

LICENSING (No. 2).

No. 110 of 1965.

AN ACT to amend the Licensing Act, 1911-1964.

[Assented to 17th December, 1965.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Licensing Act Amendment Act (No. 2), 1965*.

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Acts.
Approved
for reprint
22nd April,
1964, and
amended by
Act No. 60
of 1964.

(2) In this Act the Licensing Act, 1911-1964, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Licensing Act, 1911-1965.

S. 5
amended.

2. Section five of the principal Act is amended by adding immediately before the interpretation, "Court", the following interpretation—

"bar" or "bar room", in relation to premises the subject of a license under this Act that authorises liquor to be sold and disposed of for consumption on those premises or in

relation to the premises of a club registered under this Act, means any room or place in those premises in or from which, or by means of any opening in which, liquor is sold or supplied to persons for consumption whether on the premises or not, and includes any part of those premises known as a bottle department; but does not include any cellar or other part of those premises used solely or principally for the storage of liquor; .

3. Section twenty-one of the principal Act is amended— S. 21
amended.

- (a) by inserting after the word, “licenses” in line six of subsection (7), the passage, “, the granting and renewal of permits under section one hundred and thirty-four B of this Act”; and
- (b) by adding after the word, “accordingly” in line thirteen of subsection (7), the passage, “, having regard to any recommendations made by the licensing magistrates in regard to the exercise of any of those powers, authorities, duties and functions”.

4. Section twenty-three of the principal Act is amended by inserting after the word, “or”, being the first word in line five of subsection (2), the words, “if any such person or any person who voluntarily attends as a witness refuses”. S. 23
amended.

5. Section twenty-five of the principal Act is repealed and re-enacted with amendments as follows— S. 25
repealed and
re-enacted.

25. An ordinary sitting of the Licensing Court, to be called the “Quarterly Sitting”, shall be held for each district on the first Monday in the months of February, May, August and November in every year, of which at least Quarterly
and other
sittings of
the Court.

twenty-one days' notice shall be published in the *Government Gazette*, and other sittings may be held from time to time for the purposes of this Act on a day or days appointed by the Court, of which at least fourteen days' notice shall be published in the *Government Gazette* by the clerk of the Licensing Court at Perth. .

S. 35
amended.

6. Section thirty-five of the principal Act is amended—

- (a) by inserting after the word, "liquor" in line five, the passage, ", for consumption thereof on the vessel only.";
- (b) by adding after the word, "license", being the last word of the first proviso, the passage, ", except that the master of a vessel the subject of a packet license, if that vessel is south of the twenty-sixth parallel of south latitude, shall not sell any liquor, or permit or suffer any liquor to be drunk or consumed, on that vessel on Good Friday"; and
- (c) by adding after the word, "estuary", being the last word of the third proviso, the passage, "or stationary at or adjacent to any wharf, jetty, anchorage or mooring, and is south of the twenty-sixth parallel of south latitude".

S. 44
amended.

7. Section forty-four of the principal Act is amended—

- (a) by substituting for the word, "and", firstly occurring in line two of subsection (2), the word, "an"; and
- (b) by inserting after the words, "packet license" in line four of subsection (2), the passage, ", a canteen license".

8. Section forty-four E of the principal Act is amended by adding after subsection (2), the following subsection—

S. 44B
amended.

(3) A sitting of the Court to hear an application for a canteen license may be held at such time or times as the Chairman may appoint, without any previous notice thereof being published in the *Government Gazette*. .

9. Section forty-five of the principal Act is amended—

S. 45
amended.

- (a) by substituting for the word, "December" in line two of subsection (2), the words, "any adjournment thereof"; and
- (b) by substituting for the word, "June" in line two of subsection (3), the words, "any adjournment thereof".

10. Section forty-eight of the principal Act is amended by repealing subsection (2) and re-enacting it with amendments as follows—

S. 48
amended.

(2) Where the application for the license is in respect of premises concerning which a provisional certificate has been granted, the applicant shall also publish a copy of the notice in a newspaper circulating in the district wherein the premises are situated, at least seven days before he applies for the license. .

