

**Version  
as at 18 December 2013**

## **Sale of Liquor Amendment Act 2004**

Public Act    2004 No 21  
Date of assent    5 April 2004

Sale of Liquor Amendment Act 2004: repealed, on 18 December 2013, pursuant to section 418(3) of the Sale and Supply of Alcohol Act 2012 (2012 No 120).

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**This Act is administered by the Ministry of Justice.**

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

- (1) This Act is the Sale of Liquor Amendment Act 2004.
- (2) In this Act, the Sale of Liquor Act 1989 is called “the principal Act”.

**2 Commencement**

- (1) Section 5 and section 4 (so far as it relates to section 5) come into force on 1 April 2005.
- (2) Section 8 and section 4 (so far as it relates to section 8) come into force on 1 October 2004.
- (3) Sections 20 and 21 come into force on the date on which Part 2 of the Sale of Liquor Amendment Act 1999 comes into force.
- (4) Section 28 is deemed to have come into force on 31 August 1999.
- (5) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1****Amendments to principal Act relating to licensing trusts****3 Purpose of this Part**

The purpose of this Part is—

- (a) to increase the financial disclosure made by licensing trusts in relation to the fees and remuneration of presidents, members, and certain employees:
- (b) to require licensing trusts to hold annual meetings of electors:
- (c) to remove the restriction on local licensing trusts competing outside their districts:
- (d) to permit licensing trusts to reconstitute as community trusts.

**4 Interpretation**

Section 2 of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

**community trust** means—

- (a) a community trust established under section 219G; or
- (b) a community trust that is the amalgamation of 2 or more community trusts under section 219Z

**generally accepted accounting practice** means—

- (a) approved financial reporting standards (within the meaning of section 2(1) of the Financial Reporting Act 1993) so far as those standards apply to licensing trusts or community trusts (as the case may require); and

(b) in relation to matters for which no provision is made in approved financial reporting standards (within the meaning of section 2(1) of the Financial Reporting Act 1993) and that are not subject to any applicable rule of law, accounting policies that—

- (i) are appropriate to the licensing trust or community trust; and
- (ii) have authoritative support within the accounting profession in New Zealand

**public notice,—**

(a) for the purposes of this Act, other than Part 9A, means a notice published twice in a newspaper or newspapers—

- (i) nominated for the purpose of any application or other matter under this Act (whether generally or in any particular case) by the Secretary of the District Licensing Agency; and
- (ii) circulating in the locality to which the act, matter, or thing required to be publicly notified relates or refers, or in which it arises; and
- (iii) with an interval of not less than 5 nor more than 10 days between each notification:

(b) for the purposes of Part 9A, means a notice published twice in a newspaper or newspapers—

- (i) circulating in the district of the licensing trust concerned or the region of the community trust concerned (as the case may be); and
- (ii) with an interval of not less than 5 nor more than 10 days between each notification

## **5 Yearly balance sheet and statements**

Section 207 of the principal Act is amended by repealing subsection (1), and substituting the following subsections:

(1) On or before 30 June in each year, a licensing trust must prepare—

- (a) a yearly balance sheet and a profit and loss account; and
- (b) such other statements of account as may be necessary to show fully the financial position of the licensing trust and the financial results of its operations; and
- (c) a statement showing—
  - (i) the sum paid to the president of the licensing trust by way of remuneration; and
  - (ii) the total fees and expenses paid to the members of the licensing trust: and
  - (iii) the number of employees and former employees of the licensing trust who received remuneration and any other benefits in their capacity as employees of the licensing trust, the value of which

was or exceeded \$100,000 per annum, and showing the number of employees in brackets of \$10,000.

- (1A) The balance sheet, profit and loss account, and statements must—
- (a) be prepared in accordance with generally accepted accounting practice; and
  - (b) relate to the financial year ended on 31 March preceding the date by which they must be prepared.

## **6 New section 207A inserted**

The principal Act is amended by inserting, after section 207, the following section:

### **207A Annual meeting of electors**

- (1) A licensing trust must call a meeting of electors to be held in each calendar year, beginning in the year 2004.
- (2) A meeting of electors must be held after, but not later than 2 months after, the yearly balance sheet, profit and loss account, and statements have been audited under section 207.
- (3) Not less than 10 working days' public notice of a meeting of electors must be given to electors.
- (4) At a meeting of electors the president and members of the licensing trust must—
  - (a) report to the electors on the licensing trust's operations in the most recent completed financial year; and
  - (b) provide a reasonable opportunity for electors at the meeting to ask questions about, and to discuss or comment on, those operations.

