

WESTERN AUSTRALIA

LIQUOR ACT 1970

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WESTERN AUSTRALIA

LIQUOR ACT 1970

AN ACT to revise, consolidate and amend the Law relating to the Sale, Supply and Consumption of Liquor and the Services to be rendered in conjunction with the Sale and Supply of Liquor and for incidental and other purposes.

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Liquor Act 1970*¹.

Commencement

2. This Act shall come into operation on a date to be fixed by proclamation¹.

[3. *Section 3 repealed by No. 84 of 1981 s. 3.*]

Repeals

4. [*Section 4 omitted under Reprints Act 1984 s. 7 (4) (f).*]

Saving

5. (1) Nothing in this section affects the operation of the *Interpretation Act 1918*².

(2) On the coming into operation of this Act—

- (a) the persons then holding office as licensing magistrates under the *Licensing Act 1911* (in this section called “the repealed Act”), shall, collectively, constitute the Court established under this Act; and the person then holding office as chairman of Licensing Courts and, those then holding office as licensing magistrates shall respectively, hold office as Chairman and Members of the Court, each for the unexpired portion of the term for which he was appointed to office;
- (b) all applications, matters and proceedings commenced under the repealed Act then pending or in progress may be continued, completed or enforced under this Act;
- (c) any proclamation, licence, permit, order, direction or notice that was issued, granted, made or given under the repealed Act and that corresponds to a proclamation, licence, permit, order, direction or notice that may be issued, granted, made or given under this Act shall, if then in force, have the same force and effect as if it were issued, granted, made or given under this Act.

(3) For the purposes of this section, a licence issued under the repealed Act and specified in the first column of the Second Schedule is deemed to correspond to the licence or permit under this Act specified directly opposite to it in the second column of the Schedule.

(4) A club that is a registered club under the provisions of Part VIII of the repealed Act shall, on the coming into operation of this Act, be deemed to be the holder of a club licence under this Act.

(5) Where any licensed premises have been graded under and by virtue of the repealed Act, the grading remains in force until amended, varied or rescinded under Part V of this Act.

Act not to apply in certain cases

6. (1) Subject to subsection (2), nothing in this Act applies to—

- (a) the sale or supply of liquor in the Houses of Parliament, with the leave of, and under the control of, Parliament;
- (b) the sale or supply of liquor by, or under the authority of, the Commissioner of Railways, pursuant to the *Government Railways Act 1904*, and the by-laws made under that Act;
- (c) the sale or supply of liquor in a Police Force canteen, conducted in accordance with regulations made under the *Police Act 1892*;
- (d) the sale, by auction, by the sheriff or any person authorized by him or by a bailiff or a member of the Police Force, of liquor taken in execution or seized under, or forfeited by operation of, this Act;

- (e) the sale of liquor by a licensed auctioneer, for some other person, under, and in accordance with, the provisions of the *Auction Sales Act 1973*, or the sale, by auction, of liquor at a bazaar or sale of gifts where the whole of the proceeds are devoted for charitable, educational or religious purposes;
- (f) the sale of spirituous or distilled perfume, in good faith, as perfumery;
- (g) the sale or administration of liquor, by a registered pharmaceutical chemist, for medicinal purposes, either pursuant to the direction of a legally qualified medical practitioner or as a constituent of a medicinal preparation;
- (h) the sale, by the occupier of a vineyard of not less than 2 hectares of vines in full bearing or of an orchard of not less than 2 hectares, of wine manufactured by him, on the vineyard or orchard in quantities of not less than 740 millilitres, if the wine—
 - (i) is not consumed or intended to be consumed on the premises where it is sold;
 - (ii) is not sold or supplied to a person to whom it is unlawful to sell or supply liquor;
 - (iii) is not sold or supplied at any time outside the hours of 8.30 a.m. and 8.30 p.m. on a week day other than Anzac Day or outside the hours of 10.00 a.m. and 6.00 p.m. on a Sunday, other than Christmas Day or Anzac Day;
 - (iv) is not sold or supplied on or from any premises other than the vineyard or orchard where it is manufactured; or
 - (v) is not sold for the purpose of being resold, except by the holder of a licence under this Act or by the occupier of another vineyard or orchard;
- (ha) the consumption, on a vineyard or orchard referred to in paragraph (h), by a prospective purchaser of wine manufactured thereon, of wine so manufactured which is supplied to him without charge as a sample of wine so manufactured;
- (hb) the supply of wine by the occupier of a vineyard or orchard as a sample in accordance with paragraph (ha);
- (i) the sale of distilled spirits in bond, by the occupier of a vineyard to the occupier of another vineyard; or
- (j) the sale or supply of liquor at a function conducted for the purposes of training persons for employment in the catering industry at a tertiary educational institution approved of by the Minister charged with the administration of the *Education Act 1928*.

(2) Any person who sells liquor pursuant to the exemption provided by subsection (1) (h) shall furnish to the Principal Receiver of Revenue in such form and at such intervals as are prescribed returns of all liquor so sold to licensees other than holders of wholesale licences.

[Section 6 amended by No. 76 of 1972 s. 3; No. 94 of 1972 (as amended) s. 4 (1); No. 128 of 1976 s. 3; No. 84 of 1978 s. 2; No. 84 of 1981 s. 4; No. 49 of 1986 s. 4.]

Interpretation

7. (1) In this Act, unless a contrary or other intention appears—

“association of licensees” means an association established to further the interests of licensees of a particular class and duly incorporated under the *Associations Incorporation Act 1895*;

“bar” means—

(a) for the purposes of—

(i) licensed premises to which a club licence or a restaurant licence relates, that part of the licensed premises from which liquor is supplied over a counter; and

(ii) any other licensed premises, not being premises to which a store licence, a wholesale licence or a brewer’s licence relates, that part of licensed premises in which liquor is supplied over a counter,

to a person other than the licensee or his servants or agents, for consumption on or off the premises; or

(b) that part of any licensed premises that the Court may, from time to time, designate under section 73B as a bar, and the term includes any part of the licensed premises set aside for the sale of liquor in sealed containers;

“beer” includes ale, porter and stout;

“brandy” means an ardent spirit distilled from wine or grapes;

“casino complex agreement” means casino complex agreement as defined by section 3 of the *Casino Control Act 1984*;

“casino complex” means casino complex as defined by section 3 of the *Casino Control Act 1984*;

“Casino Control Committee” means Casino Control Committee established by section 4 (1) of the *Casino Control Act 1984*;

“casino licensee” means casino licensee as defined by section 3 of the *Casino Control Act 1984*, which is a party to a casino complex agreement;

