



ANALYSIS

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 1967, No. 6

An Act to amend the Sale of Liquor Act 1962

[23 June 1967]

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 1967, and shall be read together with and deemed part of the Sale of Liquor Act 1962 (hereinafter referred to as the principal Act).

2. Tavernkeeper's licence fee—Section 286 of the principal Act is hereby amended by repealing paragraphs (e) and (f) of subsection (2), and substituting the following paragraph:

“(e) For every tavernkeeper's licence, and every renewal thereof, a sum fixed in accordance with section 286A of this Act, which sum shall be payable in accordance with that section.”.

3. Calculation and payment of tavernkeeper's licence fee—(1) The principal Act is hereby amended by inserting, after section 286, the following section:

“286A. (1) In this section, unless the context otherwise requires,—

“‘Licence period’, in relation to a tavernkeeper’s licence, means the period commencing—

“(a) In the case of a new tavernkeeper’s licence, on the date when the licensee lawfully enters into possession as licensee of the tavern premises to which the licence relates; and

“(b) In the case of a renewed tavernkeeper’s licence, or in the case of a tavernkeeper’s licence in respect of which an application for renewal is declined by the Licensing Committee at any time after the thirtieth day of June in any year, on the first day of July in the year in which the application for renewal was made—

and ending at the close of the next following thirtieth day of June or on the earlier expiry or cancellation of the licence:

“‘Licensee’ includes any person whose tavernkeeper’s licence has expired or has been cancelled or suspended:

“‘Purchases’, in relation to a tavern, means the gross amount (including any customs and excise duties and sales tax thereon) paid or payable for all liquor (other than liquor sold by the licensee to other licensed persons) purchased for the tavern or, where the person carrying on the tavern business is the holder of a brewer’s licence or a wholesale licence, purchased for the tavern business or delivered to the tavern for the purpose of sale; and ‘purchased’ has a corresponding meaning:

“‘Quarterly day’ means the first day of each of the months of July, October, January, and April.

“(2) The fee payable for a tavernkeeper’s licence or a renewal thereof shall be a sum equal to three percent of purchases of liquor for the tavern during the licence period.

“(3) On or before the issue of any tavernkeeper’s licence, and on or before every quarterly day thereafter in every year until the expiry or cancellation of his licence, the licensee shall pay to the Clerk of the Licensing Committee a minimum instalment on account of the fee payable in respect of his licence:

“Provided that the licensee may, on the issue of his licence or at any time during the licence period, whether on a quarterly day or not, pay to the Clerk—

“(a) A sum equal to the aggregate of all the minimum instalments payable by him during the licence

period or the remaining part thereof, in which case he shall not be liable to pay any further minimum instalments in that licence period except to the extent of any increase therein as a result of a review under this section; or

“(b) Any sum (being not less than ten pounds) on account of the fee, in addition to the minimum instalments that he is required to pay under this section.

“(4) The amount of every such minimum instalment shall be fixed—

“(a) By the Licensing Control Commission in the case of a tavernkeeper’s licence in respect of premises that are newly licensed as tavern premises; and

“(b) By the Chairman of the Licensing Committee in the case of a tavernkeeper’s licence in respect of any other tavern premises, and in the case of the renewal of any tavernkeeper’s licence.

“(5) Before fixing the amount of the minimum instalment the Commission or, as the case may be, the Chairman of the Licensing Committee shall consider any representations made by the licensee and, if he so requests, afford him an opportunity of being heard.

“(6) The amount so fixed shall be a sum equal to one-fourth of three percent of the total amount of purchases that the Commission (in any case to which paragraph (a) of subsection (4) of this section applies) or the Chairman of the Licensing Committee (in any other case) estimates will be made for the tavern during a period of twelve months following the commencement of the licence period. Notice in writing of the amount of the minimum instalment shall be given by the Commission or, as the case may require, by the Chairman or Clerk of the Licensing Committee to the applicant for or holder of the licence.

“(7) Notwithstanding anything in subsection (6) of this section, where a tavernkeeper’s licence is granted to take effect on any day other than a quarterly day, the amount of the first minimum instalment payable by the licensee on the issue of his licence shall be reduced by one-thirteenth for every complete week between the preceding quarterly day and the day on which the licence takes effect.