## **7 Sections 217 to 219 repealed**

- (1) Sections 217 to 219 of the principal Act are repealed.
- (2) Schedule 1 of the Company Law Reform (Transitional Provisions) Act 1994 is consequentially amended by repealing so much of that schedule as relates to section 219 of the principal Act.

## **8 New Part 9A inserted**

- (1) The principal Act is amended by inserting, after Part 9, the following Part:

## **Part 9A**

### **Community trusts**

#### *Reconstitution of licensing trust as community trust*

#### **219A Licensing trust members may resolve to reconstitute trust as community trust**

- (1) The members of a licensing trust may pass a resolution that the trust be reconstituted as a community trust.
- (2) A resolution must not be passed within 12 months after any poll held under section 219F.

#### **219B Public notice of resolution**

- (1) Within 10 working days after passing a resolution under section 219A, the licensing trust must give public notice of the resolution.
- (2) The public notice must also refer to the right of electors of the licensing trust to require a meeting to be called under section 219C, and to require a poll to be held under section 219E.

#### **219C Electors may requisition meeting**

- (1) Electors of the licensing trust may, by notice in writing, request the licensing trust to hold a public meeting to discuss the resolution.
- (2) If 50 or more electors request a meeting, the licensing trust must hold a public meeting within 20 working days after the day it received the required number of requests.

#### **219D Meeting to discuss resolution**

- (1) A licensing trust must give not less than 5 working days' public notice of a meeting of electors of the licensing trust to discuss a resolution passed under section 219A.
- (2) A meeting of electors of the licensing trust may resolve by a majority of votes to confirm or revoke a resolution.
- (3) If a resolution is confirmed, then the licensing trust must be reconstituted as a community trust.
- (4) Subsection (3) applies subject to section 219E.
- (5) If a resolution is revoked, then the licensing trust must not pass another resolution under section 219A earlier than 1 year after the date on which the resolution is revoked.

#### **219E Poll on resolution**

- (1) Electors of the licensing trust may, by notice in writing, request the licensing trust to hold a poll on a resolution passed under section 219A.

- (2) If, within 40 working days after public notice of the resolution is given, 15% or more of the electors of the licensing trust request a poll, the licensing trust must hold a poll on the resolution in accordance with regulations made under this Act.
- (3) A poll does not have to be held if a resolution has been revoked under section 219D(2).
- (4) A poll must be held even though a resolution has been confirmed under section 219D(2).
- (5) If on a poll a majority of electors who vote are in favour, then the licensing trust must be reconstituted as a community trust.
- (6) If on a poll a majority of electors who vote are not in favour, then the licensing trust must not pass another resolution under section 219A earlier than 1 year after the date on which the poll was held.
- (7) A poll does not have to be held under this section if, within 12 months before receiving a request for a poll, the licensing trust held a poll under section 219F.

#### **219F Electors may requisition poll**

- (1) Electors of a licensing trust may, by notice in writing, request the licensing trust to hold a poll on whether the licensing trust should be reconstituted as a community trust.
- (2) If 15% or more of the electors request a poll, the licensing trust must hold a poll on the issue in accordance with regulations made under this Act.
- (3) If on a poll a majority of electors who vote are in favour, then the licensing trust must be reconstituted as a community trust.
- (4) If on a poll a majority of electors who vote are not in favour, then the licensing trust must not hold another poll under this section earlier than 3 years after the date on which the poll was held.
- (5) A poll does not have to be held under this section if, within 12 months before receiving a request for a poll, the licensing trust held a poll under section 219E.

#### **219G Establishment of community trust**

- (1) A licensing trust that is required by section 219D(3), section 219E(5), or section 219F(3) to be reconstituted as a community trust must, as soon as practicable, establish a community trust.
- (2) A community trust is established when the licensing trust executes a trust deed providing for the matters specified in section 219N.
- (3) The trust deed must, as soon as practicable after its execution, be notified in the *Gazette*.

