

## SALE OF LIQUOR AMENDMENT BILL

### EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to the Sale of Liquor Act 1962.

*Clause 1* relates to the Short Title.

*Clause 2:* This amendment exempts from the operation of the principal Act any canteen established for officers of a penal institution with the authority of the Minister. A similar exemption already exists for Police canteens.

*Clause 3:* Under section 68 of the principal Act a ship licence authorises the shipowner to sell liquor to passengers "during any voyage". The effect of the amendment made by this clause is to remove the limitation imposed by the quoted words and allow the sale of liquor on the ship to passengers for consumption on the ship. This will permit the sale of liquor to passengers before the ship actually leaves the wharf.

*Clause 4:* At present, a fair price (fixed by the Licensing Control Commission) is payable for a new hotel, tavern, or tourist-house premises licence, and for a new wholesale licence; and a fair price may also be imposed on the removal of any of these licences to other premises.

The effect of this clause is that a fair price will not in future be payable for (a) a new hotel, tavern, or tourist-house premises licence, or (b) the removal of any such licence or of a wholesale licence. A fair price will still be payable under section 113 of the principal Act for a new wholesale licence.

*Subclause (3)* is a transitional provision. The effect of it is that in any case where, before the passing of the Bill, the Commission has notified an applicant for a new licence or the removal of a licence of the fair price fixed by the Commission, the price will be payable.

*Clause 5:* Under section 101 of the principal Act the Commission may grant an application for the conversion of a hotel premises licence into a tavern premises licence. The effect of the amendment made by this clause is that when the Commission notifies the holder of the hotelkeeper's licence that it proposes to grant such an application he is thereupon relieved from his obligation to provide accommodation and meals on the premises. This is already the law under section 314 of the Act where the Commission decides to authorise the conversion of a provisional hotel premises licence to a tavern premises licence.

*Clause 6:* Under section 107 of the principal Act an applicant for a new restaurant licence must make a statutory declaration as to his experience in the conduct of restaurants, and under section 110 this experience must be taken into account by the Licensing Control Commission in deciding whether or not to grant the licence. However, restaurant licences are included among the kinds of licences that may be transferred by Licensing Committees. Under section 129 an applicant has only to declare his experience in the conduct of "licensed premises", without specific reference to restaurants; and under section 133, where there is a hearing, the only relevant requirement is that the Committee may (not shall) have regard to this experience.

This clause is intended to correct the anomaly.

*Subclause (1)* amends section 129 by requiring an applicant for a transfer of a restaurant licence to include in his statutory declaration particulars of any experience he has had in the conduct of restaurants.

*Subclause (2):* The effect of this amendment is that on an application for the transfer of a restaurant licence the Clerk of the Committee is to ask for a report from an Inspector of licensed premises.

*Subclause (3):* These amendments give to an Inspector of licensed premises the right to appear and be heard at a hearing on an application for the transfer of a restaurant licence; and also require the Committee to have regard to any experience that the applicant has had in the conduct of restaurants.

*Clause 7:* The amendment made by this clause prohibits the keeping on a wine maker's premises of more than 25 pounds of any dried fruit or fruits that he is not authorised to use in making wine.

*Clause 8:* This clause alters the closing hour for wine resellers' premises from 8 p.m. to 9 p.m.

*Clause 9:* This clause inserts a new section, under which no chartered club is to increase its membership, amend its rules, or make alterations or additions to its premises, without the prior approval of the Commission or its Chairman.

*Clause 10* makes provision for the temporary operation of a club charter in neighbouring premises where the club premises become unfit for use because of fire, alterations, or rebuilding, etc., or in other special circumstances that will prevent the operation of the charter in the premises. The clause is based on the similar provisions of section 288 of the principal Act relating to licensed premises.

*Clause 11:* The effect of the new section 174 substituted by *subclause (1)* of this clause is that the Commission may grant a club charter in a no-licence district; but in deciding whether to do so it must have regard to the nature and purposes of the club and to the effect that the grant of the charter might have on the provision of facilities for the sale and consumption of liquor, and of accommodation and services for the public, in the district, having regard to its status as a no-licence district and to the possibility of its ceasing in the future to be a no-licence district by virtue of a local restoration poll. It may also have regard to the length of time during which the club has existed.