11. Section fifty-one A of the principal Act is amended by inserting after the words, "general license" in line five of paragraph (a) of subsection (1), the passage, ", a limited hotel license".

S. 51A
amended.

12. Section fifty-two of the principal Act is amended—

S. 52
amended.

- (a) by substituting for the word, "Every", being the first word in subsection (2), the passage, "Subject to subsection (3) of this section, every"; and

(b) by adding after subsection (2), the following subsections—

(3) Except where the application is made in respect of an agricultural show, race-meeting, trotting-meeting, or function to be held and conducted by or under the auspices of the Naval, Military or Air Forces of the Commonwealth, every applicant who on or after the first day of February, one thousand nine hundred and sixty-six applies for a temporary license under subsection (1) or subsection (3) of section forty-three of this Act, in addition to complying with the requirements of subsection (2) of this section, shall at least seven days before the hearing of the application—

(a) publish in a newspaper circulating in the district where the license is to be exercised notice in writing of his intention to apply for the license; and

(b) cause a copy of that notice to be affixed to the notice board of a Court House or police station or the outer door of the police station situated nearest to the place where the license is to be exercised.

(4) A notice referred to in subsection (3) of this section shall specify therein particulars of the date, time and place of the hearing of the application, and shall contain a statement that objections to the granting of the temporary license may be made by any resident of the district in which the license is to be exercised, or any police officer stationed in that district, or any inspector of licensed premises. .

14. Section fifty-eight of the principal Act is amended— **S. 58 amended.**

- (a) by inserting after the word, "license" in line three of subsection (1), the passage, ", a limited hotel license"; and
- (b) by substituting for the words, "the quarterly licensing meeting occurring next" in lines one and two of the proviso to subsection (1), the words, "any sitting of the Licensing Court occurring not less than fourteen days nor more than two months".

15. Section fifty-nine of the principal Act is amended by adding after the word, "license", being the last word of subsection (1), the passage, ", except where such other premises have not been erected, in which case paragraph (a) of subsection (1) of section forty-eight of this Act shall not apply". **S. 59 amended.**

16. Section sixty-one of the principal Act is amended— **S. 61 amended.**

- (a) by inserting after the words, "general license" in line three of subsection (1), the passage, ", a limited hotel license"; and
- (b) by deleting the word, "quarterly" in the penultimate line of subsection (1).

17. Section sixty-two of the principal Act is amended— **S. 62 amended.**

- (a) by deleting the word, "quarterly" in line three of subsection (1);
- (b) by substituting for the words, "new licenses" in the last line of subsection (2), the words, "licenses under section forty-eight of this Act"; and

(c) by adding after subsection (2), the following subsection—

(2a) A sitting of the Licensing Court may be held at such time as the Chairman may appoint to hear applications made under this section. .

S. 67
amended.

18. Section sixty-seven of the principal Act is amended by inserting after the words, "general license" in line two, the passage, ", limited hotel license".

S. 73
amended.

19. Section seventy-three of the principal Act is amended by inserting after the word, "payable" in line eight of subsection (6b), the words, "or such extended time as the Court may determine and is hereby authorised to determine".

S. 74
amended.

20. Section seventy-four of the principal Act is amended—

(a) by repealing subsection (2); and

(b) by deleting the words, "or temporary license" in the last line of subsection (3).

S. 112
amended.

21. Section one hundred and twelve of the principal Act is amended by inserting after the word, "license" in line one, the passage, ", a limited hotel license".

S. 113
amended.

22. Section one hundred and thirteen of the principal Act is amended by substituting for the passage, "or wayside-house license" in lines two and three, the passage, ", a limited hotel license, a wayside-house license, an Australian wine, beer and spirits license, an Australian wine license, a gallon license, or a restaurant license".

S. 114
amended.

23. Section one hundred and fourteen of the principal Act is amended by inserting after the word, "license" in line one, the passage, ", limited hotel license".