“clerk” means a clerk of the Licensing Court appointed under this Act and includes the principal clerk;

“Court” means the Licensing Court of Western Australia established by this Act;

“dining room” means—

- (a) any separate room; or
- (b) any part of a separate room, which part is clearly distinct and not used for the same purpose as the remainder of the separate room,

used solely or principally for the supplying and consumption of meals;

“juvenile” means a person under the age of 18 years;

“licence” means a licence granted under, or continued in force by, this Act;

“licensed casino” means licensed casino as defined by section 3 of the *Casino Control Act 1984*;

“licensed premises” means—

- (a) in relation to a packet licence—that part or those parts of the vessel or aircraft defined by the Court as being the part or parts to which the licence relates;
- (b) in relation to any other type of licence—that part or those parts of the building or buildings and of the land adjoining it or them defined by the Court as being the part or parts to which the licence relates; but in relation to a club licence does not include a part of the club premises which is for the time being excluded from the licensed premises of the club by an order under section 35A;

“licensee” means the holder of a licence and includes a person entering upon licensed premises by virtue of section 88;

“liquor” means spirits, wine or beer with an alcoholic content of more than 1.15% by volume at a temperature of 20 degrees Celsius;

“lodger”, in relation to licensed premises, means a person residing, whether casually or permanently, on the premises;

“meal” means such substantial food as may be prescribed by the regulations;

“ordinary trading hours”, in relation to the sale and supply of liquor, means—

- (a) on Anzac Day, where it falls on a weekday, the period between the hours of 12.30 p.m. and 10 p.m. or, in relation to an hotel licence authorizing the sale and supply of liquor until 11 p.m. on a weekday, 12.30 p.m. and 11 p.m.;

- (b) the period on a weekday, other than Anzac Day, between the hours of 10 a.m. and 10 p.m. or, in relation to a particular licence, the period or periods or hours endorsed, or deemed to have been endorsed, on the licence, under section 24 or 26;

“owner”, in relation to licensed premises, means the person for the time being entitled to receive, either on his own account or as mortgagee or other encumbrancer in possession, the rent of such premises, or, if he is absent from the State, means the attorney or agent of such a person capable of giving a valid receipt for the rent, and includes any mesne lessor of the premises; and, where the licensed premises are the subject of a contract of sale, the expression includes both the vendor and the purchaser under the contract;

“permit” means a permit issued under the provisions of this Act;

“permit of a continuing nature” means an entertainment permit, a caterer’s permit, a late delivery permit, a reception area permit, a lodger’s permit, an unlicensed club permit, or a voluntary association’s permit;

“Principal Receiver of Revenue” means the officer for the time being charged with the duty of receiving moneys paid pursuant to Part VIII;

“provisional certificate” means a certificate of the Court that the grant of a licence of a kind, and relating to premises, specified in the certificate may, subject to this Act, follow upon the erection, completion, extension or alteration of those premises, substantially in accordance with plans and specifications approved, and terms and conditions imposed, by the Court;

“rationalization”, in relation to licences, means the re-ordering of them on an economic basis, by the removal, discontinuance or change of nature of some or other of them or the improvement of the services and amenities provided under them, by the renovation, rebuilding, or substantial rebuilding, of some or other of the premises to which they relate or by other means; and “rationalize” and inflexions and derivations of the verb have a corresponding meaning;

“reception area” means a part of licensed premises in respect of which a reception area permit is issued under section 40;

“restaurant” includes a cafe or a tea room within which food may lawfully be prepared and cooked on the premises;

“rules” means the rules made by the Court under this Act;

“sale” includes barter, exchange and disposal by lot or chance; and “sell” and inflexions and derivations of the verb have a corresponding meaning;

“Schedule” means a Schedule to this Act;

“seafarer” means a member of the crew of an ocean-going vessel of not less than 100 tons gross registered tonnage;

“section” means a section of this Act;

“specified fee” in relation to a licence, permit or application means the fee specified for that licence, permit or application, in the regulations;

“spirits” means potable spirit containing more than 35 per centum of proof spirit;

“supervisor” means a supervisor of licensed premises appointed under this Act and includes the senior supervisor of licensed premises;

“weekday” means any day of the week other than a Sunday, Christmas Day or Good Friday; and a reference to any hours extending after 12.30 p.m., on a weekday, includes those hours on Anzac Day, where it does not fall on a Sunday;

“wine” includes cider, cyser, mead and perry but does not include any liquor containing more than 35 per centum of proof spirit.

(1a) Subject to subsection (1b) but notwithstanding any other provision of this Act relating to the hours during which liquor may be sold or supplied, where under this Act a licensee is authorized to sell and supply liquor between certain hours on a Sunday—

(a) the licensee is authorized to sell and supply liquor on any Anzac Day which falls on a Sunday between such of those hours only as are after 12.30 p.m. on that day; and

(b) the licensee is not authorized to sell and supply liquor between those hours on any Christmas Day which falls on a Sunday except where by this Act he is expressly authorized to so sell and supply on Christmas Day.

(1b) Nothing in subsection (1a)(a) applies so as to restrict the authority of a licensee to sell and supply liquor in any case where the licensee is by this Act authorized to sell and supply liquor during a continuous period of hours which commences on the day prior to, and ends on, a Sunday.

(2) Where, under this Act, the sale and supply of liquor is required to be with or ancillary to the provision of some other service, not being a meal, the requirement is that it be contingent upon, and subordinate to, the provision of that other service and that the other service be provided, either contemporaneously with the sale and supply of liquor or within such time before or after it as is reasonable in the circumstances of the particular case.

(2a) Where a licensee supplies a meal to a person during any particular period of hours between which he is authorized, under this Act, to sell and supply liquor with or ancillary to a meal, any liquor sold and supplied to the person by the licensee—

(a) within one hour immediately preceding the supply of the meal;
or

(b) during or after the supply of the meal but within that particular period of hours,
shall be deemed for the purposes of this Act to have been supplied with or ancillary to that meal.

(3) Where, under this Act, the Court is required to have regard to any report or recommendation, the intention is that the Court give due consideration to, but be not bound by, the terms of the report or recommendation.

[Section 7 amended by No. 112 of 1970 s. 2; No. 76 of 1972 s.4; No 128 of 1976 ss. 4 and 39; No. 74 of 1977 s. 3; No. 84 of 1981 s. 5; No. 22 of 1982 s. 3; No. 10 of 1985 s. 9; No. 49 of 1986 s. 5.]

PART II—ADMINISTRATION

Division 1—Court

Court established

8. (1) A court known as the Licensing Court of Western Australia is established.

(2) The Court is a court of record and shall have a seal of which judicial notice shall be taken.