**219H Vesting of licensing trust's undertaking in community trust**

- (1) The Governor-General may, by Order in Council made on the advice of the Minister given at the request of the licensing trust concerned, specify a date on which the licensing trust's undertaking is vested in the community trust established by the licensing trust.
- (2) The date specified in an Order in Council made under this section must be not less than 20 working days after the date on which the order is made.
- (3) On the date specified in an Order in Council made under this section,—
  - (a) the licensing trust is dissolved:
  - (b) all real and personal property, including all licences under this Act, belonging to the licensing trust, vests in the community trust:
  - (c) all money payable to or by the licensing trust is payable to or by the community trust:
  - (d) all liabilities, contracts (including employment agreements), and engagements, and all rights and authorities of any nature whatever, of the licensing trust are the liabilities, contracts, engagements, rights, and authorities of the community trust:
  - (e) all proceedings by or against the licensing trust may be carried on or prosecuted by or against the community trust.
- (4) To avoid doubt, in the case of a licensing trust to which sections 215 and 216 apply, subsection (3)(d) does not apply to the exclusive right referred to in section 215(2).
- (5) Nothing authorised or effected under this section—
  - (a) places the licensing trust or the community trust in breach of contract or confidence or makes them guilty of a civil wrong:
  - (b) entitles any person to terminate or cancel any contract or arrangement or accelerate the performance of any obligation:
  - (c) places the licensing trust or the community trust in breach of any enactment or rule of law prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information:
  - (d) entitles any employee to receive any payment or other benefit by reason that he or she ceased, as a result of this Act, to be an employee of the licensing trust.

*Status, name, region, and purpose of community trust*

**219I Community trust to be body corporate with full powers**

- (1) A community trust is a body corporate with perpetual succession and a common seal.

- (2) For the purpose of its object and activities, a community trust has full rights, powers, and privileges.
- (3) The common seal of a community trust must be judicially noticed in all courts and for all purposes.
- (4) This section applies subject to the provisions of this Part.

**219J Name of community trust**

- (1) A community trust must have a name.
- (2) A community trust may, from time to time, change its name, subject to subsection (3) and its trust deed.
- (3) The name of a community trust must include the words “Community Trust”.

**219K Region of community trust**

The region of a community trust is the same as the district of the licensing trust immediately before it was reconstituted as a community trust.

**219L Object of community trust**

- (1) All property vested in, or belonging to, a community trust is held on trust to be applied to charitable, cultural, philanthropic, recreational, and other purposes beneficial exclusively or principally to the community in the region of the community trust.
- (2) A community trust is authorised, but not required, to hold 1 or more licences under this Act and to carry on the business of selling or supplying liquor.

**219M Duty to apply net profits**

- (1) A community trust must apply any net profits arising from its activities to the purpose of the community trust as described in section 219L.
- (2) However, a community trust may, instead of applying all of its net profits as required by subsection (1), retain so much of its net profits as appears prudent for the purposes of its activities (including any proposed activities).

*Trust deed***219N Matters to be included in trust deed**

- (1) A trust deed of a community trust must contain provisions—
  - (a) specifying the name of the community trust:
  - (b) specifying the purpose of the community trust as set out in section 219L:
  - (c) specifying the general activities to be undertaken by the community trust:
  - (d) specifying the minimum and maximum number of trustees:

- (e) for the holding of, and voting at, meetings of trustees and specifying the quorum necessary for the holding of meetings of trustees:
  - (f) for the remuneration of trustees:
  - (g) specifying the manner in which a trustee may resign his or her office as trustee:
  - (h) specifying the manner in which a vacancy in the office of trustee must be filled:
  - (i) for the appointment of officers, employees, managers, and agents:
  - (j) specifying the powers of investment of the trustees:
  - (k) specifying the powers of the trustees to expend capital and income of the trust:
  - (l) for the keeping of accounts:
  - (m) specifying the manner in which the trust deed may be varied:
  - (n) specifying any other matters that the licensing trust or community trust concerned considers appropriate.
- (2) Subsection (1)(m) applies subject to section 219O.

#### **219O Variation of trust deed**

- (1) The trustees of a community trust may vary the trust deed of a community trust by executing a deed of variation of the trust deed.
- (2) A variation of the trust deed must, as soon as practicable after the variation is made, be notified in the *Gazette*.

#### **219P Trust deed not to be inconsistent with this Act**

- (1) A trust deed of a community trust must not contain provisions inconsistent with this Act.
- (2) A provision in a trust deed of a community trust that is inconsistent with this Act is unenforceable and of no effect.
- (3) In this section, trust deed includes a variation of the trust deed.

