

## LICENSING AMENDMENT BILL

### EXPLANATORY NOTE

THIS Bill amends the Licensing Amendment Act 1910 with a view to simplifying the procedure for the constitution of suburban Trusts. Local authorities will no longer be sponsors for such Trusts. Instead—

- (a) Whenever trust control is favoured in a former no-licence district, it is envisaged that one or more suburban Trusts will be constituted unless an amalgamation with an existing suburban Trust takes place.
- (b) The Trust or Trusts will be constituted at a much earlier stage of the procedure.
- (c) It will be the responsibility of each Trust to apply for the licences authorised by the Commission, find suitable sites, and generally meet the Commission's requirements for the issue of licences.

*Clause 2* makes it plain that a local restoration poll is a licensing poll for the purposes of the Licensing Act 1908. This has the effect of applying the procedural provisions of that Act, so far as they are applicable and with all necessary modifications, to such polls.

*Clause 3:* When restoration is carried in a no-licence district the determination of the electors at present comes into force on the expiration of 3 months after the day of the general election at which the poll was taken. It is now proposed that every such determination come into force on the date on which the Returning Officer first gives, under section 14 of the Licensing Amendment Act 1910, public notice of the determination.

*Clause 4* will expedite the taking of a Trust poll in a former no-licence district. At present such a poll cannot be held until the Licensing Control Commission has completed its review under section 9A of the Licensing Amendment Act 1910. It is now proposed that the Trust poll be held as soon as practicable after the determination of the electors in favour of restoration comes into force.

*Clause 5* repeals section 9c of the Licensing Amendment Act 1910 and substitutes new sections 9BA and 9c.

The new section 9BA will require the Licensing Control Commission, in those cases where Trust control is carried, to report to the Minister as soon as it has completed its review under section 9A. The report will inform the Minister of the Commission's opinion on—

- (a) The number of suburban Trusts that should be constituted in respect of the former no-licence district and the areas that each should serve:

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- (b) The desirability of amalgamating the whole or any part of the former no-licence district with the area of an existing suburban Trust:
- (c) Any other matter in relation to the former no-licence district that the Commission considers should be drawn to the Minister's attention.

The Minister of Justice may then in his discretion do one or more of the following things, namely—

- (a) Constitute one or more suburban Trusts in respect of the whole or any specified part of the former no-licence district:
- (b) Amalgamate the whole or any part of the former no-licence district with the area of an existing suburban Trust:
- (c) Include the whole or any part of the area of an existing suburban Trust within the area of a suburban Trust constituted by the notice.

The new section 9c sets out the procedure whereby the suburban Trust obtains licences.

Paragraph (e) provides that, on the giving of the notice calling for applications from the Trust, the Trust is to apply within 60 days after the day of its first meeting or within 60 days after the last publication of that notice, whichever is the later, or within such further time as the Commission or the Committee, as the case may require, may allow, for such of the licences as it thinks fit. At present the application is made by a local authority or, in default of a local authority, by 100 or more persons residing in the locality or area.

Paragraph (j) is new. If any licence is not granted to a suburban Trust the Commission or Committee under paragraph (h) invites applications from other persons. In that case objections are not called for under section 80 of the Sale of Liquor Act 1962. The new paragraph provides that the power conferred by paragraph (h) is not to be used if the Commission is of the opinion that there are special circumstances that make it desirable that public notice be given under section 80 of the Sale of Liquor Act 1962 of the intention to invite applications for a hotel or tavern premises licence.

*Clause 6* is a transitional provision. It enables the new procedure to be used in those cases where restoration has been carried before the commencement of this Act.

*Hon. Dr Finlay*

## LICENSING AMENDMENT

### ANALYSIS

Title	4. Poll to be taken on question whether licences should be offered to suburban Trusts
1. Short Title	5. New sections substituted
2. Poll to determine whether licences be restored	9A. Constitution of suburban Trusts
3. When local restoration proposal deemed to be carried	9c. Grant of licences
	6. Transitional provision

### A BILL INTITULED

#### An Act to amend the Licensing Act 1908

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

1. **Short Title**—This Act may be cited as the Licensing Amendment Act 1973, and shall be read together with and deemed part of the Licensing Act 1908\*.

10 2. **Poll to determine whether licences be restored**—Section 8 of the Licensing Amendment Act 1910 (as substituted by section 4 of the Licensing Amendment Act 1949) is hereby amended by adding the following subsection:

15 “(4) Subject to the provisions of this section, the poll on the restoration question shall be deemed for the purposes of the principal Act to be a licensing poll, and the provisions of that Act shall apply accordingly, so far as they are applicable and with the necessary modifications.”

\*Reprinted 1963, Vol. 2, p. 1751

**3. When local restoration proposal deemed to be carried—** Section 9 of the Licensing Amendment Act 1910 (as substituted by section 5 of the Licensing Amendment Act 1949) is hereby amended by repealing subsection (2), and substituting the following subsection: 5

“(2) Subject to paragraph (f) of section 29 and subsection (3) of section 33 of the principal Act, every such determination shall come into force on the date on which the Returning Officer first gives, under section 14 of this Act, notice of the determination.” 10

**4. Poll to be taken on question whether licences should be offered to suburban Trusts—**Section 9B of the Licensing Amendment Act 1910 (as inserted by section 2 of the Licensing Amendment Act 1963) is hereby amended by repealing subsection (1), and substituting the following subsection: 15