Constitution of Court

9. The Court comprises a chairman and 2 other members and, except as otherwise provided by this Act, may be constituted, and its jurisdiction may be exercised, by any 2 of them.

Appointment of members

10. (1) The Governor may—

- (a) appoint 3 persons to be members of the Court and shall appoint one of them chairman;
- (b) appoint a person to fill any vacancy in the office of member and any member to fill a vacancy in the office of chairman; and
- (c) in the case of the absence or temporary incapacity of the chairman or any other member, appoint a person to act in his stead; and a person so appointed may, while so acting, exercise all the powers of him in whose place he is appointed.

(2) Subject to subsection (2a), every person appointed a member of the Court shall—

- (a) hold office, subject to the succeeding provisions of this section, for a period of 3 years from the date of his appointment;
- (b) be eligible for re-appointment for any period not exceeding 3 years;

- (c) be entitled to such salary or fees, and to such travelling expenses, as the Governor may, from time to time, determine; and
- (d) by virtue of his office, be a Justice of the Peace for the State.

(2a) Where the person appointed to be a member and chairman is a practitioner as defined by the *Legal Practitioners Act 1893*, of not less than 8 years' standing, he may be so appointed for a term not exceeding 7 years and shall be entitled to such salary, travelling and other allowances or reimbursements, leave of absence, pension, and rights under the *Superannuation and Family Benefits Act 1938*, as he would be if service as chairman of the Court were service as a District Court Judge, other than the Chairman of Judges, appointed pursuant to the *District Court of Western Australia Act 1969*.

(3) A vacancy in the office of member occurs, if the member—

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Governor;
- (c) is or becomes beneficially interested in the manufacture, sale or supply of liquor or in any premises licensed, or proposed to be licensed, under this Act; or
- (d) except in the case of sickness or by leave of the Minister, absents himself for a period exceeding 2 months.

[Section 10 amended by No. 128 of 1976 s. 5.]

Jurisdiction of Court

11. (1) Without affecting the power of delegation conferred on it by this section, the Court has exclusive jurisdiction, throughout the State, to—

- (a) hear and determine all applications under this Act for—
 - (i) the granting, renewal, transfer, removal, forfeiture, cancellation, suspension or surrender of licences;
 - (ii) the granting, extension, variation or cancellation of provisional certificates; and
 - (iii) the issue, renewal, suspension or revocation of permits;
- (b) impose and vary or revoke conditions under which licences are granted or renewed and permits are issued or renewed; and
- (c) make all such orders and give all such directions as are authorized or contemplated to be made or given under this Act.

(2) The Court shall exercise the jurisdiction conferred on licensing magistrates or on a licensing bench by any other Act³.

(3) The Court may delegate to any one of its members or to a stipendiary magistrate for the time being assigned to a magisterial district, by reference to his assignment, the power to exercise that part of its jurisdiction relating to—

- (a) the renewal and transfer of licences;
- (b) the granting and renewal of permits; and
- (c) the making of orders authorized by this Act,

and the member or magistrate shall exercise the jurisdiction so delegated, in accordance with any recommendation made by the Court, and, in exercising that jurisdiction, is deemed to constitute the Court.

(4) The exercise, by a member or magistrate, of any jurisdiction delegated pursuant to subsection (3) does not affect the exercise of that jurisdiction by the Court.

[Section 11 amended by No. 76 of 1972 s. 5; No. 84 of 1981 s. 6.]

Power to summon witnesses

12. (1) The Court may, by summons issued by a member or clerk, summon witnesses and may examine them on oath, in the manner provided for proceedings before justices for simple offences.

(2) A person who, being required by summons to attend as a witness, fails, without reasonable excuse, to appear at the time and place specified in the summons or who, being in attendance whether voluntarily or pursuant to a summons, refuses to be sworn or to make an affirmation or refuses to answer any lawful question is guilty of contempt of court.

(3) A person who wilfully interrupts the proceedings of the Court, or who hinders, obstructs, threatens or assaults any officer, party or witness in attendance before, or going to or returning from, the Court, is guilty of contempt of court.

(4) The chairman or, in his absence, a member of the Court may commit a person guilty of contempt of court to prison, for any period not exceeding 14 days, or impose on that person a fine not exceeding \$50 and, in default of payment, may order that the person be imprisoned for any period not exceeding 10 days.

[Section 12 amended by No. 84 of 1981 s. 7.]

Sittings

13. (1) Subject to this Act and the rules, the Court shall sit at such times and such places as are, in the opinion of the Court, most convenient for the despatch of business.

(2) The Court shall cause at least 14 days notice to be given of the time and place of sittings, either by notice sent to the parties and persons interested, by prepaid post, or by notice published in the *Government Gazette* and in a newspaper circulating in the area of the proposed sitting.

(3) The Court may, of its own motion, adjourn any sitting, from time to time and from place to place, and may, on the application of a party, so adjourn any hearing, upon such terms as to costs, as it thinks fit.

Proceedings

14. (1) The Court shall conduct its proceedings, as nearly as may be practicable, in the manner of proceedings before justices.

(2) A member or a clerk may take and administer oaths and affirmations in, or for the purposes of, any licensing matter or proceeding being heard, or to be heard, and determined by the Court.

(3) Every application or matter may be determined by a majority of the members, but, where the Court is constituted by 2 members and those members are unable to agree on their determination, the record of the proceedings (including all submissions and argument) shall be referred to the third member who shall record his decision thereon and the application or matter shall be determined accordingly.

Division 2—Appeals

Appeals in certain cases

15. (1) Subject to subsection (2), a person aggrieved by a direction, determination or order of the Court, may appeal to the Supreme Court against the direction, determination or order, in the manner, and in the time, prescribed by the Rules of the Supreme Court.

(2) An appeal does not lie to the Supreme Court from a direction, determination or order of the Court unless the appeal involves a question of law.

[Section 15 amended by No. 76 of 1972 s. 6.]

Powers of Supreme Court

16. Upon the hearing of an appeal, the Supreme Court may—

- (a) admit such evidence, upon affidavit, as it thinks fit;
- (b) allow or dismiss the appeal, vary the direction, determination or order of the Court, in such manner as it thinks fit, or remit the matter to the Court for rehearing, with such directions (if any) as it thinks fit; and
- (c) make such order for the payment of the costs of the appeal and of the rehearing (if any) as it thinks fit.

Licences or permits to remain in operation pending appeal

17. (1) Where the holder of a licence or permit appeals against an order or determination of the Court forfeiting, revoking, cancelling or suspending the licence or permit or refusing to renew the licence or permit, the licence or permit (as the case may be) shall, subject to the payment of any fees then due and payable and subject to subsection (2), remain in force until the determination of the appeal.