### *Trustees*

#### **219Q Trustees**

The first trustees of a community trust are the members of the licensing trust immediately before it is reconstituted as the community trust.

#### **219R Election of subsequent trustees**

- (1) Trustees of a community trust (after the first trustees) are to be elected.
- (2) An election of trustees must be held on the day on which the triennial general election of members of local authorities is held under the Local Electoral Act 2001.

**219S Qualification of electors**

A person who is qualified as a residential elector of a territorial authority in respect of an address in a community trust's region is qualified as an elector of the community trust.

**219T Conduct of elections**

- (1) An election of trustees of a community trust is governed by this Act and the Local Electoral Act 2001.
- (2) If a community trust's region is situated wholly within the district of a local authority, the roll of residential electors for the local authority's district is the roll of electors for the election of trustees of the community trust.
- (3) If a community trust's region is situated within the districts of 2 or more local authorities, the rolls of residential electors for the districts of the local authorities are the rolls of electors for the election of trustees of the community trust.
- (4) It is the duty of the electoral officer of the local authority of the district within which a community trust's region is situated, or the electoral officer of the local authority of every district situated wholly or partly within the community trust's region, to indicate on the roll of residential electors for the district of that local authority, by appropriate words, abbreviations, or marks, the names of the persons entitled to vote at elections of trustees of community trusts.

**219U In default of election Governor-General may appoint trustees**

If, on the day appointed for the election of trustees of a community trust, no persons are duly elected, or the number of persons elected is less than the required number, the Governor-General may appoint as many qualified persons to be trustees as are required, and every person so appointed holds office in all respects as if that person had been duly elected in accordance with this Part.

**219V Term of office of trustees**

- (1) The trustees of a community trust hold office until their successors are appointed or elected.
- (2) A trustee is eligible for re-election.
- (3) A trustee may resign office in the manner prescribed in the trust deed.
- (4) A trustee is to be treated as having resigned office as a trustee if at any time the trustee is, under section 219W, not capable of holding office as trustee of a community trust.
- (5) A trustee may be removed from office at any time by the Minister, by notice in writing,—
  - (a) because the trustee is unable to perform his or her duties adequately; or
  - (b) for neglect of duty, or misconduct, proved to the satisfaction of the Minister; or

- (c) in any case where the Minister is satisfied on reasonable grounds that the trustee has acted or is acting in a manner prejudicial, or likely to be prejudicial, to the interests of the community trust.
- (6) If a trustee dies or resigns or ceases to hold office, the office of that trustee becomes vacant and the vacancy must be filled in the manner prescribed by the trust deed, and a person filling the vacancy holds office for the residue of the term of office of that trustee.

#### **219W Persons not capable of holding office as trustee**

The following persons are not capable of being elected or of holding office as a trustee of a community trust:

- (a) a bankrupt—
  - (i) who has not obtained a final order of discharge; or
  - (ii) whose order of discharge has been suspended for a term not yet expired or is subject to a condition not yet fulfilled:
- (b) a person who has been convicted within the last 3 years of a criminal offence punishable by imprisonment:
- (c) a person who would be subject to an order under section 189 of the Companies Act 1955 (as in force immediately before the commencement of the Companies Amendment Act 1993) but for the repeal of that section:
- (d) a person to whom an order made under section 199L of the Companies Act 1955 applies (or would apply but for the repeal of that Act) or to whom an order made under section 383 of the Companies Act 1993 applies:
- (e) a patient within the meaning of paragraph (b) or paragraph (c) of the definition of patient in the Mental Health (Compulsory Assessment and Treatment) Act 1992:
- (f) any person who is the subject of an order under the Protection of Personal and Property Rights Act 1988.

#### *Accountability*

#### **219X Financial statements**

- (1) The financial year of a community trust commences on 1 April in each year and ends on 31 March in the following year.
- (2) The trustees of a community trust must ensure that full and correct accounts of all the financial transactions of the community trust and its assets, liabilities, and funds are kept.
- (3) The trustees of a community trust must, within 3 months after the end of each financial year, prepare financial statements including a statement of financial

position and income and expenditure account and notes to them, giving a true and fair view of the financial affairs of that community trust for the financial year.

