

WESTERN AUSTRALIA

ANNO QUINQUAGESIMO SEPTIMO

VICTORIÆ REGINÆ

No. 25

An Act to amend 'The Wines, Beer, and Spirit Sale Act,  
1880.' [Assented to 13th October, 1893.]

Preamble

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

Short title and  
division of Act

1. This Act may be cited as 'The Wines, Beer, and Spirit Sale Act, 1880, Amendment Act, 1893,' and is divided into parts as follows:—

PART I.—CLUBS.

PART II.—LICENSING MAGISTRATES.

PART III.—MISCELLANEOUS.

PART I

CLUBS

Interpretation

2. In this Act, unless the context otherwise requires,

'Club' means a number of persons associated together for social, literary, political, sporting, or other lawful purposes, and the lands, houses, and buildings occupied by them for the purposes of the club.

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'Certificated Club' means a club which has obtained a certificate according to the Form B in the Schedule to this Act, which certificate is in force and not cancelled.

'Member' means and includes an ordinary and honorary member of a club.

'Principal Act' means 'The Wines, Beer, and Spirit Sale Act, 1880.'

3. Nothing in the Principal Act or in any amendment thereof contained shall apply to any person who sells or supplies liquor in a certificated club to a member of the club for the use or consumption of such member or other members of the club, or his or their guests.

Principal Act  
and amendments  
not to apply to  
clubs

4. Any club may, by its secretary, apply in writing, in the Form A in the Schedule to this Act, at any Quarterly Licensing Meeting for a certificate according to the Form B in the Schedule to this Act. The application, together with three printed copies of the rules and regulations of the club, shall be left with the Clerk to the Magistrates, at the Court House of the district wherein the club premises are situate, fourteen days before the licensing meeting at which such application is to be made, and a copy of such application shall be published in some newspaper circulating in the said district for at least seven days before the licensing meeting.

Application for  
certificate  
Schedule

5. Upon such application, the Licensing Magistrates shall require proof to their satisfaction—

Conditions of  
grant of cer-  
tificate

- (a) That the club, if established in Perth or Fremantle, consists of not fewer than thirty ordinary members, and, if established elsewhere, of not fewer than twenty ordinary members.
- (b) That the club is established for the purpose of providing accommodation for and conferring privileges and advantages upon the members thereof, upon premises of which such club is the *bona fide* occupier.
- (c) That the accommodation is provided and maintained from the joint funds of the club, and no person is entitled under its rules or otherwise to derive any profit, benefit, or advantage from the club which is not shared equally by every ordinary member thereof.
- (d) That the premises of the club are suitable for the purpose.
- (e) That an entrance fee of not less than One guinea and a subscription fee of not less than Half-a-guinea for each member has been paid by the number of ordinary members hereinbefore mentioned in this section.
- (f) That the rules of the club
  - (I.) Provide for the management of the club by a committee of its members, and for the appointment of a secretary, and set forth how such committee and secretary are respectively to be appointed, and the powers and duties of the committee.
  - (II.) Provide for the payment of an entrance fee of not less than One guinea and a subscription fee of not less

*The Wines, Beer, and Spirit Sale Act, 1880—Amendment*

than One guinea per annum, payable half-yearly in advance, by every ordinary member.

(III.) Provide that notice of every candidate for election as an ordinary member shall be posted in the club premises at least fourteen days before the day of election.

(IV.) Provide for the mode and conduct of elections of ordinary and honorary members, and state the privileges to be accorded to the latter and the period or periods for which the same are to be enjoyed.

Certificate for club Schedule

6. Upon such proof as aforesaid being made to their satisfaction, the Licensing Magistrates shall deliver to the secretary of the club a certificate according to the Form B in the Schedule to this Act.