(2) Subsection (1) does not apply in the case of an appeal against an order for forfeiture of a licence made under section 125, by reason of the licensee's conviction of an offence or offences.

*Division 3—Officers***Clerks**

18. (1) A clerk of the Licensing Court may be appointed, subject to the *Public Service Act 1978*, for every place at which the Court sits and, in the absence of an appointment in respect of any such place, the person appointed clerk of the Local Court nearest to that place shall perform the duties, and exercise the powers, of the clerk.

(2) Without affecting the operation of section 34 of the *Interpretation Act 1918*², the Minister may, during the absence or temporary incapacity of the clerk, at any place, appoint an acting clerk to discharge the duties of the clerk.

(3) Every clerk or other person discharging the duties of clerk is authorized to accept fees payable, and to issue licences and permits granted, pursuant to this Act.

(4) The clerk at Perth shall be known as the principal clerk.

[Section 18 amended by No. 84 of 1981 s. 8.]

Supervisors of licensed premises

19. (1) There may be appointed under the *Public Service Act 1978*, for the purposes of this Act—

- (a) a senior supervisor of licensed premises and such other supervisors of licensed premises as may be necessary; and
- (b) such inspectors of licensed premises as may be necessary.

(1a) The principal clerk shall furnish to a person appointed under subsection (1) (b) a certificate stating that he is an inspector of licensed premises.

(2) A person shall not be appointed to the office of supervisor unless he is the holder of a qualifying certificate of competency as a surveyor, under the *Health Act 1911*.

[Section 19 amended by No. 84 of 1981 s. 8.]

Duties and powers of supervisors

20. (1) It is the duty of a supervisor to examine and report on any matter that, in his opinion, affects the administration of this Act or upon which the Court may require him to report and, in particular,—

- (a) to report to the Court on the extent and standard of services provided in any licensed premises;
- (b) to report to the Court on the nature and extent of any premises proposed to be licensed and on every plan for proposed new licensed premises or for extensions or alterations to, the rebuilding and reinstatement of, or the change in use of any part or parts of, any existing licensed premises;
- (c) to examine and report on any licensed premises or proposed licensed premises as he thinks fit or as may be required by the Court;
- (d) to bring such applications, complaints and objections before the Court as may be necessary or required for the proper administration of this Act; and
- (e) to appear before, and assist, the Court whenever so required by it.

(2) Where a supervisor makes a report with respect to any particular licensed premises or premises proposed to be licensed, including any report as to the extent or standard of services provided on the premises, the Court shall—

- (a) cause a copy of such part of the report as it adopts to be sent to the owner of the premises or his agent (if known) and, where the owner is not the licensee or proposed licensee, to the licensee or proposed licensee or his agent, as the case may require; and
- (b) make such part of the report as it adopts available for inspection, on request, by the local health authority or by any person who has lodged an objection to the granting of a licence or provisional certificate for a licence or the renewal of an existing licence in respect of those premises.

(3) The senior supervisor may, by arrangement with a local health authority, delegate to any duly appointed health surveyor for that authority such of a supervisor's powers of examination and report as the Court may approve.

(4) In this section, the expression "licensed premises" includes premises in respect of which an application has been made, or a permit is in force, under this Act.

Powers of inspectors

20A. (1) An inspector appointed under subsection (1) (b) of section 19 may, at all reasonable times and on production of the certificate furnished to him under subsection (1a) of that section, enter any licensed premises and—

- (a) take an account of all stocks of liquor therein; and
- (b) examine all registers, books, records and documents therein and take extracts from, and make copies of, the same.

(2) A licensee or person in charge of licensed premises shall not refuse or fail to admit any such inspector who requires entry to those premises under this section, or obstruct or delay any such inspector, or cause or permit him to be obstructed or delayed, in the exercise of his powers under this section.

Penalty—\$500.

[Section 20A inserted by No. 84 of 1981 s. 10.]

Duties of police

21. (1) The Commissioner of Police shall issue all such orders, and give all such directions, to members of the Police Force as may, in his opinion, be necessary to—

- (a) prevent the sale, supply or consumption of liquor contrary to the provisions of this Act;
- (b) ensure the proper and lawful exercise of any licence or permit issued under this Act;
- (c) ensure the lawful and orderly conduct of licensed premises and of unlicensed premises on which liquor may be publicly consumed and ensure the good behaviour of persons present on those premises; and
- (d) provide for the making of such reports to, and the bringing of such applications, complaints and objections before, the Court as may be necessary or required for the proper administration of this Act.

(2) Nothing in this section shall be read or construed as limiting any power or authority conferred on a member of the Police Force by any other Act or law.

[Section 21 amended by No. 22 of 1982 s. 4.]

Duties of local health authorities

22. (1) Every local health authority shall, as regards licensed premises in its district, exercise the same powers as are conferred, and carry out the same duties as are imposed, on it by any other Act with respect to unlicensed premises; and, where the holder of a licence under this Act or

any of his servants is convicted of an offence on the complaint of an officer of the local health authority, it shall report that event and the nature of the complaint to the Court.

(2) A local health authority is required to afford the Court such assistance, by way of the examination of, and the report on, licensed premises, as is contemplated by this Act or as the Court may reasonably require.

PART III—SALE, SUPPLY AND CONSUMPTION OF LIQUOR

Division 1—Licences and Permits for Licensees

Types of licences

23. (1) Subject to the succeeding provisions of this Act, a person may apply for, and be granted,—

- (a) an hotel licence;
- (b) a tavern licence;
- (c) a limited hotel licence;
- (d) a canteen licence;
- (e) a winehouse licence;
- (f) a cabaret licence;
- (g) a theatre licence;
- (h) a railway refreshment room licence;
- (i) a packet licence;
- (j) a restaurant licence;
- (k) a club licence;
- (l) a store licence;
- (la) a vigneron's licence;
- (m) a wholesale licence;
- (n) a brewer's licence;
- (o) a ballroom licence; and
- (p) a reception lodge licence.

(2) A licence shall be in such form as may be prescribed by the rules.

(3) A licence authorizes the holder to sell and supply liquor in accordance with its terms and, except to the extent that its terms may be modified by a permit issued under this Act, in no other manner.

[Section 23 amended by No. 76 of 1972 s. 7; No. 128 of 1976 s. 6; No. 84 of 1981 s. 11.]