- (4) The financial statements must be prepared in accordance with generally accepted accounting practice.
- (5) The financial statements must show separately—
  - (a) the total remuneration paid to the trustees of the community trust:
  - (b) the number of employees and former employees of the community trust who received remuneration and any other benefits in their capacity as employees of the community trust, the value of which was or exceeded \$100,000 per annum, and showing the number of employees in brackets of \$10,000:
  - (c) the names of persons or organisations to whom distributions have been made by the community trust under sections 219L and 219M in that financial year:
  - (d) the amounts distributed.
- (6) The financial statements must be audited by the Auditor-General.
- (7) The financial statements, when duly audited, must be open for public inspection.
- (8) A summary of the audited financial statements must, as soon as practicable after the completion of their audit, be publicly notified in the region of the community trust.
- (9) A community trust is not required to comply with this section in the year in which it is reconstituted as a community trust if, in that year before being reconstituted as a community trust, the licensing trust concerned complied with section 207.

#### **219Y Annual meeting of electors**

- (1) A community trust must call a meeting of electors of the community trust to be held in each calendar year.
- (2) A meeting of electors must be held after, but not later than 2 months after, the yearly balance sheet, profit and loss account, and statements have been audited under section 219X.
- (3) Not less than 10 working days' public notice of a meeting of electors must be given to electors.
- (4) At a meeting of electors the trustees of the community trust must—
  - (a) report to the electors on the community trust's operations in the most recent completed financial year; and
  - (b) provide a reasonable opportunity for electors at the meeting to ask questions about, and to discuss or comment on, those operations.

- (5) A community trust is not required to comply with this section in the year in which it is reconstituted as a community trust if, in that year before being reconstituted as a community trust, the licensing trust concerned complied with section 207A.

*Amalgamation and liquidation*

**219Z Amalgamation of community trusts**

- (1) Two or more community trusts may be amalgamated into 1 new community trust in accordance with this section.
- (2) Each trust must give public notice of the amalgamation proposal.
- (3) The amalgamation proposal must include—
- (a) the names of the persons who are to be the first trustees of the new community trust; and
  - (b) the trust deed of the new community trust.
- (4) If, within 20 working days after the first publication of the public notice, at least 50 electors of a community trust concerned give written notice to the trust that they require a public meeting to be called to discuss the proposal, the community trust must arrange and hold such a meeting accordingly.
- (5) If, within 40 working days after the first publication of the public notice, at least 15% of the electors of a community trust concerned give written notice to the trust that they require a poll of electors to be held on the amalgamation proposal, the community trust must arrange for such a poll to be held in accordance with regulations made under this Act.
- (6) On a poll, the amalgamation proposal is carried if a majority of the valid votes recorded is in favour of the proposal.
- (7) If no poll is required or a poll is required and the amalgamation proposal is carried, and the community trusts decide to proceed with the proposal, they must submit it, together with a copy of the latest audited accounts of each trust, to the Minister.
- (8) The Governor-General may, by Order in Council made on the advice of the Minister given at the request of each of the community trusts concerned, amalgamate 2 or more community trusts into 1 community trust, and define the region of that new trust.
- (9) As from a date to be specified in the order, being not less than 20 working days after the date of the making of the order, the following provisions apply:
- (a) the original community trusts are dissolved;
  - (b) all real and personal property, including all licences under this Act, belonging to each of the original community trusts vests in the new community trust:

- (d) all money payable to or by the original community trusts is payable to or by the new community trust:
  - (d) all liabilities, contracts (including employment agreements), and engagements, and all rights and authorities of any nature whatever, of the original community trusts become the liabilities, contracts, engagements, rights, and authorities of the new community trust:
  - (e) all proceedings by or against the original community trusts may be carried on or prosecuted by or against the new community trust:
  - (f) the trustees of the new community trust are the persons named as the first trustees of the trust in the amalgamation proposal:
  - (g) the trust deed of the new community trust is the trust deed included in the amalgamation proposal.
- (10) Nothing authorised or effected under this section—
- (a) places the original community trusts in breach of contract or confidence or makes them guilty of a civil wrong:
  - (b) entitles any person to terminate or cancel any contract or arrangement or accelerate the performance of any obligation:
  - (c) places the original community trusts in breach of any enactment or rule of law prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information:
  - (d) entitles any employee to receive any payment or other benefit by reason that he or she ceased, as a result of this Act, to be an employee of an original community trust.

#### **219ZA Liquidation**

Parts 16 and 17 of the Companies Act 1993 apply, with any necessary modifications, to a community trust as if it were a company incorporated under that Act.