“(1) If in accordance with section 9 of this Act the determination of the electors of the district is deemed to be in favour of the restoration of licences, a poll of the electors residing in the former no-licence district shall be held as soon as practicable after the determination comes into force, on a day to be fixed by the Commission, on the question whether all licences that may be authorised as a result of the review should be offered to suburban Trusts (hereinafter referred to as the Trust proposal).” 20

**5. New sections substituted—**The Licensing Amendment Act 1910 is hereby amended by repealing section 9c (as inserted by section 2 of the Licensing Amendment Act 1963), and substituting the following sections: 25

“**9BA. Constitution of suburban Trusts—**(1) If the Trust proposal is carried, the Commission shall, as soon as it has completed its review under section 9A of this Act, give the Minister a report informing him of its opinion on— 30

“(a) The number of suburban Trusts that should be constituted in respect of the former no-licence district and the areas that each should serve: 35

“(b) The desirability of amalgamating the whole or any part of the former no-licence district with the area of an existing suburban Trust: 35

“(c) Any other matter in relation to the former no-licence district which the Commission considers should be drawn to the Minister’s attention. 40

“(2) On receipt of the Commission’s report under subsection (1) of this section, the Minister may in his discretion, by notice in the *Gazette*, do one or more of the following things, namely—

- 5 (a) Constitute one or more suburban Trusts in respect of the whole or any specified part of the former no-licence district (with such name or names as may be specified in the notice):
- 10 (b) Amalgamate the whole or any part of the former no-licence district with the area of an existing suburban Trust:
- (c) Include the whole or any part of the area of an existing suburban Trust within the area of a suburban Trust constituted by the notice.

15 “(3) Except as expressly provided in any regulations made under the Sale of Liquor Act 1962 or the Licensing Trusts Act 1949, the provisions of those Acts and of any regulations made under either of those Acts, so far as they are applicable, and with the necessary modifications, shall, subject to this section

20 and section 9c of this Act, apply with respect to every suburban Trust as if it were a local Trust.

“9c. Grant of licences—If the Trust proposal is carried, the provisions of the Sale of Liquor Act 1962 shall apply subject to the following modifications:

- 25 “(a) In the application of that Act, the review under section 9A of this Act shall be deemed to be the inquiry to which section 78 of the Sale of Liquor Act 1962 applies:
- 30 “(b) In the case of a hotel or tavern premises licence, the public notice of the Commission’s intention to invite applications for the licence under this section shall indicate that the invitation is to be addressed to a suburban Trust; but the notice shall otherwise be given in accordance with section 80 of that Act, and that section and sections 81 and 83 to 85 of
- 35 that Act (which relate to an area poll) shall apply accordingly:
- 40 “(c) In the case of a hotel, tavern, or tourist-house premises licence, the Commission shall, subject to section 85 of that Act, cause public notice to be given inviting a named suburban Trust to make application for the licence, and subsections (3) and (4) of section 86 of that Act shall apply to the notice:

- “(d) In the case of a wholesale licence, the Licensing Committee shall, as soon as practicable after the receipt by it of the certificate of the Commission issued under section 113 of that Act, cause public notice to be given inviting a named suburban Trust to make application for the licence; and subsections (3) and (4) of section 86 of that Act shall apply to the notice: 5
- “(e) On the giving of any such notice, the suburban Trust shall, within 60 days after the day of its first meeting or within 60 days after the last publication of that notice, whichever is the later, or within such further time as the Commission or the Committee, as the case may require, may allow, apply in accordance with that Act for such of the licences authorised for its area (being the area within which polls are taken for the election of members of the Trust) as it thinks fit; and nothing in section 97 or section 100 of that Act shall apply: 10 15
- “(f) Where any application is made under paragraph (e) of this section, the application shall be granted if it conforms to the standards defined by the Commission under section 79 of that Act, subject however to the provisions of that Act relating to objections and to compliance with the lawful requirements of the Commission: 20 25
- “(g) If in respect of any such licence no such application is made within the time prescribed or allowed as aforesaid, the Commission or, as the case may require, the Licensing Committee, shall cause public notice to be given of that fact: 30
- “(h) Subject to paragraph (j) of this section, if in respect of any such licence no such application is made or granted, the Commission or, as the case may require, the Committee shall, in accordance with section 86 or section 114 of that Act, cause public notice to be given of its intention to consider applications from other persons for the licence: 35
- “(i) Subsection (1) of section 82, subsections (3) and (4) of section 83, the proviso to subsection (1) of section 86, section 89, and subsection (5) of section 91 of the Sale of Liquor Act 1962 (which relate to Trust polls and applications on behalf of local Trusts) shall not apply: 40

5 “(j) In the case of a hotel or tavern premises licence, the  
Commission shall not exercise the power conferred  
on it by paragraph (h) of this section if the Com-  
mission is of the opinion that there are special  
circumstances that make it desirable that public  
notice be given under section 80 of that Act of  
the intention to invite applications for a hotel or  
tavern premises licence; in which case the provi-  
sions of that Act, excluding those mentioned in  
10 paragraph (i) of this section, shall apply accord-  
ingly with such modifications as are necessary.”

15 **6. Transitional provision**—In any case where, as a result of  
a licensing poll held before the commencement of this Act,  
the determination of the electors of any no-licence district has  
been deemed to be in favour of restoration and any act,  
matter, or thing remains to be done, or any proceedings are  
in progress, under the Licensing Amendment Act 1910, then,  
where practicable, that act, matter, or thing shall be done  
and those proceedings shall be completed under that Act as  
20 amended by this Act.