Special provisions for New Year's Eve

23A. (1) Subject to subsection (3), where—

- (a) the 31st day of December in a year falls on a Sunday; and
- (b) the holder of an hotel licence, a tavern licence, a limited hotel licence, a winehouse licence, a restaurant licence or a club licence is authorized, apart from this section, to sell and supply liquor during a continuous period of hours which commences after noon on that day and ends prior to midnight on that day,

the licensee is authorized by virtue of this section to sell and supply liquor from the expiration of that period of hours on that day until 12.30 a.m. in the morning of the following day, if he has not later than the 15th day of December in that year given notice in writing to the clerk and the Commissioner of Police that he intends to sell and supply liquor under the authority of this section.

(2) Subject to subsection (3) where the 31st day of December in a year falls on a day other than a Sunday the holder of an hotel licence, a tavern licence, a limited hotel licence, a winehouse licence, a restaurant licence or a club licence is authorized by virtue of this section to sell and supply liquor from the expiration of ordinary trading hours on that day until 12.30 a.m. in the morning of the following day if he has not later than the 15th day of December, in that year given notice in writing to the clerk and the Commissioner of Police that he intends to sell and supply liquor under the authority of this section.

(3) Nothing in this section authorizes—

- (a) the holder of any licence to sell and supply liquor other than in accordance with the same terms, conditions, restrictions and limitations as are ordinarily applicable under this Act to the sale and supply of liquor by him;
- (b) the sale and supply of liquor for consumption off the licensed premises.

[Section 23A inserted by No. 76 of 1972 s. 8.]

Hotel licence

24. (1) Subject to the succeeding provisions of this section, an hotel licence authorizes the licensee to sell and supply liquor, on the licensed premises,—

- (a) at any time, to a lodger of the licensed premises;
- (b) during ordinary trading hours;
- (c) if the licensee has elected under subsection (5) to do so—
 - (i) between the hours of 11 a.m. and 1 p.m. and between 4.30 p.m. and 6 p.m., on a Sunday; or
 - (ii) between such other hours, on a Sunday, as the Court may authorize, under subsection (2);

- (d) with or ancillary to a meal supplied by the licensee, between the hours of—
- (i) 10 p.m., on a weekday, and 12.30 a.m. of the following day, notwithstanding that the following day is a Sunday, Christmas Day, Good Friday or Anzac Day;
 - (ii) 12 noon and 3 p.m. and the hours of 5.30 p.m. and 10 p.m., on a Sunday or Christmas Day,
- if the meal is supplied and taken in good faith, in a dining room, and the liquor is consumed in a dining room or a reception area, on the premises;
- (e) if the licensee obtains an entertainment permit, under section 24A, with or ancillary to entertainment provided by artists, present and performing in person, between the hours of 10 p.m. and midnight, on the day or days, and in the part of the premises, specified, and subject to the conditions imposed, by the permit for consumption on the premises, only; and
- (f) if the licensee obtains an occasional permit, under subsection (10), during the hours, on the day, to the persons or class of persons, and in the part of the premises, specified in the permit.

(2) Notwithstanding any provision of subsection (1)—

[(a) *deleted.*]

- (b) the Court may, having regard to the circumstances existing in the neighbourhood of the licensed premises and the needs of the public, from time to time, on the application of the holder of an hotel licence, authorize the holder of an hotel licence to sell and supply liquor, during a specified period not exceeding, or 2 specified periods not exceeding in the aggregate, 5 hours, on a Sunday other than Anzac Day; and an authority so conferred shall remain in force until the Court otherwise orders.

(3) The Court may, having regard to the circumstances existing in the neighbourhood of the licensed premises and the needs of the public, from time to time, on the application of the holder of an hotel licence, by endorsement on the licence,—

- (a) authorize the licensee to sell and supply liquor, during a specified period or specified periods, between the hours of 6 a.m. and 11 p.m., on a weekday, other than Anzac Day; or
- (b) relieve the licensee of the obligation to sell and supply liquor during such of the ordinary trading hours as may be specified,

and the period or periods so specified or the ordinary trading hours as so varied shall constitute the ordinary trading hours under that licence, unless and until the Court otherwise orders.

(4) Where, immediately prior to the coming into operation of this section, the holder of a licence that is deemed by virtue of section 5, to correspond to an hotel licence is authorized to sell and supply liquor

during hours other than ordinary trading hours, the licence is deemed, for the purposes of this section, to be endorsed with the hours then authorized and those hours shall constitute the ordinary trading hours under that licence, unless and until the Court otherwise orders.

(5) The Court shall require every applicant for the granting, transfer or removal of an hotel licence, and may (but not so as to deprive any neighbourhood of a necessary service), from time to time, permit the holder of an hotel licence, to elect whether or not he will sell and supply liquor on the premises as provided by subsection (1) (c); and a successful applicant or the licensee (as the case may be) is bound by the terms of his election, until such time as the Court otherwise orders.

[(6), (7), (8) and (9) repealed]

(10) The Court may, on the application of the holder of an hotel licence made not later than 5 days, or such lesser period as the Court may in special circumstances allow, before the day on which the permit is to take effect and on payment of the specified fee, issue to the licensee an occasional permit to have effect on such day, being a special occasion and not being Good Friday, between such hours, for the sale and supply of liquor on such part of the premises, and to such persons or class of persons, as shall be specified in the permit.

(11) Subject to subsection (12), the Court may, on the application of the licensee or, after giving the licensee an opportunity of being heard, on the application of a supervisor or a member of the Police Force, from time to time vary the hours, provisions or conditions of a permit, in any manner that is consistent with the provisions of this section.

(12) The Court shall not, in the case of a licensee which is a casino licensee, on the application of a supervisor vary under subsection (11) the hours, provisions or conditions of a permit granted in respect of premises within the relevant casino complex.

[Section 24 amended by No. 94 of 1972 (as amended) s. 4 (1); No. 84 of 1981 s. 12; No. 22 of 1982 s. 5; No. 10 of 1985 s. 10.]

Entertainment permit

24A. (1) Subject to this section, the Court may—

- (a) subject to sections 58A and 58B, on the application of the holder of an hotel licence (whether or not that holder is a casino licensee) and on payment of the specified fee, issue to that holder an entertainment permit, to have effect on such day or days, excluding Sundays, Christmas Day and Good Friday, and in such part of the licensed premises as the Court may specify and subject to such conditions as the Court may see fit to impose; or

- (b) on the application in the prescribed manner of the holder of an hotel licence which is a casino licensee and on payment of the specified fee, issue to that holder an entertainment permit, to have effect on such day or days, excluding Sundays, and on such part of the licensed premises within the relevant casino complex as the Court may specify and subject to such conditions as may be agreed by the Court and that holder.

