

New Zealand.



ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Section 4 of Licensing Act, 1908, incorporated in this Act. 3. Fixing hours of closing of licensed premises during continuance of war. 4. Provisions for reduction of rent and for adjustment of other charges between lessor and lessee of licensed premises by reason of reduction of hours of sale of intoxicating liquor. 5. Licensee required to furnish to lessor inventory of stock-in-trade as on 1st December, 1917. 6. Refund of rates by local authority in certain cases. | <ol style="list-style-type: none"> 7. Licensee may, without prejudice to his right to obtain renewal of license, close the licensed premises during continuance of Act. 8. Restriction of sale and delivery of liquor by holder of wholesale license. 9. Consequential alteration of law as to chartered clubs. 10. Provision for sale and consumption of liquor served on licensed premises as part of meal. 11. Prohibition of consumption of liquor in restaurants while licensed premises are required to be closed. 12. Duration of Act. |
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1917, No. 19.

AN ACT to restrict the Hours within which Intoxicating Liquor may be sold in Licensed Premises during the Continuance of the War. Title.
[27th October, 1917.]

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

1. This Act may be cited as the Sale of Liquor Restriction Act, 1917. Short Title.
2. (1.) Section four of the Licensing Act, 1908, being the interpretation section of the said Act, is hereby incorporated in and shall be deemed to form part of this Act. Section 4 of Licensing Act, 1908, incorporated in this Act.
- (2.) In this Act, if not inconsistent with the context —
 - “Club” and “chartered club” have the meanings respectively assigned thereto by section two hundred and fifty-nine of the Licensing Act, 1908 :
 - “Lease” includes an agreement for a lease :
 - “Restaurant” means any premises (other than premises in respect of which a publican’s license or an accommodation license is granted under the Licensing Act, 1908) in which food or refreshments of any kind are provided and sold to the general public for consumption on the premises.

Fixing hours of closing of licensed premises during continuance of war.

3. (1.) On the first day of December, nineteen hundred and seventeen, and thereafter while this Act remains in force, the Licensing Act, 1908, and its amendments, and all licenses thereunder, and all other Acts relating to the sale of intoxicating liquor, shall, notwithstanding anything to the contrary therein, be read and construed as if the following provisions were substituted for the provisions of subsection one of section one hundred and eighty-nine of the first-mentioned Act, namely,—

“ Subject as hereinafter mentioned, all licensed premises shall be closed as follows, that is to say :—

“ (a.) On Saturday night, from six o'clock until nine o'clock of the following Monday morning :

“ (b.) On the nights of all other days, from six o'clock until nine o'clock of the following morning.”

(2.) While this Act remains in force, sections seventy-four, seventy-seven, and seventy-eight of the Licensing Act, 1908, shall be read as if in each case the word “ nine ” were substituted for the word “ six,” and the word “ six ” were substituted for the word “ ten.”

Provisions for reduction of rent and for adjustment of other charges between lessor and lessee of licensed premises by reason of reduction of hours of sale of intoxicating liquor.

4. (1.) Any lessee of licensed premises (but, in the case of a lessee who is licensee of the licensed premises, subject to his having complied with the provisions of section five hereof) may at any time before the first day of March, nineteen hundred and eighteen, by notice in writing served on his lessor, require the lessor to reduce the rent payable by the lessee in respect of the premises, pursuant to any lease, to such amount as may be specified in the notice ; or, at the option of the lessor, to accept a surrender by the lessee of the lease on payment or giving credit to the lessee of—

(a.) A proportionate part of any bonus or premium that may have been paid, or agreed to be paid, to the lessor or any other person on account of the lessor in consideration of the grant of the lease (including in such bonus or premium anything paid or agreed to be paid for goodwill, where, on the granting of the lease, bonus or premium and goodwill have been treated as separate items), calculated by reference to the proportion which the unexpired portion of the term of such lease bears to the whole term of the lease :

Provided that no person shall receive any greater amount than the proportion of the sum which he shall have paid to the person from whom he purchased in respect of the unexpired period of the lease :

(b.) The value of the usual and ordinary furniture and stock-in-trade of the lessee, to be ascertained in case of dispute by arbitration : and

(c.) The proportionate part of the publican's or other license fee for the unexpired portion of the term of such license.

(2.) On any such surrender there shall be an adjustment between the parties of rates, insurance premiums, and other outgoings for the then current year.

(3.) If the lessor does not, within fourteen days after service on him of any such notice as aforesaid, either—

(a.) Reduce the rent to the amount specified in the notice ; or

(b.) Accept a surrender of the lease as aforesaid,— the question shall be referred to arbitration as to what reduction (if any) shall be made in the rent payable by the lessee in respect of the licensed premises on the ground that the rent as fixed by the lease is inequitable, having regard to the operation of the foregoing provisions of this Act for the reduction of the hours during which the licensed premises may be kept open.