*Subclause (2):* The effect of this amendment is to apply the above-mentioned considerations to any application for the Commission's approval to the removal of any chartered club to premises in a no-licence district.

*Subclause (3):* This amendment is consequential.

*Clause 12:* Under section 216 of the principal Act (as amended in 1965) an extended hours permit for a social gathering after hours may be granted by a Magistrate to the holder of a hotelkeeper's licence or tourist-house keeper's licence, or to his manager, or to the secretary of a chartered club, for a social gathering. The amendments made by this clause extend the section to taverns.

*Clause 13:* Under section 217 of the principal Act a special permit for the holding of social gatherings after hours may be granted by the Commission to the holder of a hotelkeeper's licence or tourist-house keeper's licence. The amendments made by this clause extend the section to taverns.

*Clause 14:* Section 220 of the principal Act authorises the Commission to exempt the holder of a hotelkeeper's licence or tourist-house keeper's licence from the provisions of the Act (section 202) prohibiting the use of the premises for dancing by or entertainments for persons other than lodgers or residents and their guests. The amendments made by this clause extend the section to taverns.

*Clause 15:* The purpose of this amendment is to make it clear that an order made by a Licensing Committee varying the hours for the sale of liquor in a hotel or tavern may be further varied by any subsequent order, or may be revoked so that the usual hours (11 a.m. to 10 p.m.) will be reverted to.

*Clause 16:* Section 222 of the principal Act requires the holders of wholesale licences, brewers' licences, wine makers' licences, and wine resellers' licences to keep records of sales of liquor made by them otherwise than to persons lawfully entitled to sell liquor; but wine makers and wine resellers do not have to keep records of sales in quantities of less than 2 gallons.

*Subclause (1)* of this clause repeals the section and substitutes a new section 222 requiring the holders of wholesale or brewers' licences to allow the Police to inspect their records of credit sales and of deliveries.

*Subclauses (2) to (4)* make consequential amendments in section 223 of the principal Act (which requires the keeping of a record of orders lawfully received at unlicensed premises on behalf of a licensee). As that section applies, by reference, subsections (2) and (4) to (7) of the existing section 222 (repealed by *subclause (1)* of this clause), these subclauses amend section 223 by setting out in detail the substance of the subsections proposed to be repealed.

*Clause 17:* Section 228 of the principal Act requires an appeal to the Commission against a decision of a Licensing Committee to be lodged within 14 days (or 3 months in the Chatham Islands).

This clause gives the Commission power to extend the time for appeal where there was reasonable cause for a failure or inability to lodge the appeal within the prescribed time.

*Clauses 18 and 19:* Section 250 of the principal Act makes it an offence, subject to the exceptions set out in subsections (2) and (3), for a person to consume or procure liquor on hotel premises after hours. Section 251 similarly makes it an offence, subject to the exceptions set out in subsection (2), for persons other than lodgers or resident employees to consume or

procure liquor on tourist-house premises. One of the exceptions in each case, which applies section 249 (7) of the principal Act, has been interpreted by the Supreme Court to allow the guest of a lodger, so long as he is in the company of the lodger, to purchase liquor himself; but in such a case the licensee or manager is still liable for selling it to him. These clauses make it clear that in each case the exception in question allows only the consumption or possession of liquor by such a guest, while he is in the company of the lodger, if it is supplied to him without charge and by way of hospitality. In other words, a guest of a lodger may not himself buy the liquor.

*Clause 20* removes from section 285 of the principal Act (which requires notice of certain convictions of licensees or managers to be given to the Clerk of the Licensing Committee) a reference to corrective training, which has been abolished.

*Clause 21:* Under section 286A of the principal Act the return of purchases to be made by the holder of a tavern-keeper's licence for the purpose of the assessment of his licence fee must be certified as correct by an auditor. The amendment made by this clause requires that, after 1 January 1972, the auditor must be a member of the New Zealand Society of Accountants in public practice.

*Clause 22:* Section 288 of the principal Act makes provision for the temporary carrying on of a licensee's business in neighbouring premises where the licensee's premises become unfit for use because of fire, alterations, or rebuilding, etc.