(2) The Court shall not issue an entertainment permit unless and until the Court is satisfied that the licensed premises in respect of which the entertainment permit is sought are so constructed as to enable entertainment to be provided—

- (a) in the case of an application by the holder of an hotel licence who is not a casino licensee, by the proposed number of artists, present and performing in person, in an area that is divorced from any bar other than that serving the persons for whom the entertainment is provided and that light refreshments, of such a nature as the Court may approve, will continuously be available for purchase during such period as the entertainment permit is in operation; or
- (b) in the case of an application by the holder of an hotel licence which is a casino licensee, by the proposed number of artists, present and performing in person.

(3) The Court may, on the application of the licensee or, after giving the licensee an opportunity of being heard, on the application of—

- (a) except in the case of an entertainment permit relating to premises within a casino complex and held by a casino licensee, a supervisor; or
- (b) a member of the Police Force,

from time to time vary the hours, provisions or conditions of an entertainment permit in any manner that is consistent with this section; and on any such application section 56 and section 58B (1) and (2) apply as if the application were an application for the grant of an entertainment permit.

(4) Unless sooner revoked, an entertainment permit remains in force for the period during which the hotel licence is current or for such lesser period as the Court may, on the issue of the permit, specify.

(5) The provisions of this section apply, with such adaptations as may be necessary, to the holder of a tavern licence and to the holder of a winehouse licence.

[Section 24A inserted by No. 22 of 1982 s. 6; amended by No. 10 of 1985 s.11.]

Caterer's permit**25. (1) If the licensee—**

- (a) whether or not he is a casino licensee, obtains a caterer's permit under this section, an hotel licence or a tavern licence authorizes him to sell and supply liquor on such premises, other than the licensed premises, generally or on such day or days, excluding Good Friday, and during such period or periods on that day or any of those days, as shall be specified in the caterer's permit; or
- (b) being a casino licensee, obtains a caterer's permit under this section in respect of such part of the premises of the relevant casino complex as is specified in the relevant casino complex agreement, an hotel licence authorizes him to sell and supply liquor on that part generally or on such day or days, and during such period or periods on that day or any of those days, as are from time to time determined, and notified to the court and to him, by the Casino Control Committee.

(2) The Court—

- (a) may, on the application of the holder of an hotel licence or a tavern licence, whether or not he is a casino licensee, made not later than 7 days, or such lesser period as the Court in special circumstances may allow, before the day, or the first day, on which the relevant caterer's permit is to take effect and on payment of the specified fee, issue to that holder a caterer's permit to have effect—
 - (i) on the premises, or on a defined part of the premises, specified in the caterer's permit or, generally, on premises in respect of which a function permit is issued under this Act or on both those classes of premises;
 - (ii) generally or on any day or days, excluding Good Friday, specified in the caterer's permit; and
 - (iii) during any period or periods, generally or on a specified day or specified days, between the hours of 9 a.m. of one day and 2 a.m. of the following day, notwithstanding that the following day is a Good Friday, specified in the caterer's permit;

or

- (b) shall, on the application of the holder of an hotel licence which is a casino licensee made not later than 7 days, or such lesser period as the Court in special circumstances may allow, before

the day, or the first day, on which the relevant caterer's permit is to take effect and on payment of the specified fee, issue to that holder a caterer's permit to have effect—

- (i) on the premises of the relevant licensed casino or on such defined part of those premises, or on such other premises within the casino complex concerned, as is or are agreed by the Court and that holder and specified in the caterer's permit;
- (ii) generally or on any such day or days as is or are from time to time determined, and notified to the Court and that holder, by the Casino Control Committee; and
- (iii) during such period or periods, generally or on such day or days, as are from time to time determined, and notified to the Court and that holder, by the Casino Control Committee.

(3) The Court may, on the application of the licensee or of its own motion, vary a caterer's permit (other than a caterer's permit which relates to any premises referred to in subsection (2) (b) (i)) with regard to the premises on which, the days on which, or the hours during which, the permit is to operate.

(4) Unless sooner revoked, a caterer's permit remains in force for the period during which the hotel licence or tavern licence, as the case requires, is current or for such lesser period as the Court may, on the issue of the permit, specify.

(5) Before a caterer's permit is issued to a licensee he shall nominate, and may from time to time nominate as provided by the rules, a person to be in attendance at the premises for which the caterer's permit is in operation while the rights arising from the holding of the permit are being exercised.

(6) It is a condition of—

- (a) every caterer's permit which does not relate to any premises referred to in subsection (2) (b) (i) that—
 - (i) the licensee to whom it is issued shall not enter into, or continue, any arrangement whereby the benefit arising from the holding of that caterer's permit accrues to any other person;
 - and
 - (ii) the person nominated under subsection (5) shall attend at the premises referred to in that subsection at the times referred to therein;

or

- (b) every caterer's permit which relates to any premises referred to in subsection (2) (b) (i) that the licensee to which it is issued shall not enter into, or continue, any arrangement whereby the benefit arising from the holding of that caterer's permit accrues to any other person.

[Section 25 amended by No. 112 of 1970 s. 3; No. 128 of 1976 s. 7; No. 84 of 1981 s. 13; No. 10 of 1985 s. 12; No. 29 of 1985 s. 14.]

Tavern licence

26. (1) Subject to the succeeding provisions of this section, a tavern licence authorizes the licensee to sell and supply liquor, on the licensed premises,—

- (a) during ordinary trading hours;
- (b) if the licensee has elected, by virtue of subsection (3), to do so—
 - (i) between the hours of 11 a.m. and 1 p.m. and between 4.30 p.m. and 6.30 p.m., on a Sunday; or
 - (ii) between such other hours, on a Sunday, as the Court may authorize, by virtue of subsection (3);
- (ba) with or ancillary to a meal supplied by the licensee, between the hours of—
 - (i) 10 p.m., on a weekday, and 12.30 a.m. of the following day, notwithstanding that the following day is a Sunday, Christmas Day, Good Friday or Anzac Day;
 - (ii) 12 noon and 3 p.m. and the hours of 5.30 p.m. and 10 p.m., on a Sunday or Christmas Day,
 if the meal is supplied and taken in good faith, in a dining room, and the liquor is consumed in a dining room or a reception area, on the premises;
- (c) if the licensee obtains an entertainment permit, by virtue of section 24A (5) with or ancillary to entertainment, between the hours of 10 p.m. and midnight, on the day or days, and in the part of the premises, specified, and subject to the conditions imposed, by the permit, for consumption on the premises, only;
- (d) if the licensee obtains an occasional permit, by virtue of subsection (3), during the hours, on the day, to the persons or class of persons, and in the part of the premises, specified in the permit.

