

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE]
House of Representatives, 16 August 1973

Words struck out by the Committee are shown with black rule at the beginning and after last line; words inserted are shown with double rule before first line and after last line.

Hon. Dr Finlay

SALE OF LIQUOR AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Sale of Liquor Act 1962

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 1973, and shall be read together with and deemed part of the Sale of Liquor Act 1962* (hereinafter referred to as the principal Act).
- 10 2. **Interpretation**—Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “restaurant”, the following definition:
- 15 “‘Suburban Trust area’, in relation to any suburban Trust, means the area within which polls are taken for the election of members of the Trust:”.

*Reprinted 1969, Vol. 4, p. 2795
Amendments: 1970, No. 35; 1971, No. 2; 1971, No. 77; 1972, No. 101

New

2A. Residents or local authority may request a public sitting
 —The principal Act is hereby amended by inserting, after section 74, the following section:

“74A. (1) A request for a public sitting, under and for the purposes of section 74 of this Act, may be made by— 5

“(a) Any 50 or more persons residing in any locality or place who are qualified as electors of any local authority referred to in subsection (5) of this section; or 10

“(b) Any such local authority itself if it is of the opinion—

“(i) That any or any further hotel or tavern premises licence is necessary or desirable in any locality or place; and

“(ii) That if any such licence were authorised in that locality or place the electors in that locality or place might desire that the licence be issued to a local Trust. 15

“(2) The Commission shall not be obliged to hold any such public sitting pursuant to a request under subsection (1) of this section but, notwithstanding anything in subsections (4) and (5) of section 74 or in sections 136 to 147A of this Act, the Commission shall not, except in a case to which subsection (4) of this section applies, grant any application for removal of a hotel or tavern premises licence into an area if, before the making of the application for removal, the Commission has received a request made under subsection (1) of this section and the whole or part of the locality or place to which the request relates is in that area. 20 25

“(3) In any case where the Commission holds a public sitting pursuant to a request made under subsection (1) of this section the provisions of sections 75 to 99 of this Act shall apply accordingly except that, if in any such case the Commission authorises the issue of a hotel or tavern premises licence, the request for a public sitting made under subsection (1) of this section shall be deemed to be an application for a poll under and for the purposes of section 82 of this Act (in this section referred to as a trust poll), and no further application under that section shall be necessary. 30 35

New

“(4) If, in any case to which subsection (3) of this section applies, the Commission authorises the issue of a hotel or tavern premises licence, and—

5 “(a) The Commission declines to direct that a trust poll be held; or

“(b) A trust poll is held and a majority in number of the valid votes recorded is not in favour of the proposal that if a licence is granted it be issued to a local Trust—

10 the Commission may, instead of authorising the issue of any new licence, grant any application then before it for the removal of any hotel or tavern premises licence into the area.

“(5) For the purposes of this section, the expression ‘local authority’, in relation to any locality or place, means the local authority of any district, or any two or more local authorities of adjoining districts, where the locality or place—

“(a) Is wholly or partly within such district or districts; or

20 “(b) Is one to which a substantial proportion of the residents of the district or districts are accustomed to pay visits for the purposes of business entertainment or other like purposes.

“(6) Nothing in this section shall limit the provisions of section 82 of this Act.”

25 **3. Suburban Trust to have prior right to licences authorised for its area**—The principal Act is hereby amended by inserting, after section 79, the following section:

30 “79A. (1) Where the locality or area defined under subsection (1) of section 79 of this Act comprises the whole or part of any suburban Trust area, the Trust shall have a preferential right to apply for any licence authorised.

“(2) In any such case, the provisions of this Act shall apply subject to the following modifications:

35 “(a) In the case of a hotel or tavern premises licence,—

“(i) The public notice of the Commission’s intention to invite applications under section 80 of this Act shall name each suburban Trust to which the invitation is to be addressed; and

“(ii) Section 82 of this Act shall not apply:

- “(b) In the case of a hotel, tavern, or tourist-house premises licence,—
- “(i) The public notice given under subsection (1) or subsection (2) of section 86 of this Act shall name each suburban Trust which may make an application for the licence and shall indicate that no person (other than a suburban Trust so named) may make application for the licence; and
- “(ii) The proviso to subsection (1) of section 86 of this Act shall not apply:
- “(c) In the case of a wholesale licence, the public notice given under subsection (1) of section 114 of this Act shall name each suburban Trust which may make an application for the licence and shall indicate that no person (other than a suburban Trust so named) may make application for the licence:
- “(d) On the giving of any such notice any suburban Trust so named may, within the time prescribed or allowed under section 87 or, as the case may require, section 114 of this Act, apply in accordance with this Act for such of the licences as it thinks fit, and nothing in section 97 or section 100 of this Act shall apply:
- “(e) 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:
- “(f) Where any application is made under paragraph (d) of this subsection the application shall be granted if it conforms to the standards defined by the Commission under section 79 of this Act, subject however to the provisions of this Act relating to objections and to compliance with the lawful requirements of the Commission:
- “(g) Subject to paragraph (i) of this subsection, 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 this Act, cause public notice to be given of its intention to consider applications from other persons for the licence:

5 “(h) 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 this Act (which relate to Trust polls and applications on behalf of local Trusts) shall not apply:

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

New

20 **3A. Application for Trust poll**—Section 82 of the principal Act is hereby amended by omitting from subsection (1) the words “local authority referred to in subsection (2) of this section”, and substituting the words “50 or more residents of the locality or area who are qualified as electors of any local authority referred to in subsection (2) of this section, or any such local authority itself.”

4. Cancellation of grant—(1) Section 91 of the principal Act is hereby amended by repealing subsection (6).

30 (2) This section shall be deemed to have come into force on the 1st day of June 1973.

5. Fire safety reports—(1) Section 125 of the principal Act is hereby amended by repealing subsection (3) (as amended by section 99 of the Fire Services Act 1972), and substituting the following subsection:

35 “(3) In respect of the premises of every licensed hotel, tourist-house, tavern, restaurant, or cabaret, a member of the fire service established under the Fire Services Act 1972 authorised to undertake fire safety inspections shall report to the Clerk of the Licensing Committee, on or before the 31st day of May in every year, with respect to the maintenance

on the premises by the holder of any hotelkeeper's, tourist-house keeper's, tavernkeeper's, restaurant, or cabaret licence of safeguards against and means of warning and escape in the case of fire."

(2) The following enactments are hereby consequentially 5
repealed:

(a) Subsection (2) of section 37 of the Sale of Liquor Amendment Act (No. 2) 1971:

(b) So much of the Second Schedule to the Fire Services Act 1972 as relates to subsection (3) of section 125 10
of the principal Act.

6. Renewal of theatre licence—Section 127A of the principal Act (as inserted by section 5 of the Sale of Liquor Amendment Act (No. 2) 1969 and amended by section 99 of the Fire Services Act 1972) is hereby further amended by omitting 15
from subsection (6) the words "Chief Fire Officer", and substituting the words "member of the fire service established under the Fire Services Act 1972 authorised to undertake fire safety inspections".

7. Application for removal into area of suburban Trust— 20
The principal Act is hereby amended by inserting, after section 139, the following section:

"139A. In any case where the application is for the removal of a hotel, tourist-house, or tavern premises licence or a wholesale licence and the proposed new premises are 25
within any suburban Trust area—

"(a) A copy of the application shall be served on the Trust by the applicant:

"(b) The Trust may, within 14 days after the date on which it is served with a copy of the application or 30
within such further time as the Chairman of the Commission may allow, object to the removal of the licence by filing notice in writing of its objection with the Secretary of the Commission:

"(c) The application shall not be granted in the face of any 35
such objection unless the Commission is satisfied that—

“(i) The business of the Trust will not be detrimentally affected by the removal of the licence into its area; or

5 “(ii) There are special circumstances that justify the granting of the application.”

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8. Objections in respect of removal of hotel or tavern premises licence—(1) The principal Act is hereby amended by repealing section 141 (as amended by section 4 of the Sale
10 of Liquor Amendment Act 1964), and substituting the following section:

“141. (1) Where the application for removal relates to any hotel or tavern premises licence (other than the house premises under a special hotel premises licence), any 50 or
15 more persons residing within the area described in subsection (2) of this section who are qualified as electors of any local authority having jurisdiction over any part of that area, or any such local authority, may, at any time within 30 days after the first publication of the notice under subsection (3)
20 of section 139 of this Act or within such further time as the Commission may allow, apply in writing to the Commission for the taking of one or both of the following polls, namely—

25 “(a) A poll for the purpose of ascertaining whether a majority of the electors residing in the area desire that a licence of the type proposed to be removed or an additional licence of that type, as the case may require, be not issued in the area:

30 “(b) A poll for the purpose of ascertaining whether, if a licence of the type proposed to be removed or an additional licence of that type, as the case may require, is issued in the area, a majority of the electors residing in the area desire that it be issued to a local Trust (hereinafter in this section referred to as a Trust poll).