#### **219ZB Distribution of assets where community trust put into liquidation**

Where the High Court puts a community trust into liquidation, any net surplus, whether or not in money, must be distributed to each local authority whose district is included wholly or partly within the community trust's region; and, where 2 or more local authorities qualify, the Court must determine the shares in proportion to the number of residents of each local authority's district who are electors of the community trust.

#### *Miscellaneous matters*

#### **219ZC Taxes and duties**

- (1) A community trust is liable to income tax, and to rates, and to all other taxes and duties, as if it were a body corporate formed for private pecuniary gain.

- (2) For the purposes of the Inland Revenue Acts (as defined in section 3 of the Tax Administration Act 1994),—
- (a) a community trust and the licensing trust that was constituted as the community trust are, in relation to all assets and liabilities that, by this Act, become the assets and liabilities of the community trust, deemed to be the same person:
  - (b) all transactions entered into by, and all acts of, a licensing trust before it was reconstituted as a community trust, in relation to all assets and liabilities that, by this Act, become assets and liabilities of the community trust, are deemed to have been entered into or performed by the community trust on the date on which they were entered into or performed by the licensing trust.

**219ZD Application of Trustee Act 1956**

The Trustee Act 1956 applies to a community trust.

**219ZE Application of Local Authorities (Members' Interests) Act 1968**

For the purposes of the Local Authorities (Members' Interests) Act 1968 a community trust is to be treated as if it were a local authority, and that Act applies accordingly.

**219ZF Application of Local Government Official Information and Meetings Act 1987**

For the purposes of Parts 1 to 4 of the Local Government Official Information and Meetings Act 1987 a community trust is to be treated as if it were a local authority, and that Act applies accordingly.

- (2) Schedule 1 of the Public Audit Act 2001 is amended by inserting, in its appropriate alphabetical order, the following item:

Community trusts established or amalgamated under Part 9A of the Sale of Liquor Act 1989.

**Part 2**

**Other amendments to principal Act and Sale of Liquor Amendment Act 1999**

**9 Purpose of this Part**

The purpose of this Part is—

- (a) to amend the principal Act to permit sales of grape wine and fruit wine at wineries on Easter Sunday; and
- (b) to amend the principal Act to provide an exception for persons who are under 18 years old purchasing liquor on licensed premises or being on

licensed premises if they do so at the request of a member of the police acting in the course of his or her duties; and

- (c) to amend the principal Act to make it a condition of off-licences granted in respect of certain types of premises that food condiments containing liquor may be sold if certain conditions are met; and
- (d) to make amendments to the principal Act and the Sale of Liquor Amendment Act 1999 to make minor corrections and clarifications, and make better provision for transitional matters.

*Amendments to principal Act*

**10 Unopposed applications may be granted by District Licensing Agency, opposed applications to be forwarded to Licensing Authority**

Section 12(3) of the principal Act is amended by adding to paragraph (d) the expression “; and”, and adding the following paragraph:

- (e) the certificate referred to in section 9(1)(e).

**11 Unopposed applications to be granted, opposed applications to be forwarded to Licensing Authority**

- (1) Section 21(1) of the principal Act is amended by omitting the words “on the conditions presently attaching to it for a further period of 3 years.”, and substituting the words “for a further period of 3 years on—”.

- (2) Section 21(1) of the principal Act is amended by adding the following paragraphs:

- (c) the conditions presently attaching to it; or
- (d) such different conditions, relating to any matters specified in section 14(5), as the District Licensing Agency thinks fit.

- (3) Section 21 of the principal Act is amended by inserting, after subsection (1), the following subsection:

- (1A) The District Licensing Agency must not exercise its power under subsection (1)(d) except in response to a request by the applicant.

**12 Unopposed applications may be granted by District Licensing Agency, opposed applications to be forwarded to Licensing Authority**

Section 34(3) of the principal Act is amended by adding to paragraph (d) the expression “; and”, and adding the following paragraph:

- (e) the certificate referred to in section 31(1)(e).

**13 Types of premises in respect of which off-licences may be granted**

- (1) Section 36(1)(d)(ii) of the principal Act is amended by inserting, after the words “Licensing Authority”, the words “or District Licensing Agency, as the case may be,”.

- (2) Section 36 of the principal Act is amended by adding the following subsection:  
(5) This section applies subject to sections 51 and 52.