This clause extends the section to cover other special circumstances that will prevent the carrying on of the business in the premises (for example, where a licensee who is a tenant has to quit his premises before he has received authority under the principal Act to remove his licence to new premises).

*Clause 23:* Under section 291 of the principal Act alterations to hotel, tourist-house, or tavern premises must have the prior consent of the Licensing Committee or its Chairman. The amendment made by this clause substitutes the Commission or its Chairman for the Committee or its Chairman.

*Clause 24:* Under section 315 of the principal Act, when the Commission has authorised the issue of a hotel or tavern premises licence in place of a provisional licence, the Licensing Committee is to issue the new licence. Under the amendment made by this clause the issue of the licence will be by the Chairman of the Committee, thus making a meeting of the Licensing Committee unnecessary for what is merely an administrative act.

*Schedule:* The Schedule contains amendments that are consequential on *clause 4*.

---

*Hon. Mr Riddiford*

## SALE OF LIQUOR AMENDMENT

### ANALYSIS

Title	15. Variation of usual hours for sale of liquor in hotel and tavern premises
1. Short Title	16. Inspection of records of credit sales or deliveries by holders of certain licences
2. Application of Act	17. Appeal to Commission against decision of Licensing Committee
3. Ship licence	18. Unlawfully consuming liquor, etc., on hotel premises
4. Abolition of fair price for certain new or removed licences	19. Unlawfully consuming liquor, etc., on house premises
5. Conversion of hotel to tavern	20. Notification of certain convictions of licensee or manager
6. Transfer of restaurant licence	21. Calculation and payment of tavern-keeper's licence fee
7. Prohibition on storage of dried fruit by wine makers	22. Temporary licence in case of fire, etc.
8. Wine reseller's licence	23. Alterations in licensed premises
9. Conditions of club charter	24. Issue of hotel or tavern premises licence in place of provisional licence
10. Temporary removal of club charter	Schedule
11. Charters in no-licence districts	
12. Extended hours permit for tavern	
13. Special permit for social gatherings in tavern	
14. Exemptions as to entertainments	

### 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,  
5 as follows:

No. 15—1

**1. Short Title**—This Act may be cited as the Sale of Liquor Amendment Act 1971, and shall be read together with and deemed part of the Sale of Liquor Act 1962\* (hereinafter referred to as the principal Act).

**2. Application of Act**—Section 3 of the principal Act is hereby amended by inserting in subsection (2), after paragraph (d), the following paragraph: 5

“(dd) To any person who supplies, keeps for sale, or sells any liquor in any canteen established for officers of a penal institution with the authority of the Minister of Justice:” 10

**3. Ship licence**—Section 68 of the principal Act is hereby amended by omitting the words “during any voyage”, and substituting the words “for consumption on the ship”.

**4. Abolition of fair price for certain new or removed licences**—(1) The principal Act is hereby amended by repealing sections 90 and 143. 15

(2) The principal Act is hereby further amended in the manner indicated in the Schedule to this Act.

(3) Notwithstanding anything in the foregoing provisions of this section, in any case where, before the passing of this Act, the Commission— 20

(a) Under section 90 of the principal Act, has caused notice of a fair price to be given to an applicant for a hotel, tavern, or tourist-house premises licence; or 25

(b) Under section 143 of the principal Act, has caused notice of a fair price to be given to an applicant for the removal of any such licence or of a wholesale licence—

the fair price shall be payable in respect of that licence or removal, as the case may require, and the provisions of the principal Act shall apply as if this Act had not been passed. 30

**5. Conversion of hotel to tavern**—Section 101 of the principal Act is hereby amended by adding the following subsection: 35

“(8) When under subsection (6) of this section the Commission notifies an applicant that it proposes to grant to him a tavern premises licence in place of a hotel premises licence in respect of any premises, the holder of the hotelkeeper’s licence then in force for those premises shall thereupon be relieved from the obligation to provide accommodation and meals imposed by this Act.”

**6. Transfer of restaurant licence—**(1) Section 129 of the principal Act is hereby amended by omitting from paragraph (a) of subsection (2) the words “licensed premises” (including any experience as an employee in any capacity on licensed premises)”, and substituting the words “licensed premises or, if the application relates to a restaurant licence, in the conduct of restaurants (including any experience as an employee in any capacity on licensed premises or, as the case may be, in any restaurant)”.