(2) The holder of a tavern licence is required to make light meals, of such nature as the Court may approve, continuously available for purchase and consumption on the premises, during ordinary trading hours.

(3) The provisions of section 24 (2), (3), (5), (10) and (11) apply, with such adaptations as may be necessary, to the holder of a tavern licence.

[Section 26 amended by No. 128 of 1976 s. 8; No. 84 of 1981 s. 14; No. 22 of 1982 s. 7.]

Limited hotel licence

27. (1) A limited hotel licence authorizes the licensee to sell and supply liquor, on the licensed premises,—

- (a) at any time, to a lodger of the licensed premises;
- (b) between the hours of—
 - (i) noon and 3 p.m. on any day, other than Good Friday, and 5.30 p.m. on a weekday and 12.30 a.m. on the following day, notwithstanding that the following day is a Sunday, Christmas Day, Good Friday or Anzac Day;
 - (ii) 5.30 p.m. and 10 p.m., on a Sunday or Christmas Day, in the following parts of the licensed premises—
 - (iii) a dining room or a reception area with or ancillary to a meal supplied and taken in good faith in the dining room; or
 - (iv) for consumption on the premises only, in a bar set aside for the public and approved by the Court, on application made by the licensee, for use as such; and
- (c) if the licensee obtains an occasional permit, by virtue of subsection (2), during the hours, on the day, to the persons or class of persons, and in the part of the premises, specified in the permit.

(2) The provisions of section 24 (10) apply, with such adaptations as may be necessary, to the holder of a limited hotel licence.

[Section 27 amended by No. 84 of 1981 s. 15.]

Canteen licence

28. A canteen licence authorizes the licensee to sell and supply liquor, on the licensed premises, during ordinary trading hours or during such other hours, on such days, as the Court may from time to time, by endorsement on the licence, specify—

- (a) to persons engaged in work being carried on by the licensee company;
- (b) to persons who carry on business in, or are ordinarily employed in, the neighbourhood of the licensed premises, and to persons who are temporarily present in the neighbourhood of the licensed premises for the purpose of carrying on business there or for the purpose of their employment;

- (ba) to any female not referred to in paragraph (a) or (b); or
- (c) where the canteen is designated a seafarers' canteen, to such persons who are authorized to use the canteen, under its rules as approved by the Court.

[Section 28 amended by No. 76 of 1972 s. 9.]

Winehouse licence

29. (1) Subject to the succeeding provisions of this section, a winehouse licence authorizes the licensee to sell and supply wine and brandy, on the licensed premises,—

- (a) during ordinary trading hours;
- (b) if the licensee has elected, by virtue of subsection (3), to do so—
 - (i) between the hours of 11 a.m. and 1 p.m. and between 4.30 p.m. and 6.30 p.m., on a Sunday; or
 - (ii) between such other hours, on a Sunday, as the Court may authorize, by virtue of subsection (3);
- (c) with or ancillary to a meal supplied by the licensee, between the hours of 10 p.m. on a weekday, and 12.30 a.m. of the following day, notwithstanding that the following day is a Sunday, Christmas Day, Good Friday or Anzac Day, if the meal is supplied and taken in good faith, and the liquor is consumed, in a dining room on the premises;
- (ca) if the licensee obtains an entertainment permit, by virtue of section 24A (5), with or ancillary to entertainment, between the hours of 10 p.m. and midnight, on the day or days, and in the part of the premises, specified, and subject to the conditions imposed, by the permit, for consumption on the premises, only;
- (d) if the licensee obtains an occasional permit, by virtue of subsection (3), during the hours, on the day, to the persons or class of persons, and in the part of the premises, specified in the permit.

(2) The holder of a winehouse licence is required to make light meals, of such a nature as the Court may approve, continuously available for purchase and consumption on the premises, during ordinary trading hours.

(3) The provisions of section 24 (2), (3), (5), (10) and (11) apply, with such adaptations as may be necessary, to the holder of a winehouse licence.

[Section 29 amended by No. 76 of 1972 s. 10; No. 84 of 1981 s. 16; No. 22 of 1982 s. 8.]

Cabaret licence

30. (1) A cabaret licence authorizes the licensee to sell and supply liquor, on the premises, for consumption on the premises, only, with or ancillary to entertainment provided by an artist or artists, present and performing in person between the hours of 8 p.m.—

- (a) on a weekday, and 3.30 a.m. of the following day, notwithstanding that the following day is a Sunday, Christmas Day, Good Friday, or Anzac Day; and
- (b) on a Sunday falling on the 31st day of December in any year, and 3.30 a.m. of the following day.

(1a) The holder of a cabaret licence who is not a casino licensee is required to make light refreshments continuously available for purchase and consumption on the premises, between the hours during which he sells and supplies liquor under the authority of subsection (1).

(2) The Court shall not grant a cabaret licence, unless and until it is satisfied that the premises in respect of which it is sought—

- (a) provide seating accommodation that is in every respect adequate for the number of persons likely to resort to them;
- (b) are so constructed as to enable entertainment to be provided by artists, present and performing in person; and
- (c) except in the case of premises in respect of which a casino licensee seeks a cabaret licence, have sufficient and hygienic facilities for the continuous provision of light refreshments of a kind approved by the Court, during the period that the licence is in operation.

(3) The Court may impose such conditions on the granting of a cabaret licence—

- (a) except when the cabaret licence is granted to a casino licensee, as it thinks fit, including conditions defining the extent and nature of the entertainment and the light refreshments to be provided; or
- (b) when the cabaret licence is granted to a casino licensee, as are agreed by the Court and the casino licensee, including conditions defining the extent and nature of the entertainment to be provided.

[Section 30 amended by No. 112 of 1970 s. 4; No. 76 of 1972 s. 11; No. 128 of 1976 s. 9; No. 84 of 1978 s. 3; No. 84 of 1981 s. 17; No. 10 of 1985 s. 13.]

Theatre licence

31. (1) Subject to subsection (1a), a theatre licence authorizes the licensee to sell and supply liquor, on the licensed premises, during the periods of 2 hours before and 2 hours after, and during the periods of

intermissions to, a performance of which the artist or artists or performer or performers is or are present and performing, in person, for consumption on the premises only.

(1a) Nothing in subsection (1) authorizes the sale and supply of liquor between midnight and noon on any day.

(2) The Court shall not grant a theatre licence unless the premises in respect of which it is sought are theatre premises, regularly used for theatrical performances by artists or performers, in person, and unless proper facilities for the sale and supply of liquor are available on the premises.

(3) In granting a theatre licence, the Court shall specify a part of the premises, not readily accessible to persons who are not attending the performance, as that in which the liquor is to be sold, supplied and consumed.