Certificate may be cancelled, whereupon exemption to cease

7. Upon the complaint of any member of the police force of or above the rank of sergeant, the secretary, manager, or the chairman or any member of the committee of management of any certificated club may be summoned before the Licensing Magistrates of the district in which the club premises are situate to show cause why the certificate granted in respect of such club should not be cancelled; and upon the hearing of the complaint, unless it be proved to such Magistrates that the conditions mentioned in section five of this Act continue to be fulfilled with respect to the club, and that the rules of the club have been duly observed in the particulars in such section mentioned, the certificate shall be cancelled, and the exemption aforesaid shall no longer extend or apply to persons selling or supplying liquor in such club. The Licensing Magistrates may award to the complainant in any proceedings under this section such costs of and incidental thereto as they may think fit, and such costs may be recovered in like manner as costs payable under an order of a Court of Petty Sessions.

The supply and delivery of liquor in uncertificated club to be deemed a sale of such liquor

8. So much of section three of the Principal Act as exempts any person or persons occupying any premises *bona fide* as a club from the operation of the said Act shall, from and after the fourth day of December, 1893, be repealed, and from and after that day the supply and delivery of any liquor in any premises used or occupied by any persons as a club, and not certificated under this Act, shall be deemed to be a sale and disposition of such liquor within the meaning of the thirty-ninth section of the Principal Act, and any person consuming any liquor in any such uncertificated premises shall be liable, on summary conviction before any two or more Justices of the Peace, to a penalty not exceeding Fifty pounds.

## PART II

## LICENSING MAGISTRATES

Licensing Magistrates for Perth and Fremantle Districts

9. The Licensing Magistrates for the Licensing Districts of Perth and Fremantle respectively shall be :

For the Perth District—

The Police Magistrate, and any two Justices of the Peace to be from time to time appointed by the Governor in Council under the provisions of this Act.

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For the Fremantle district—

The Resident Magistrate, and any two Justices of the Peace to be appointed as aforesaid.

10. The Governor in Council may from time to time appoint any two Justices of the Peace to be, with the Resident Magistrate of the district, the Licensing Magistrates for any other licensing district in the Colony.

Licensing Magistrates may be appointed for other districts

11. When the Bench of Licensing Magistrates for Perth and Fremantle, or for any other district, is fully constituted under the provisions of this Act, all the powers and authorities conferred on the Licensing Magistrates of the district by the Principal Act, or any amendment thereof, shall be exercised by the Licensing Magistrates constituted under this Act, and all other Justices not so appointed shall cease to have any jurisdiction as Licensing Magistrates under the said Acts within the district.

The Licensing Magistrates under this Act to take the places of those under the Principal Act

12. Every application made to the Licensing Magistrates may, in case of a difference of opinion, be decided by a majority of such Magistrates.

Majority of Magistrates to decide

13. The provisions of the twenty-third section of the Principal Act shall not apply to any Justice of the Peace by reason only of his being a member of, or interested as owner or otherwise in the premises occupied by a club, whether certificated or not, but no Justice of the Peace otherwise disqualified by the said Act, or being an officer or agent of any society interested in preventing the sale of liquor, shall be appointed as one of the Licensing Magistrates of a district under this Act.

Disqualification

14. Every Justice of the Peace appointed under this Act as a Licensing Magistrate shall hold office, subject to removal by the Governor in Council, for one year from the date of his appointment, or until the day when other Justices are appointed for the district for the succeeding year, whichever shall be the earlier date.

Term of office

15. In case of the death, resignation, removal, or disqualification of any Licensing Magistrate appointed under this Act, the Governor-in-Council may appoint in his place some other qualified Justice of the Peace.

Vacancies—how filled

16. All appointments of Licensing Magistrates shall be notified in the 'Government Gazette.'

Appointments to be gazetted

PART III

MISCELLANEOUS

17. No person of the female sex who is a widow of the age of thirty years or more shall be disqualified to hold a publican's general license, or a wine and beer license, by reason only of her sex.

Widow of the age of 30 years or more may hold a publican's or wine and beer license

18. In the event of the marriage of any female licensee, the license held by her shall confer upon her husband the same privileges, and shall impose upon him the same duties, obligations, and liabilities as if

License of female marrying to be vested in husband

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such license had been granted to him originally, unless he is disqualified from holding a license under the Principal Act, or unless he, within thirty days after the celebration of the marriage, by writing under his hand addressed to the licensing authority of the district wherein the licensed premises are situated, disclaims the transmission herein provided for; and in either of such cases the license shall become and be void.