(4.) In the case of a lease at a ground rental only, the option of the lessor to accept a surrender thereof shall not apply; but the lessee may nevertheless, by notice as by subsection one provided, require the lessor to reduce the rent; and if the lessor does not, within fourteen days after service on him of such notice, agree to reduce the rent to the amount specified in such notice, the question as to what reduction (if any) shall be made shall be referred to arbitration in accordance with the provisions of this section. The question whether a lease is at a ground rental shall be determined by arbitration in manner aforesaid.

(5.) Every reference under this Act shall, unless the parties agree upon a single arbitrator, be to two arbitrators, who shall appoint their umpire before proceeding with their reference, and such umpire shall sit with the arbitrators, but, beyond examining witnesses if he thinks fit so to do, shall take no part in the proceedings unless the arbitrators disagree.

(6.) Each of the parties to any such reference to arbitration shall pay his own costs and expenses of and incidental to such reference, and one moiety of the charges and expenses of the arbitrators and umpire.

(7.) Except as herein expressly varied or modified, the provisions of the Arbitration Act, 1908, shall apply to any reference under this Act.

(8.) At the hearing of any such arbitration as aforesaid the lessee and the lessor may appear personally or by his solicitor or authorized agent.

(9.) In any arbitration involving the question as to whether the rent payable under a lease shall be reduced the arbitrators and umpire shall have regard to all the circumstances of the case, and in particular (where applicable) to—

- (a.) The loss of trade (if any) directly attributable to the restriction of trading-hours imposed by section three hereof:
- (b.) The reduction (if any) in the expenses of the lessee in carrying on his business on the licensed premises consequent on the said restriction of trading-hours:
- (c.) Any sum received or receivable by the lessor as a bonus or premium on the granting of the lease:
- (d.) The proportions in which it is equitable that the reduction in rental value of the licensed premises by reason of the reduction of trading-hours imposed by section three hereof should be apportioned between the lessor and the lessee:
- (e.) Any increase in the rental value of the licensed premises since the date of the granting of the lease.

(10.) Where as the result of an award made under this section the amount of any rent payable as aforesaid to a lessor is reduced, and the said lessor is himself a lessee of the premises, the amount of

rent payable by the first-mentioned lessor to his lessor shall, during the continuance of the award, be proportionately reduced as from the date on which such award takes effect pursuant to subsection twelve hereof: Provided that the rental as so reduced shall in no case be less than the reduced rent fixed under the provisions of this section as payable by the lessee in possession.

(11.) Where a lessor who is himself a lessee has accepted a surrender of the lease granted by him and has thereby acquired the stock-in-trade and furniture of his lessee, all the foregoing provisions of this section shall apply as between the first-mentioned lessor and his own lessor: Provided that the time for giving the notice by such first-mentioned lessor to his own lessor required by subsection one hereof shall be extended to the first day of April, nineteen hundred and eighteen.

(12.) The provisions of this section shall not apply to the case of any lease heretofore granted containing express provisions for a reduction of rent or that there shall be no reduction of rent in the event of the trading-hours being restricted to the extent provided by this Act.

(13.) Every award made by the arbitrators or umpire (as the case may be) under this section, including an award under subsection eleven hereof, shall have effect according to its tenor, and shall take effect as from the date of the service on the lessor of a notice under subsection one hereof, or, in the case of an award under subsection eleven hereof, as from the date of the service of the first notice under subsection one hereof, and shall continue in force during the continuance of the lease or for the duration of this Act, whichever period is the shorter, and the terms of the lease shall be deemed to be modified accordingly.

(14.) For the purposes of this section the term "lease" includes an agreement for a lease and any other tenancy, "lessor" includes the executors, administrators, or assigns of a lessor, and "lessee" includes an assignee in possession and the executors or administrators of a lessee.

Licenses required to furnish to lessor inventory of stock-in-trade as on 1st December, 1917.

5. Every lessee, being a licensee of licensed premises, who desires to take advantage of the provisions of section four hereof shall, within twenty-one days from the first day of December, nineteen hundred and seventeen, lodge with the Clerk of the Licensing Committee for the district in which his licensed premises are situate an account or inventory, verified by statutory declaration, showing the amount, quantity, and description of liquor, cordials, aerated waters, and groceries held by him in stock on the morning of the said first day of December, nineteen hundred and seventeen.

Refund of rates by local authority in certain cases.

6. (1.) Where the rent payable in respect of any licensed premises has been reduced pursuant to section four hereof, the occupier of those premises, within the meaning of the Rating Act, 1908, shall, if the premises are situated in a district in which the system of rating on the annual value is in force, be entitled to claim a refund from the local authority of a proportion of the rates paid in respect of those premises for the period elapsing between the first day of December, nineteen hundred and seventeen, and the end of the period for which such rates were levied.