“(8) Within one month after the end of every licence period, the licensee shall make or cause to be made to the Clerk a written return of all purchases of liquor made for the tavern during the licence period. The return shall—

“(a) Include a summary showing—

“(i) The total amount paid or payable for the licence period to every person from whom liquor was so purchased; and

“(ii) The name of every such person; except that in the case of purchases from any person not exceeding in value a total of ten pounds in the licence period his name need not be shown; and

“(iii) The total amount of all such purchases:

“(b) Be verified by a statutory declaration, made by the licensee or manager, that to the best of his knowledge and belief the return is correct:

“(c) Have attached to it a certificate by an auditor that the particulars are correct according to the books of the tavern business.

“(9) On receipt of the return the Clerk may make or cause to be made such inquiries as he thinks fit; and unless he has reasonable cause to believe that the return is incorrect he shall assess, in accordance with subsection (2) of this section, the fee payable in respect of the licence period then ended.

“(10) If the Clerk has reasonable cause to believe that the return is incorrect, he shall refer it to the Chairman. The Chairman may, after considering any representations made by the licensee and, if he so requests, affording him an opportunity of being heard, make an assessment of the fee which in his opinion ought to be paid in accordance with the said subsection (2). The licensee may appeal to the Supreme Court against the assessment of the Chairman under this subsection, and for the purposes of any such appeal the provisions of subsections (8) to (12) of section 229 of this Act shall apply, so far as they are applicable and with the necessary modifications, as if the appeal were under that section and as if the reference in subsection (10) of that section to the Secretary of the Commission were a reference to the Clerk of the Licensing Committee.

“(11) When the fee has been assessed as aforesaid the following provisions shall apply:

“(a) The total amount of all instalments and other sums paid by the licensee under this section shall be applied in or towards payment of the fee:

“(b) If the total amount of the instalments and other sums so paid exceeds the amount of the fee, the amount of the excess shall either be repaid to the licensee forthwith or, if he so requests in writing, be credited

towards the next minimum instalment or instalments payable by him:

- “(c) If the total amount of the instalments and other sums so paid is less than the amount of the fee, the Clerk shall forthwith send notice in writing to the licensee of the amount of the deficiency; and the licensee shall pay that amount to the Clerk within fourteen days after the sending of the notice.

“(12) For the purposes of paragraph (a) of subsection (3) of section 286 of this Act all instalments and other sums paid by or recovered from the licensee or any other person under this section shall be deemed to be part of the fee for the licence or for its renewal, as the case may require, and shall be dealt with accordingly; and any amount to be repaid to the licensee under paragraph (b) of subsection (11) of this section shall be paid out of the Licensing Fund and shall be recoverable as a debt due from the Crown.

“(13) If a tavernkeeper’s licence expires, or is cancelled under any provision of this Act, and the licensee fails or has failed to make or cause to be made, within the time prescribed by subsection (8) of this section, the return referred to in that subsection, the following provisions shall apply:

- “(a) The Chairman of the Licensing Committee may make an assessment of the fee which in his opinion ought to be paid in accordance with subsection (2) of this section in respect of the licence period then ended:

- “(b) The provisions of subsection (11) of this section shall apply; and the licensee shall accordingly be liable to pay the amount of any deficiency so ascertained, except so far as he establishes that the assessment is excessive or that he is not liable to pay any amount.

“(14) Subject to subsection (15) of this section, whenever the Chairman has reasonable cause to believe that any return made in respect of any licence period, other than one in respect of which an assessment was made under subsection (10) of this section, was incorrect, and that the fee paid in respect of that period was either less or more than the fee properly payable, he may make such inquiry as he thinks fit. After considering any representations made by the person who was liable as licensee to pay the fee in respect of that licence period and, if he so requests, affording him an opportunity of being heard, the Chairman may make an assessment of the fee which in his opinion ought to have been paid, in accordance

with subsection (2) of this section, in respect of that period. If the amount of the fee so paid is less than the amount of the fee so assessed, the said person shall be liable to pay to the Clerk the amount of the deficiency; but if it exceeds the amount of the fee so assessed, the amount of the excess shall be refunded out of the Licensing Fund and shall be recoverable as a debt due from the Crown. The licensee may appeal to the Supreme Court against the assessment of the Chairman under this subsection, and for the purposes of any such appeal the provisions of subsections (8) to (12) of section 229 of this Act shall apply, so far as they are applicable and with the necessary modifications, as if the appeal were under that section and as if the reference in subsection (10) of that section to the Secretary of the Commission were a reference to the Clerk of the Licensing Committee.