Further exemptions

19. Nothing in the Principal Act contained shall apply to any person who

- (a) Sells liquor in a refreshment room at either House of Parliament by the permission or under the control of such House; or
- (b) Causes to be sold by the holder of a spirit merchant's license any liquor before it is landed in the Colony, or while it is under the control of the Customs.

No wayside house license to be renewed in certain cases

20. Notwithstanding anything in the Principal Act, no person holding a wayside house license for premises in or within ten miles of any townsite shall, after the population of such townsite exceeds one hundred persons, be entitled to a renewal of such license.

Repeal of part of section 34 of Principal Act

21. The following words at the end of section thirty-four of the Principal Act are hereby repealed, that is to say: 'No such transfer of a license shall be made, nor shall any application, until the expiration of three months from the time of the granting or transfer of such license.'

Repeal of section 10 of Principal Act, and substitution of other provisions as to colonial wine license

22. Section ten of the Principal Act is hereby repealed, and the following provisions shall be read in lieu thereof:—A colonial wine license shall authorise the licensee to sell and dispose of, in the house or shop or on the premises certified in the license, any wine, cider, or perry produced from fruit grown in the Colony, in any quantity, for consumption on the premises, or otherwise: Provided that if any such wine, cider, or perry shall contain more than thirty per centum of proof spirit, it shall be deemed to be for all purposes of the law 'spirituous liquors;' and all liquor sold or offered for sale by any person licensed or not licensed under the Principal Act as being wine, cider, or perry produced from fruit grown in the Colony, or sold or offered for sale by any other name by which such liquors are usually designated or known, shall as against such person so selling or offering for sale be deemed to be wine, cider, or perry within the meaning of this Act. Provided further, that no colonial wine license shall be granted for any premises beyond the limits of a town.

Amendment of Section 40 of Principal Act

23. Section forty of the Principal Act is hereby amended, by inserting after the word 'sport,' in the second line, the following words, 'or shall suffer any gaming.'

How appeal under Section 86 of Principal Act to be made

24. The appeal given by section eighty-six of the Principal Act shall, in case of any conviction or act of a Justice or Justices of the Peace made or done within a Magisterial District in which a Court of General Quarter Sessions of the Peace is established, be made to the next practicable Court of Quarter Sessions in such District and not to the Supreme Court.

*The Wines, Beer, and Spirit Sale Act, 1880—Amendment*

25. The Principal Act and the several Acts amending the same, subject to any amendments effected therein respectively by this Act, shall be read together with this Act as one Act. Incorporation

W. C. F. ROBINSON,  
GOVERNOR.

THE SCHEDULE

FORM 'A'

APPLICATION FOR CLUB CERTIFICATE

I, \_\_\_\_\_ being the Secretary of the \_\_\_\_\_ Club, Section 4  
established in \_\_\_\_\_, do hereby make application for a certificate  
for the said Club, under 'The Wines, Beer, and Spirit Sale Act, 1880, Amendment  
Act, 1893.' The premises occupied by the Club are situate in \_\_\_\_\_  
Street, in \_\_\_\_\_ aforesaid (*or, as the case may be*), and the number of  
members of the Club at present is \_\_\_\_\_

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 189 .  
Secretary of the \_\_\_\_\_ Club.

FORM 'B'

CERTIFICATE OF CLUB

We, the undersigned, being the Licensing Magistrates *or* the majority of the Section 6  
Licensing Magistrates (*as the case may be*) for the Licensing District of \_\_\_\_\_  
do hereby certify that the Society or Association, known as The \_\_\_\_\_,  
established and occupying premises in \_\_\_\_\_ Street, (*or, as the*  
*case may be*), is a Club within the meaning of 'The Wines, Beer, and Spirit  
Sale Act, 1880, Amendment Act, 1893,' and that the said premises are suitable for  
the purpose of a Club.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 189 .

L.S.  
L.S.  
L.S.