35 “(2) The area referred to in subsection (1) of this section shall be—

40 “(a) Where the proposed new premises are on any land in a city, borough, town district, or county town, the area contained within a radius of 2 miles from a point at the middle of the frontage of that land:

Struck Out

“(b) Where the proposed new premises are on any other land, the area contained within a radius of 5 miles from a point at the middle of the frontage of that land. 5

“(3) On any application for the taking of a poll or polls under this section 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 or polls should be taken it shall, subject to subsection (4) 10 of this section, direct that a poll or polls be taken.

“(4) Where both polls are sought the Commission may direct that the poll of the kind described in paragraph (a) of subsection (1) of this section be taken first and may postpone its decision with regard to the taking of a Trust poll 15 until the result of the first poll is known.

“(5) The Commission may decline to direct that a poll be taken if it is of opinion that—

“(a) Having regard to the distance between the premises from which it is proposed to remove the licence 20 and the new premises, no poll should be taken; or

“(b) Having regard to the locality or area to which it is proposed to remove the licence, it is impracticable to define a reasonably substantial area having sufficient community of interest to justify the 25 taking of a poll.

“(6) If the Commission directs that a poll be taken, section 84 of this Act shall apply.

“(7) If in the case of a poll taken under paragraph (a) of subsection (1) of this section a majority in number of the 30 valid votes recorded at the poll is in favour of the proposal that a licence of the type proposed to be removed or an additional licence of that type, as the case may require, be not issued in that area, the Commission shall not approve the removal of the licence to premises within the area in which 35 the poll was taken or, under subsection (8) of this section, invite application for a licence, 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 40

Struck Out

proposal not to issue a licence bears to the total number of valid votes, the convenience of travellers in the case of a hotel premises licence, and all such other matters as it considers
5 relevant, there are special circumstances that make it desirable in the public interest that such a licence should be issued.

“(8) In any case where the Commission has directed that a Trust poll be taken, and a majority in number of the valid votes recorded at that poll is in favour of the proposal that
10 a licence be issued in the area to a local Trust, the Commission shall, subject to subsection (7) of this section, cause public notice of its intention to consider applications on behalf of a local Trust for a hotel or tavern premises licence to be given as soon as practicable after the declaration of the
15 result of the Trust poll.

“(9) On the giving of any notice under subsection (8) of this section, any local authority, either acting alone or with or on behalf of any other local authority, or any 2 or more local authorities, authorised by subsection (1) of this section
20 to apply for a Trust poll, but no other person, may within 60 days after the last publication of the notice apply for the licence to be issued to a local Trust.

“(10) The provisions of this Act shall apply in respect of every such application with such modifications as are
25 necessary.

“(11) The application for removal shall be adjourned until the result of any application under subsection (9) of this section is known.

“(12) If the licence is granted to a local Trust the Commission shall refuse the application for removal.
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“(13) If a licence is not granted to a local Trust, proceedings in respect of the application for removal may be resumed.”

(2) Section 74 of the principal Act (as amended by section
35 2 of the Sale of Liquor Amendment Act 1964) is hereby amended by adding the following subsection:

“(6) Subsections (4) and (5) of this section shall be read subject to the provisions of section 141 of this Act.”

(3) Section 4 of the Sale of Liquor Amendment Act 1964
40 is hereby consequentially repealed.