24. The principal Act is amended by adding after section one hundred and thirty-four A, the following section—

S. 134B
added.

134B. (1) In this section “unlicensed premises” means any premises where meals or refreshments are ordinarily sold, disposed of or served to the public for consumption on the premises, including, without affecting the generality of that interpretation, any cafe, restaurant or other eating-house whatever, which premises are not licensed premises under this Act, and any premises that the occupier of such unlicensed premises is permitted to use or uses for or in connection with his business.

Permit may
be granted
for un-
licensed
premises.

(2) Objections to the bringing of liquor onto any unlicensed premises and the consumption of liquor on such premises may at any time be made to the Licensing Court by—

- (a) any inspector of licensed premises;
- (b) any police officer stationed in the licensing district wherein the unlicensed premises are situated;
- (c) any person authorised in that behalf by the council of the municipal district wherein the unlicensed premises are situated,

and every such objection shall be in writing signed by the objector and shall set forth the grounds of the objection.

(3) Any objection under this section may be made on any one or more of the following grounds—

- (a) that the occupier of the unlicensed premises is of drunken or dissolute habits, or otherwise of bad repute;
- (b) that the occupier of the unlicensed premises has within twelve months immediately preceding the lodging of the objection been convicted of selling liquor without a license or of selling adulterated liquor;

- (c) that the unlicensed premises in question are out of repair or are not suitable for use as unlicensed premises;
- (d) that the unlicensed premises are conducted in a disorderly or unseemly manner, or in a manner that disturbs the quiet of the locality or the comfort of the residents thereof;
- (e) that the unlicensed premises are frequented by persons under the age of twenty-one years for the purpose of obtaining liquor or of consuming liquor on those premises;
- (f) that the occupier of the unlicensed premises has within six months immediately preceding the lodging of the objection been convicted of an offence against section one hundred and thirty-four D of this Act;
- (g) any other ground that appears to the Licensing Court to be sufficient.

(4) Upon any objection being lodged pursuant to this section the Licensing Court shall appoint a time and place for the hearing thereof and of such time and place give notice in writing to the objector and to the occupier of the unlicensed premises specified in the objection, not less than seven days before the time so appointed.

(5) After hearing the objection and, if he attends, the occupier of the unlicensed premises and his witnesses (if any), the Licensing Court may make an order prohibiting the bringing of liquor onto the unlicensed premises the subject of the objection and the consumption of liquor thereon, either absolutely or except in accordance with the conditions of a permit granted by the Court under this section, or the Court may refuse to make an order.

(6) A permit which the Licensing Court is authorised to grant under subsection (5) of this section shall be in or to the effect of the form thereof in the Second Schedule to this Act and shall authorise the occupier of the unlicensed premises to permit liquor to be brought onto those premises and consumed thereon during such hours and subject to such conditions and restrictions as the Court may impose and specify in that permit, but every such permit shall in addition to those conditions and restrictions be subject to the conditions—

- (a) that no person shall consume, or permit to be consumed, any liquor on the unlicensed premises after the hour of three o'clock in the morning and before noon on the same day;
- (b) that no person shall consume, or permit to be consumed, any liquor on the unlicensed premises (except the occupier and members of his family residing on those premises, or any *bona fide* guest of any of them) after the hour of three o'clock in the morning on any Sunday or Good Friday, or between the hour of three o'clock in the morning and the hour of one o'clock in the afternoon on Anzac Day when not falling on a Sunday;
- (c) that where the permit is granted in respect of a room or rooms in any premises, all doors (including the outer door of the premises) by which access is had to that room or rooms are kept unlocked.

(7) The Licensing Court upon the application of any inspector of licensed premises, or of its own motion, may vary, suspend for such period as it thinks fit, or cancel any permit granted under this section, subject to the holder being given not less than seven days' notice in

writing of the application or motion and the date appointed for the hearing thereof, but subject thereto the application or motion may be heard by the Court at such time as the Chairman appoints.

