8), after the words “requests the supply of any liquor to him”, the words “or is found consuming or in possession of any liquor on any licensed premises”.

**20. Commission may grant hotel or tavern premises licence after review**—(1) Section 312 of the principal Act is hereby amended by adding to subsection (1A) (as inserted by section 28 (1) of the Sale of Liquor Amendment Act 1964) the following provisos:

“Provided that where the premises in respect of which the Commission forms an opinion as aforesaid are situated in a city, or in a borough having a population of more than five thousand, or within three miles of any part of the boundary of a city or of any such borough, the Commission may authorise the issue of a tavern premises licence if it is satisfied that the occupancy rate in respect of the premises, as so determined, has not exceeded ten per cent during the said period:

“Provided also that in determining the occupancy rate under this subsection the Commission shall take into account permanent lodgers other than members of the licensee’s family.”

(2) Section 318 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) Where under subsection (1A) of section 312 of this Act the Commission decides to authorise the issue of a tavern premises licence instead of a hotel premises licence, the holder of the provisional hotel premises licence to which the decision relates may appeal to the Supreme Court against the Commission’s decision.”

**21. Expiry of licences not converted**—(1) Section 317 of the principal Act is hereby amended by omitting from subsection (1) the words “nineteen hundred and sixty-seven”, and substituting the words “nineteen hundred and sixty-nine”.

(2) The said section 317 is hereby further amended by repealing subsection (2), and substituting the following subsections:

“(2) Notwithstanding anything in subsection (1) of this section, but subject to subsection (3) of this section, the Commission may in its discretion, before the expiry of the licence and from time to time thereafter, on the application in each case of the holder of the licence, extend the currency of the licence for any period or periods ending not later than the thirtieth day of June, nineteen hundred and seventy-one.

“(3) Where the Commission has given notice under section 313 of this Act that a hotel premises licence or a tavern premises licence will be issued on compliance with its requirements, and those requirements will necessitate the removal, rebuilding, or substantial reconstruction of the premises, any period fixed or extended by the Commission under subsection (4) of that section for compliance with those requirements may, if the Commission thinks fit, be a period ending later than the thirtieth day of June, nineteen hundred and seventy-one, and in any such case the Commission may, subject to subsection (5) of that section, extend for a corresponding period the currency of the provisional licence.”

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This Act is administered in the Department of Justice.

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