#### **14 Conditions of off-licences**

- (1) Section 37 of the principal Act is amended by inserting, after subsection (1), the following subsection:

- (1A) However, it is a condition of an off-licence that a person may sell or deliver grape wine or fruit wine on Easter Sunday if the grape wine or fruit wine is made—
- (a) on the premises; or
  - (b) from grapes or fruit harvested from land on which the premises are situated.

- (2) Section 37 of the principal Act is amended by repealing subsection (2), and substituting the following subsection:

- (2) It is a condition of every off-licence granted to the holder of a club licence that liquor may be sold or supplied pursuant to the off-licence only to—
- (a) any member of the club; or
  - (b) any member of any other club with which the holder of the licence has an arrangement for reciprocal visiting rights for members of the club.

- (3) Section 37 of the principal Act is amended by inserting, after subsection (3), the following subsection:

- (3A) However, it is also a condition of every off-licence granted in respect of any premises described in section 36(1)(d) that any food condiment containing liquor may be sold or supplied if the food condiment has been—
- (a) prepared for culinary purposes; and
  - (b) rendered unsuitable for drinking.

- (4) This section applies—
- (a) not only to licences issued on or after the commencement of this section; but
  - (b) also to licences in force immediately before the commencement of this section.

- (5) Subsection (4) applies to avoid doubt.

Subsections (4) and (5) were inserted, as from 6 April 2004, by section 3 Sale of Liquor Amendment Act 2005 (2005 No 69).

#### **15 Unopposed applications to be granted, opposed applications to be forwarded to Licensing Authority**

- (1) Section 44(1) of the principal Act is amended by omitting the words “on the conditions presently attaching to it for a further period of 3 years.”, and substituting the words “for a further period of 3 years on—”.

- (2) Section 44(1) of the principal Act is amended by adding the following paragraphs:
- (c) the conditions presently attaching to it, or
  - (d) such different conditions, relating to any matters specified in section 37(4) and (6) as the District Licensing Agency thinks fit.
- (3) Section 44 of the principal act is amended by inserting, after subsection (1), the following subsection:
- (1A) The District Licensing Agency must not exercise its power under subsection (1)(d) except in response to a request by the applicant.

#### **16 Special provisions relating to caterers**

- (1) Section 51 of the principal Act is amended by repealing subsection (1), and substituting the following subsections:
- (1) An off-licence may be granted to a person who is conducting the business of a caterer.
  - (1A) The Licensing Authority or District Licensing Agency must, when granting an off-licence under subsection (1), endorse the licence to indicate that this section applies to the licence.
- (2) Section 38(1) of the Sale of Liquor Amendment Act 1999 is consequentially repealed.

#### **17 Renumbering of subsection**

Section 52 of the principal Act is amended by renumbering subsection (2) (as inserted by section 39 of the Sale of Liquor Amendment Act 1999) as subsection (1A).

#### **18 Unopposed applications may be granted by District Licensing Agency, opposed applications to be forwarded to Licensing Authority**

Section 58(3)(e) of the principal Act is amended by omitting the words “of approval”.

#### **19 Unopposed applications to be granted, opposed applications to be forwarded to Licensing Authority**

- (1) Section 67(1) of the principal Act is amended by omitting the words “on the conditions presently attaching to it for a further period of 3 years.”, and substituting the words “for a further period of 3 years on—”.
- (2) Section 67(1) of the principal Act is amended by adding the following paragraphs:
- (c) the conditions presently attaching to it; or
  - (d) such different conditions, relating to any matters specified in section 60(2), as the District Licensing Agency thinks fit.

(3) Section 67 of the principal Act is amended by inserting, after subsection (1), the following subsection:

(1A) The District Licensing Agency must not exercise its power under subsection (1)(d) except in response to a request by the applicant.

## **20 Kinds of managers' certificates**

Section 117(3) of the principal Act is amended by inserting, after the words "club licence", the words "or a special licence".

## **21 New section 117A substituted**

The principal Act is amended by repealing section 117A, and substituting the following section:

### **117A General manager must hold prescribed qualification**

(1) The Licensing Authority or District Licensing Agency must not issue or renew a general manager's certificate on or after the commencement of this section unless the manager holds a prescribed qualification.

(2) In this section, **prescribed qualification** means—

- (a) a qualification prescribed by regulations made under this Act; or
- (b) the successful completion of a course of training, the requirements or criteria of which have been prescribed by regulations made under this Act.