(8) A person who—

- (a) brings or causes or permits to be brought any liquor onto, or consumes or permits to be consumed any liquor on, any unlicensed premises in respect of which the Licensing Court has under this section made an order prohibiting the bringing of liquor onto those unlicensed premises and the consumption of liquor thereon; or
- (b) consumes or permits to be consumed any liquor on any unlicensed premises that are the subject of a permit granted by the Licensing Court under this section except in such room or rooms in those premises as are specified in that permit and in compliance with the conditions and restrictions imposed by that Court and the provisions of this section,

commits an offence.

Penalty: A fine of not less than one hundred pounds and not more than two hundred pounds, and in the case of an offence referred to in paragraph (b) of this subsection, the court imposing the penalty may in addition thereto suspend for such period as it thinks fit, or cancel, the permit.

(9) The provisions of sections fifty-six and fifty-seven of this Act, so far as those sections can be made applicable, apply *mutatis mutandis* to and in respect of the holder of a permit under this section, as those sections apply to and in respect of a person who is the holder of a license under this Act.

(10) Nothing in this section shall make lawful anything which but for this section would be a contravention of any of the provisions of this Act.

(11) The fee payable for a permit under this section is one pound.

25. The principal Act is amended by adding the following section—

S. 134C
added.

134C. (1) Any inspector of licensed premises may at all times enter any premises that are unlicensed premises within the meaning of section one hundred and thirty-four B of this Act for the purpose of inspecting the state of repair and the suitability of those premises and the manner in which the same are being conducted, and where the premises are the subject of a permit under section one hundred and thirty-four B of this Act, for the purpose of detecting or preventing the breach of any of the conditions or restrictions to which the permit is subject.

Inspector
may enter
unlicensed
premises.

(2) Any holder of a permit under section one hundred and thirty-four B of this Act, or other person in charge of unlicensed premises, who refuses to admit an inspector on his demanding to enter, or obstructs him or causes or permits him to be obstructed or delayed in the discharge of his duty, commits an offence against this Act.

Penalty: Fifty pounds.

26. The principal Act is amended by adding the following section—

S. 134D
added.

134D. (1) A person shall not in any premises that are unlicensed premises within the meaning of section one hundred and thirty-four B of this Act supply or give, or cause or permit or suffer to be supplied or given, any

Penalty for
supplying
liquor to
persons
under 21
years of age
in unlicensed
premises.

liquor in any quantity whatsoever, either alone or mixed with any liquor, to any person under the age of twenty-one years for himself or for any other person.

Penalty: For the first offence a fine not exceeding fifty pounds and for any subsequent offence a fine not exceeding one hundred pounds.

(2) A person under the age of twenty-one years shall not consume any liquor in any such unlicensed premises.

Penalty: For the first offence a fine not exceeding fifty pounds and for any subsequent offence a fine not exceeding one hundred pounds.

(3) It shall be a defence in any proceedings for an offence under subsection (1) of this section to prove that the person charged had reasonable cause to believe that the person to whom the liquor was supplied or given was of or above the age of twenty-one years. .

S. 146
amended.

27. Section one hundred and forty-six of the principal Act is amended by repealing and re-enacting subsection (6) with amendments as follows—

(6) In this section the term “bar” does not include any dining-room on licensed premises during hours when meals are served therein.

S. 149
amended.

28. Section one hundred and forty-nine of the principal Act is amended by inserting after the word, “orchard” in the penultimate line, the passage, “, or at any other premises where liquor is for the time being stored”.

S. 149A
amended.

29. Section one hundred and forty-nine A of the principal Act is amended—

(a) by deleting the word, “knowingly” in line two of subsection (1);

- (b) by substituting for the words, "Twenty pounds" in the last line of subsection (1) and again in the last line of subsection (2), the words, "For the first offence a fine not exceeding fifty pounds and for any subsequent offence a fine not exceeding one hundred pounds" in each case;
- (c) by repealing subsection (3) and re-enacting it with amendments as follows—

(3) In this section "public premises" includes any premises in or on which a dance or other entertainment is being held and to which the public ordinarily or from time to time has access, whether by payment of a fee or not; but does not include licensed premises or premises that are unlicensed premises within the meaning of section one hundred and thirty-four B of this Act. ; and

- (d) by adding after subsection (3), the following subsection—

(4) It shall be a defence in any proceedings for an offence under subsection (1) of this section to prove that the person charged had reasonable cause to believe that the person to whom the liquor was supplied or given was of or above the age of twenty-one years. .