“(15) The Chairman shall not have power under subsection (14) of this section to alter any assessment so as to increase the amount thereof after the expiration of four years from the end of the licence period in respect of which the assessment was made or (in any case where in the opinion of the Chairman the return made was fraudulent or wilfully misleading) after the expiration of ten years from the end of the licence period in respect of which the assessment was made.

“(16) The amount of any deficiency that any licensee or other person is liable to pay under this section shall be recoverable as a debt due from him to the Crown.

“(17) If on any quarterly day any licensee fails to pay the amount of any minimum instalment that he is required to pay under this section, or if within the time prescribed by subsection (8) of this section he fails to make or cause to be made the return referred to in that subsection, or if within the time prescribed by paragraph (c) of subsection (11) of this section he fails to pay the amount of the deficiency (if any) referred to in that paragraph, or if within fourteen days after receiving notice in writing of the amount of any deficiency payable by him under subsection (14) of this section he fails to pay that amount, the following provisions shall apply:

“(a) The Licensing Committee may give notice in writing to the licensee calling upon him to appear before the Committee to show cause why his licence should not be cancelled or suspended:

“(b) A copy of the notice shall also be served on the holder of the tavern premises licence (if the licensee is not the holder of the premises licence):

“(c) After hearing the licensee and every other person on whom a copy was so served, or such of them as appear, the Committee may if it thinks fit cancel the tavernkeeper’s licence or suspend it for such period and upon such conditions as it thinks fit (including any condition relating to the payment of the whole or any part of any minimum instalment falling due at any time during the period of the suspension).

“(18) The Chairman of the Licensing Committee may at any time review the amount of the minimum instalments payable by the licensee. If on any such review he is of opinion that the amount is too high or too low he may reduce or increase it. For the purposes of any such review the following provisions shall apply:

“(a) It may be made of the Chairman’s own motion, in which case he shall give notice in writing to the licensee of his intention to make the review:

“(b) It may be made at the request in writing of the licensee:

“(c) The Chairman shall consider any representations made by the licensee and, if he so requests, afford him an opportunity of being heard.

“(19) For the purposes of this section, every holder of a tavernkeeper’s licence shall from time to time furnish to the Chairman or the Clerk, as the case may require, such information and particulars as may reasonably be required by either of them.

“(20) Without limiting the power to make regulations conferred by section 299 of this Act, the Governor-General may from time to time, by Order in Council, make regulations providing for such matters as are necessary for giving full effect to the provisions of this section and for its due administration.

“(21) Every person who, with intent to deceive, makes any false or misleading statement or any material omission in any declaration made for the purposes of this section, or in any communication with the Chairman or Clerk of the Licensing Committee (whether in writing or otherwise) for the purposes of this section, commits an offence and is liable to a fine not exceeding five hundred pounds.”

(2) Section 121 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

- “(3) The Clerk shall not countersign a licence until—
- “(a) In the case of a tavernkeeper’s licence, the first minimum instalment payable under section 286A of this Act is paid:
- “(b) In the case of any other licence, the fee for the licence is paid.”
- (3) Section 127 of the principal Act is hereby amended—
- (a) By inserting in subsection (1), after the words “tavernkeeper’s licence”, the words “to section 286A of this Act and”:
- (b) By inserting at the beginning of subsection (3), before the words “If the licence is not renewed”, the words “Except in the case of a tavernkeeper’s licence,”.

4. Application of this Act—(1) The amendments made by this Act shall apply with respect to every licence period, within the meaning of section 286A of the principal Act (as inserted by section 3 of this Act), that commences on or after the first day of July, nineteen hundred and sixty-seven.

(2) If any tavernkeeper’s licence is issued after the passing of this Act and before the first day of July, nineteen hundred and sixty-seven, the fee payable in respect of the licence period (within the meaning of the said section 286A) ending with the thirtieth day of June, nineteen hundred and sixty-seven, shall be fixed by the Commission as if this Act had not been passed.

This Act is administered in the Department of Justice.