(2) Section 130 of the principal Act is hereby amended by adding the following subsection:

“(3) If the application is for the transfer of a restaurant licence, the Clerk shall also forthwith send particulars of the application to an Inspector, and shall request that a report be made.”

(3) Subsection (2) of section 133 of the principal Act is hereby amended—

(a) By inserting, after the words “member of the Police”, the words “or Inspector”:

(b) By adding the words “and, if the application relates to a restaurant licence, shall have regard to any experience that the applicant has had in the conduct of restaurants (including any experience as an employee in any capacity in any restaurant)”.

**7. Prohibition on storage of dried fruit by wine makers—**Section 152 of the principal Act is hereby amended by inserting, after subsection (4), the following subsection:

“(4A) No holder of a wine maker’s licence shall at any time keep or have on any part of the wine maker’s premises more than 25 pounds of any dried fruit or fruits that he is not authorised to use under this Part of this Act.”

**8. Wine reseller's licence**—(1) Section 156 of the principal Act is hereby amended by omitting from subsection (4) (as amended by section 2 of the Sale of Liquor Amendment Act (No. 2) 1967) the words “9 o'clock in the morning and 8 o'clock in the evening”, and substituting the words “9 o'clock in the morning and 9 o'clock in the evening”.

(2) The Schedule to the Sale of Liquor Amendment Act (No. 2) 1967 is hereby consequentially amended by repealing so much thereof as relates to subsection (4) of section 156 of the principal Act.

**9. Conditions of club charter**—The principal Act is hereby further amended by inserting, after section 166, the following section:

“166A. (1) No chartered club shall—

“(a) Increase its membership; or

“(b) Amend its rules; or

“(c) Make any alterations in or additions to its premises—without the prior approval in writing of the Commission or its Chairman.

“(2) For the purposes of obtaining any approval under subsection (1) of this section, the club shall supply such information and particulars as the Commission or its Chairman may require.

“(3) Any decision by a chartered club to increase its membership or to amend its rules shall be void unless approval thereto has been obtained in accordance with this section.

“(4) Every chartered club commits an offence against this Act if it makes any alterations in or additions to its premises without obtaining approval in accordance with this section.”

**10. Temporary removal of club charter**—The principal Act is hereby further amended by inserting, after section 167, the following section:

“167A. If any club premises become unfit for the operation therein of the charter by reason of any fire, tempest, or other calamity, or are or will become unfit for that purpose because of any repairs, alterations, or additions, or their rebuilding, or if other special circumstances exist that will prevent the operation of the charter in the premises, the Commission may if it thinks fit authorise the club to operate its charter in some neighbouring premises for such period as it thinks fit, and may from time to time extend that period on application by the club.”



**11. Charters in no-licence districts—**(1) The principal Act is hereby further amended by repealing section 174, and substituting the following section:

5 “174. (1) Subject to the provisions of this section, it shall be lawful for any club charter to be issued under this Act in respect of a club within a no-licence district.

“(2) In considering any application for the grant of a charter in respect of a club in a no-licence district, the Commission shall, in addition to the considerations set out in sub-  
10 section (4) of section 165 of this Act, have regard to—

“(a) The nature and purposes of the club, and the number of members; and

“(b) The effect that the grant of the charter might have on the provision of facilities for the sale and consumption of liquor, and the provision of accom-  
15 modation and services for the public, in the district, having regard to its status as a no-licence district and to the possibility of its ceasing in the future to be a no-licence district by virtue of the determina-  
20 tion of the electors of the district—

and may also have regard to the length of time during which the club has existed.”

(2) Section 167 of the principal Act is hereby amended by inserting in subsection (2), after the words “this Part”, the  
25 words “and the provisions of section 174”.

(3) Section 233 of the principal Act is hereby amended by inserting in paragraph (a) and paragraph (b) of subsection (3), after the words “licence or permit” in each case, the words “or club charter”.