30. Section one hundred and sixty-eight A of the principal Act is amended by inserting after the word, "license" in line one, the passage, ", limited hotel license".

S. 168A
amended.

31. Section one hundred and seventy-five of the principal Act is amended by inserting immediately before the word, "one", being the last word in line eight of subsection (1), the passage, "one hundred and forty-seven,".

S. 175
amended.

S. 177
amended.

32. Section one hundred and seventy-seven of the principal Act is amended—

(a) by substituting for paragraph (a) of subsection (1), the following paragraph—

(a) without the permission in writing of a member of the Licensing Court or of a stipendiary magistrate, is absent from the licensed premises for longer than a continuous period of twenty-one days in any one year, or without such permission permits any person to manage, superintend or conduct the sale and disposal of liquor on the licensed premises during any such longer period; or ;

(b) by adding after subsection (1), the following subsection—

(1a) Where permission in writing has been granted pursuant to paragraph (a) of subsection (1) of this section, the person who manages, superintends or conducts the sale and disposal of liquor on the licensed premises under the authority of that permission is, during the period of absence of the licensee, deemed to be the licensee and is subject to the same duties, liabilities, obligations, disqualifications and penalties as if he were the licensee. ;

(c) by deleting the words, “or of” in line five of subsection (2); and

(d) by inserting after the word, “license” in the penultimate line of subsection (2), the passage, “, a packet license, a gallon license or a billiard-table license,”.

33. Section one hundred and eighty-nine of the principal Act is amended by deleting the word, "quarterly" in line two of subsection (2). S. 189
amended.

34. Section one hundred and ninety A of the principal Act is amended by deleting the word, "quarterly" in line three of subsection (6). S. 190A
amended.

35. Section one hundred and ninety-one of the principal Act is amended by substituting for paragraph (b) of subsection (2), the following paragraph— S. 191
amended.

(b) the statutory declaration of the secretary of the club stating the classes of membership and the number of members of each class, and stating also the number of members (if any) who at the date of the declaration have not paid the current subscription payable in respect of such membership. .

36. Section one hundred and ninety-four of the principal Act is amended by substituting for the passage, "rules; or" in the last line of paragraph (j) of subsection (1), the passage, "rules." S. 194
amended.

37. Section two hundred and fifteen of the principal Act is amended by deleting the words, "quarterly and special" in line one of paragraph (c). S. 215
amended.

38. The Second Schedule to the principal Act is amended— Second
Schedule
amended.

(a) by inserting after the word, "liquor" in line thirteen of the form headed, "PACKET LICENSE", the passage, ", for consumption thereof on the vessel only,"; and

(b) by adding at the end of the Schedule the following form:—

The Licensing Act, 1911.
(As amended.)

PERMIT FOR UNLICENSED PREMISES.

A.B., of....., being the occupier of premises situated at..... and known as..... is hereby authorised (during a period expiring) on the..... day of..... 19....., to allow liquor to be brought onto those premises and to be consumed in such part of those premises, during such hours, and subject to such conditions, as are set out hereunder.

[Add particulars and conditions referred to above.]

Given under my hand this..... day of..... 19.....

.....
Chairman (or Member) of the Licensing Court for the..... District.

Received the fee of.....

.....
Clerk of the Licensing Court.

Third
Schedule
amended.

39. The Third Schedule to the principal Act is amended by deleting the word "Quarterly" wherever occurring in the forms in that Schedule.

Ninth,
Tenth and
Eleventh
Schedules
amended.

40. The Ninth, Tenth and Eleventh Schedules to the principal Act are each amended by deleting the word, "Quarterly" wherever occurring in those Schedules.

Twentieth,
Twenty-third
and Twenty-
fourth
Schedules
amended.

41. The Twentieth, Twenty-third and Twenty-fourth Schedules to the principal Act are each amended by deleting the word, "Quarterly" wherever occurring in those Schedules.