## **22 Unopposed applications to be granted, opposed applications to be forwarded to Licensing Authority**

Section 125 of the principal Act is amended by inserting, after subsection (1), the following subsections:

(1A) However, if the District Licensing Agency renews a general manager's certificate during the period specified in subsection (1B) and the certificate is for a manager who does not hold a prescribed qualification referred to in section 117A (as substituted by the Sale of Liquor Amendment Act 2004), the District Licensing Agency must renew the certificate for a further period of 2 years.

(1B) The period—

- (a) begins 1 month after an Order in Council is made appointing a commencement date for Part 2 of the Sale of Liquor Amendment Act 1999; and
- (b) ends on the close of the day before that commencement date.

## **23 Decision on application for renewal**

Section 127 of the principal Act is amended by adding the following subsections:

- (3) However, if the Licensing Authority renews a general manager's certificate during the period specified in subsection (4) and the certificate is for a manager who does not hold a prescribed qualification referred to in section 117A (as substituted by the Sale of Liquor Amendment Act 2004), the Licensing Authority must specify an expiry date that is no later than 2 years after the date on which the renewal takes effect.
- (4) The period—
- (a) begins 1 month after an Order in Council is made appointing a commencement date for Part 2 of the Sale of Liquor Amendment Act 1999; and
  - (b) ends on the close of the day before that commencement date.

#### **24 Notice of appointment, etc, of manager, temporary manager, or acting manager**

Section 130(3) of the principal Act is amended by omitting the expression “subsection (1)(b)”, and substituting the expression “subsection (1A)(c)”.

#### **25 Purchasing of liquor by minors**

Section 162 of the principal Act is amended by adding the following subsection:

- (5) Subsection (1) does not apply to a person who purchases liquor on or from licensed premises at the request of a member of the police acting in the course of his or her duties.

#### **26 Minors in restricted areas or supervised areas**

Section 163 of the principal Act is amended by adding the following subsection:

- (4) Subsections (1) and (2) do not apply to a person who is in a restricted area or supervised area on licensed premises at the request of a member of the police acting in the course of his or her duties.

#### **27 Regulations**

- (1) Section 229 of the principal Act is amended by repealing paragraph (aa), and substituting the following paragraphs:

- (aa) prescribing—
- (i) the qualification to be held by a person before the person is entitled to hold a general manager's certificate:
  - (ii) 1 or more requirements or criteria for the qualification or for a course of training which, if successfully completed, is to be treated as entitling a person to hold a general manager's certificate:
- (ab) prescribing the circumstances and conditions under which persons holding a general manager's certificate at the commencement of section 117A (as substi-

tuted by the Sale of Liquor Amendment Act 2004) and applying to renew them on or after that commencement are to be treated as if they held a prescribed qualification for the purposes of that section:

- (2) Section 229 of the principal Act is amended by repealing paragraph (eb), and substituting the following paragraph:
  - (eb) for the purposes of describing premises in licences, requiring licences or any class of licence to have endorsed on, or attached to, them a description of the premises or part or parts of the premises they relate to:
- (3) Section 123 of the Sale of Liquor Amendment Act 1999 is consequentially repealed.

*Amendment to Sale of Liquor Amendment Act 1999*

**28 Schedule 1 of Sale of Liquor Amendment Act 1999 amended**

- (1) Schedule 1 of the Sale of Liquor Amendment Act 1999 is amended by omitting the item relating to the Building Act 1991, and substituting the following item:

*Building Act 1991 (1991 No 150)*

So much of Schedule 4 as relates to sections 11, 20, 57, 58, and 66 of the principal Act.

- (2) Schedule 1 of the Sale of Liquor Amendment Act 1999 is amended by inserting, after the item relating to the Sale of Liquor (Off-Licence) Amendment Act 1992, the following item:

*Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16)*

So much of Schedule 1 as relates to sections 8, 30, and 75 of the Sale of Liquor Act 1989.

**Consolidation notes****1    *General***

This is a consolidation of the Sale of Liquor Amendment Act 2004 that incorporates all the amendments to that Act as at the date of the last amendment to it.

**2    *About this consolidation***

This consolidation is not an official version of the legislation under section 78 of the Legislation Act 2019.

**3    *Amendments incorporated in this consolidation***

Sale and Supply of Alcohol Act 2012 (2012 No 120): section 418(3)