30 **12. Extended hours permit for tavern—**(1) Section 216 of the principal Act (as amended by section 2 of the Sale of Liquor Amendment Act (No. 2) 1967) is hereby further amended—

35 (a) By inserting in subsection (1), after the words “the holder of any hotelkeeper’s licence”, the words “or tavernkeeper’s licence”:

(b) By inserting in subsection (1), after the words “as the case may be”, the words “the tavern premises or”:

40 (c) By omitting from subsection (1) the words “10 o’clock in the evening in the case of hotel premises or 6 o’clock in the evening in the case of club premises”, and substituting the words “10 o’clock in the evening in the case of hotel or tavern premises or 6 o’clock in the evening in the case of club  
45 premises”.

(2) The Schedule to the Sale of Liquor Amendment Act (No. 2) 1967 is hereby consequentially amended by repealing so much thereof as relates to subsection (1) of section 216 of the principal Act.

**13. Special permit for social gatherings in tavern—**Section 5 217 of the principal Act is hereby amended—

- (a) By inserting in subsection (1), after the words “the holder of any hotelkeeper’s licence”, the words “or tavernkeeper’s licence”:
- (b) By inserting in subsection (1), after the words 10 “extended hotelkeeper’s licence”, the words “or, as the case may be, the tavern premises”.

**14. Exemptions as to entertainments—**Section 220 of the principal Act is hereby amended—

- (a) By inserting in subsection (1), after the words “tourist- 15 house keeper’s licence”, the words “or the holder of any tavernkeeper’s licence,”:
- (b) By inserting in subsection (3), after the words “hotel or tourist-house”, the words “or tavern”.

**15. Variation of usual hours for sale of liquor in hotel and 20 tavern premises—**(1) Section 221A of the principal Act (as inserted by section 3 of the Sale of Liquor Amendment Act (No. 2) 1967) is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) Subject as aforesaid, the Committee may from time 25 to time in like manner, if it is satisfied that it is in the public interest to do so, make an order varying or revoking any order made under subsection (2) of this section.”

(2) The said section 221A is hereby further amended by inserting in subsection (19), after the words “of any 30 premises”, the words “(being an order fixing hours other than the usual hours)”.

**16. Inspection of records of credit sales or deliveries by holders of certain licences—**(1) The principal Act is hereby further amended by repealing section 222, and substituting 35 the following section:

“222. (1) Every person who is the holder of a wholesale licence, or of a brewer’s licence under the Finance Act 1915, shall on demand made by a member of the Police allow him to inspect any record kept by or on behalf of the holder of  
5 the licence in respect of—

“(a) Any sale of liquor made otherwise than for cash; or  
“(b) Any delivery of liquor.

“(2) For the purposes of inspecting any such record any member of the Police may at any time enter on the business  
10 premises of the holder of the licence.

“(3) Every person commits an offence against this Act who, without reasonable excuse, refuses or fails to admit any member of the Police to any such premises as aforesaid on being required to do so, or refuses to allow any such inspection  
15 as aforesaid.”

(2) Section 223 of the principal Act is hereby amended by repealing paragraph (a) of subsection (6), and substituting the following paragraph:

“(a) The licensee shall keep or cause to be kept on the  
20 unlicensed premises a record of every order for liquor received at those premises. The order shall be entered in the record on the day on which the order is received. The record shall show—

“(i) The address of the unlicensed premises:

25 “(ii) The date of the order:

“(iii) The name and address of the person by whom the order is given:

“(iv) The nature and quantity of the liquor ordered:

30 “(v) The name and address of the person to whom the liquor is to be delivered:

“(vi) The date on which the order is forwarded to the licensee:”.

(3) The said section 223 is hereby further amended—

35 (a) By inserting in paragraph (c) of subsection (6), after the words “inspect the unlicensed premises”, the words “, and inspect the record,”:

(b) By omitting from paragraph (a) of subsection (7) the words “other than paragraph (a) of subsection (6) of this section”.

40

(4) The said section 223 is hereby further amended by adding to subsection (7) the following paragraph:

“(c) Gives a false name or address to any person keeping or required to keep a record under this section.”