(2.) The refund to be made pursuant to this section shall be computed so that the amount of the refund shall bear the same proportion to the total amount of rates paid for the period aforesaid in respect of the premises as the annual amount by which the rent of the premises has been reduced bears to the total annual amount of rent as fixed by the lease.

(3.) If any rates in respect of the period aforesaid have not been paid, the local authority shall be entitled to recover only an amount equal to the difference between the total amount levied and the amount of the refund to which the occupier would be entitled under this section if the full amount of rates had been paid.

7. (1.) Notwithstanding anything to the contrary contained or implied in the Licensing Act, 1908, or in any other Act, the licensee of any licensed premises may, with the consent of the owner and mortgagee (if any), and of the Licensing Committee, upon proving to the satisfaction of such Committee that the business of the licensee cannot be profitably carried on therein, close his licensed premises and keep the same closed during the continuance of this Act, without prejudice to his right to apply for and obtain, at every annual meeting of the Committee, a certificate of renewal of his license; and, provided that he shall have paid his license fee during each year, he shall be entitled at any time while this Act is in force, while holding a certificate, to reopen the said premises and thereafter to carry on his business therein as if his said business had been carried on without interruption. Premises once reopened may not be again closed under the authority of this section.

Licensee may, without prejudice to his right to obtain renewal of license, close the licensed premises during continuance of Act.

(2.) If the licensee abandons the licensed premises, or, being a lessee, surrenders his lease, the owner of the said premises shall have the same rights under this section as if he were the licensee, and shall be entitled accordingly to apply for and obtain a certificate of renewal of the license of the said premises, in his own name or that of some other person nominated by him in that behalf.

8. (1.) While this Act remains in force the holder of a wholesale license may sell or deliver liquor pursuant to the terms of that license at any time between the hours of seven o'clock of the morning and six o'clock of the evening of any day, not being a day during which licensed premises are required to be closed, but shall not be entitled to sell or deliver liquor at any other time.

Restriction of sale and delivery of liquor by holder of wholesale license.

(2.) While this Act remains in force, and notwithstanding anything to the contrary in section forty-six of the Finance Act, 1917, the holder of a brewer's license may sell or deliver beer pursuant to that license at any time between the hours of seven o'clock of the morning and six o'clock of the evening of any day, not being a day during which licensed premises are required to be closed, but shall not be entitled to sell or deliver beer at any other time.

9. While this Act remains in force section two hundred and sixty-two of the Licensing Act, 1908, shall be read as if subsection three thereof were amended by inserting, after the word "sale," the words "supply or consumption," and as if the following subsections were added thereto:—

Consequential alteration of law as to chartered clubs.

"(6.) If a person appointed to inspect a chartered club reports to the said Minister that liquor has been unlawfully sold, supplied, or

consumed therein, the said Minister may cause an inquiry to be held by a Stipendiary Magistrate; and if the Stipendiary Magistrate upon such inquiry finds that liquor has been so sold, supplied, or consumed under circumstances which in the case of the conviction of a licensee of licensed premises would, in his opinion, have justified the endorsement of the license the charter of the club shall be forthwith revoked.

“(7.) A Stipendiary Magistrate holding such inquiry shall have the same power and jurisdiction in all respects as in proceedings for offences against the Licensing Act, 1908.”

Provision for sale and consumption of liquor served on licensed premises as part of meal.

10. (1.) In this section “hotel” means premises in respect of which a publican’s license or an accommodation license is granted under the Licensing Act, 1908.

(2.) In any hotel or chartered club where a substantial evening meal is regularly served in a room set apart and used as a dining-room, liquor may be sold and served in such dining-room between the hours of six o’clock and eight o’clock in the evening to persons actually partaking there of such evening meal, and may be consumed by such persons as part of such meal, but not otherwise, anything in this Act to the contrary notwithstanding.

Prohibition of consumption of liquor in restaurants while licensed premises are required to be closed.

11. (1.) Any person (except the occupier or any member of his family dwelling on the premises, or any of his servants) who, at any time while licensed premises are required to be closed, drinks liquor in any restaurant commits an offence, and shall for every such offence be liable to a penalty not exceeding five pounds.

(2.) Any person who permits or allows any liquor to be drunk (unless by the persons excepted in the last preceding subsection) in any restaurant at any time while licensed premises are required to be closed commits an offence, and shall for every such offence be liable to a penalty not exceeding twenty pounds, and for every subsequent offence to a penalty not less than twenty-five pounds or exceeding fifty pounds.

(3.) For the purposes of enforcing the provisions of this section any member of the Police Force may, at any time while licensed premises are required to be closed, demand entrance into any restaurant; and, if such admission is refused or wilfully delayed, may break into such restaurant.

(4.) Nothing in this section shall make lawful anything which would have been a contravention of any of the provisions of the Licensing Act, 1908, if this Act had not been passed.

Duration of Act.

12. This Act shall remain in force during the continuance of the present war with Germany and for six months thereafter, and no longer.