New

8. Commission may fix fair price on removal of hotel or tavern premises licence—(1) The principal Act is hereby amended by inserting, after section 142, the following section:

142A. (1) The Commission may determine a fair price to be paid on the making of an order for the removal of any hotel or tavern premises licence. 5

“(2) In respect of any such removal the fair price shall be such sum as in the opinion of the Commission will represent the difference between the value of the licence before its removal and what will be the value of the licence if it is removed, increased or reduced by such sum as the Commission may consider fair and equitable in the circumstances. 10

“(3) When the Commission has fixed a fair price it shall forthwith cause notice thereof to be given to the applicant.” 15

(2) Section 145 of the principal Act is hereby amended by adding to subsection (1) the following proviso:

“Provided that the Commission shall not grant the application for removal unless it is satisfied that the licence is not necessary or desirable in its present locality.” 20

(3) Section 147 of the principal Act is hereby amended by inserting in subsection (2) of that section (as amended by section 11 of the Sale of Liquor Amendment Act 1965, by section 2 (3) of the Sale of Liquor Amendment Act 1971, and by section 5 (2) of the Sale of Liquor Amendment Act (No. 2) 1971), after the words “to the satisfaction of the Committee,” the words “and that the fair price (if any) fixed by the Commission has been paid to the Licensing Fund or that payment thereof has been secured in the prescribed manner.”. 25 30

(4) Section 17 of the principal Act is hereby amended by repealing paragraph (a) of subsection (2) (as substituted by section 5 (2) of the Sale of Liquor Amendment Act (No. 2) 1971), and substituting the following paragraph:

“(a) All money payable by way of fair price on the issue of any new wholesale licence or on the removal of any hotel or tavern premises licence.” 35

(5) The Sale of Liquor Amendment Act (No. 2) 1971 is hereby consequentially amended by repealing so much of the Schedule as relates to section 17 (2) of the principal Act. 40

(6) Notwithstanding the provisions of this section, no fair price shall be payable on the making of an order for the removal of any hotel or tavern premises licence in any case where the application for the removal of that licence was made before the 14th day of June 1973. 45

9. Fire safety inspection of chartered clubs—(1) Section 170 of the principal Act is hereby amended by repealing subsection (4) (as amended by section 99 of the Fire Services Act 1972), and substituting the following subsection:

5 “(4) In respect of the premises of every chartered club, a member of the fire service established under the Fire Services Act 1972 authorised to undertake fire safety inspections shall report to the Commission, on or before the 31st day of
10 May in every year, with respect to the maintenance on the premises by the club of safeguards against and means of warning and escape in case of fire.”

(2) The Fire Services Act 1972 is hereby consequentially amended by repealing so much of the Second Schedule as relates to subsection (4) of section 170 of the principal Act.

15 **10. Cancellation or suspension of restaurant licence—**

(1) Section 213 of the principal Act is hereby amended by repealing paragraph (c) of subsection (7) (as substituted by section 42 (2) of the Sale of Liquor Amendment Act (No. 2) 1971), and substituting the following paragraphs:

20 “(c) A cabaret licence; and
“ (d) A restaurant licence—”.

(2) The said section 213 is hereby further amended by omitting from subsection (8) (as enacted by section 42 (2) of the Sale of Liquor Amendment Act (No. 2) 1971) the
25 words “or cabaret”, and substituting the words “restaurant, or cabaret”.

11. Metric conversions—(1) The principal Act is hereby amended in the manner indicated in the Schedule to this Act.

(2) Sections 4 and 18 of the Sale of Liquor Amendment
30 Act 1965 are hereby consequentially repealed.

Section 11 (1)

SCHEDULE

AMENDMENTS OF PRINCIPAL ACT

Section Amended	Amendment
Section 67	By omitting from subsection (1) the expression "2 gallons", and substituting the expression "9 litres". By omitting from subsection (4) the expression "1 reputed quart", and substituting the expression "760 millilitres". By omitting from the proviso to subsection (4) the expression "2 gallons", and substituting the expression "9 litres".
Section 152	By omitting from subsection (1) (as amended by section 18 of the Sale of Liquor Amendment Act 1965) the words "one reputed pint", and substituting the expression "375 millilitres". By omitting from subsection (4A) (as inserted by section 10 of the Sale of Liquor Amendment Act (No. 2) 1971) the expression "25 pounds", and substituting the expression "11 kilograms".
Section 156	By omitting from subsection (2) (as amended by section 4 of the Sale of Liquor Amendment Act 1965) the expression "1 reputed pint", and substituting the expression "375 millilitres".
Fourth Schedule	By omitting from clause 1 the expression "2 gallons", and substituting the expression "9.1 litres".