**17. Appeal to Commission against decision of Licensing Committee—**Section 228 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection: 5

“(1A) Notwithstanding anything in subsection (1) of this section, the Commission, on the application of any person having a right of appeal under this section, may grant leave to that person to give notice of appeal after the expiration of the time prescribed by that subsection, and within such time as the Commission thinks fit, where in the opinion of the Commission there was reasonable cause for his failure or inability to give notice within the time prescribed by that subsection.” 10 15

**18. Unlawfully consuming liquor, etc., on hotel premises—**

(1) Section 250 of the principal Act is hereby amended by omitting from paragraph (a) of subsection (3) the words “or subsection (7)”. 20

(2) The said section 250 is hereby further amended by adding the following subsection:

“(4) Subsection (1) of this section shall not apply to—

“(a) The consumption or possession of liquor by any bona fide guest of any lodger while he is in the company of the lodger, if the liquor has been supplied to the guest without charge and by way of hospitality; or 25

“(b) The entry into or presence on the premises, or the presence in any bar, of any such guest for the purpose or with the intention of consuming, while in the company of the lodger, liquor to be supplied to the guest without charge and by way of hospitality.” 30 35

**19. Unlawfully consuming liquor, etc., on house premises—**

(1) Section 251 of the principal Act is hereby amended by omitting from paragraph (a) of subsection (2) the words “or subsection (7)”. 35

(2) The said section 251 is hereby further amended by adding the following subsection:

“(3) Subsection (1) of this section shall not apply to—

5     “(a) The consumption or possession of liquor by any bona fide guest of any lodger while he is in the company of the lodger, if the liquor has been supplied to the guest without charge and by way of hospitality; or

10     “(b) The entry into or presence on the premises of any such guest for the purpose or with the intention of consuming, while in the company of the lodger, liquor to be supplied to the guest without charge and by way of hospitality.”

**20. Notification of certain convictions of licensee or manager**—Section 285 of the principal Act is hereby amended by omitting the words “or corrective training”.

**21. Calculation and payment of tavernkeeper’s licence fee**—(1) Section 286A of the principal Act (as enacted by section 3 (1) of the Sale of Liquor Amendment Act 1967) as hereby amended by inserting in paragraph (c) of subsection  
20 (8), after the word “auditor”, the words “(being a member of the New Zealand Society of Accountants in public practice)”.

(2) This section shall come into force on the 1st day of January 1972.

25     **22. Temporary licence in case of fire, etc.**—Section 288 of the principal Act is hereby amended by inserting, after the word “rebuilding”, the words “or if other special circumstances exist that will prevent the carrying on of the business in the premises”.

30     **23. Alterations in licensed premises**—Section 291 of the principal Act is hereby amended by omitting from subsection (1), and also from subsection (2), the words “the Licensing Committee or the Chairman”, and substituting in each case the words “the Commission or the Chairman  
35 thereof”.

**24. Issue of hotel or tavern premises licence in place of provisional licence**—Section 315 of the principal Act is hereby amended by omitting the words “the Licensing Committee shall issue”, and substituting the word “the Chairman of the  
40 Licensing Committee shall issue”.

Section 4 (2)**SCHEDULE****AMENDMENTS OF PRINCIPAL ACT**

Section Amended	Amendment
Section 10 (1) .....	By repealing paragraph (c), and substituting the following paragraph: “(c) To determine the fair price to be paid in respect of new wholesale licences:”.
Section 17 (2) .....	By repealing paragraph (a), and substituting the following paragraph: “(a) All money payable by way of the fair price on the issue of any new wholesale licence:”.
Section 91 (1) ----	By omitting from paragraph (a) the word “and”.
Section 92 (2) ----	By repealing paragraph (b). By omitting the words “when the fair price fixed by the Commission has been paid to the Licensing Fund, or payment thereof has been secured in the manner prescribed by regulations made under this Act”.
Section 96 .....	By repealing subsection (5). By omitting from subsection (6) the words “Subject to the provisions of subsection (5) of this section”.
Section 97 (2) .....	By repealing this subsection.
Section 99 .....	By repealing subsection (8). By omitting from subsection (9) the words “Subject to the provisions of subsection (8) of this section”.
Section 100 (5) ----	By omitting the words “sections 76 and 90”, and substituting the words “section 76”.
Section 147 (2) ----	By omitting 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”.