[Section 31 amended by No. 76 of 1972 s. 12; No. 128 of 1976 s. 10; No. 84 of 1981 s. 18.]

Railway refreshment room licence

32. A railway refreshment room licence authorizes the licensee, being the lessee or tenant of a refreshment room or stand on a railway station, to sell and supply liquor, on the licensed premises,—

- (a) during such of the ordinary trading hours as commence one hour before the expected time of arrival of, and end one hour after the expected time of departure of, a passenger train or railway omnibus from the railway station; and
- (b) during hours other than ordinary trading hours, except on Good Friday, to passengers who have travelled, or are about to travel, a distance of not less than 48 kilometres from the railway station, by passenger train or railway omnibus.

[Section 32 amended by No. 94 of 1972 (as amended) s. 4 (1); No. 84 of 1981 s. 12; No. 22 of 1982 s. 5; No. 10 of 1985 s. 10.]

Packet licence

33. (1) Where a packet licence is granted for a vessel not ordinarily engaged in the business of carrying passengers occupying accommodation in the vessel overnight or for an aircraft, the licence authorizes the master or captain of the vessel or aircraft to sell and supply liquor, on the vessel or aircraft,—

- (a) during scheduled hours on any day other than Christmas Day, Good Friday or Anzac Day;
- (b) during such of the scheduled hours on Anzac Day as are after noon; and

- (c) in the case of such a vessel, if the licensee obtains a permit by virtue of subsection (4), during the hours and on the day and to the persons specified in the permit,

after the vessel has left a berth or mooring, or the aircraft has left an airport or landing ground, and has proceeded on a passage or flight, for consumption on the vessel or aircraft, before remooring or relanding, only.

(2) In this section "scheduled hours" means such hours as the Court may from time to time by endorsement on the licence specify after consideration of the operating schedule of the vessel or aircraft.

(3) Where a packet licence is granted for a vessel that is ordinarily engaged in the business of carrying passengers occupying accommodation in the vessel overnight, the licence authorizes the master of that vessel to sell and supply liquor at any time to any passenger on board the vessel for consumption on the vessel.

(4) The Court may, on the application of the proprietor of a vessel referred to in subsection (1), issue a permit authorizing the master of the vessel to sell and supply liquor as provided in subsection (1) (c), but the Court shall not issue such a permit unless it is satisfied that, during the hours on the day for which the permit is to be issued, the vessel will be engaged solely in carrying passengers having a common interest of a political, social, literary, sporting or like nature.

(5) The proprietor of a vessel or aircraft for which a packet licence is granted is the holder of the licence and the licence is not required to be transferred by reason only that the master or captain of the vessel or aircraft is changed.

[Section 33 substituted by No. 76 of 1972 s. 13.]

Restaurant licence

34. (1) A restaurant licence authorizes the licensee to sell and supply liquor, on the licensed premises,—

(a) with or ancillary to a meal, between the hours of—

(i) noon and 3 p.m., on any day other than Good Friday, and the hours of 5.30 p.m. on a weekday, and 12.30 a.m. of the following day, notwithstanding that the following day is a Sunday, Christmas Day, Good Friday or Anzac Day;

(ii) 5.30 p.m. and 10 p.m., on a Sunday or on Christmas Day, if the meal is supplied and taken in good faith and the liquor is consumed in the dining room or a reception area, on the premises, only;

(b) if the licensee obtains a lodger's permit, under subsection (2), at any time, to a lodger, in a room reserved for his private use; and

(c) if the licensee obtains an occasional permit, by virtue of subsection (4), during the hours, on the day, to the persons and in the part of the premises, specified in the permit.

(2) The Court may, on the application of the holder of a restaurant licence, if satisfied that, the licensed premises are, in fact, conducted as part, and on the premises, of a business the primary purpose of which is the supply and provision of accommodation to the travelling public and which provides accommodation for not less than 20 persons, excluding the licensee, his family and servants, on payment of the specified fee, issue to the licensee a lodger's permit, subject to such conditions as it thinks fit to impose.

(3) Unless sooner revoked, a lodger's permit remains in force for the period during which the restaurant licence in respect of which it is issued is current or for such lesser period as the Court may, on the issue of the permit, specify.

(4) The provisions of section 24 (10) apply with such adaptations as may be necessary, to the holder of a restaurant licence.

(5) The provisions of section 25 apply, with such adaptations as may be necessary, to the holder of a restaurant licence, but the licensee is not authorized to sell and supply liquor under his licence, pursuant to a caterer's permit, except in conjunction with substantial food.

Club licence

35. (1) A club licence authorizes the licensee to sell and supply liquor, on the licensed premises,—

- (a) at any time, to a member who is a lodger of the club;
- (b) to a member of the club and to his guests, not exceeding 3 in number, in his company for consumption on the premises—
 - (i) during ordinary trading hours;
 - (ii) between the hours of 10 p.m. and 12 p.m. on a weekday, other than Saturday, and on Christmas Day where it does not fall on a Sunday; and
 - (iii) between the hours of 10 p.m. on a Saturday and 1 a.m. on a Sunday, notwithstanding that it is Christmas Day or Anzac Day;
- (c) during the hours mentioned in paragraph (b), to a member of the club, in sealed containers, for consumption off the premises;
- (d) subject to subsection (1a), between the hours of 11 a.m. and 1 p.m. and between 4.30 p.m. and 6.30 p.m. on a Sunday, to a member of the club and to his guests, not exceeding 3 in number, in his company, for consumption on the premises;
- (da) during the hours mentioned in paragraph (d) or authorized pursuant to subsection (1a), to a member of the club, in sealed containers, for consumption off the premises;

(e) with or ancillary to a meal supplied and taken in good faith, between the hours of—

(i) noon and 3 p.m., on any day other than Good Friday, and the hours of 5.30 p.m., on a weekday, and 12.30 a.m. of the following day, notwithstanding that the following day is a Sunday, Christmas Day, Good Friday or Anzac Day;

(ii) 12 noon and 3 p.m. and the hours of 5.30 p.m. and 10 p.m., on a Sunday or Christmas Day,

to a member, for consumption by him and by such of his guests of whose attendance 4 hours prior notice has been given to the licensee;

(ea) if the licensee obtains a voluntary associations permit by virtue of subsection (2a), during the hours, on the day or days, and in the part or parts of the premises, specified in the permit, to members and the guests of members of the association or associations specified in the permit for consumption on the premises; and

(f) if the licensee obtains an occasional permit, by virtue of subsection (2), during the hours, on the day, and in the part of the premises, specified in the permit, to members of the club, for consumption by them and such number of guests as may be specified in the permit.

(1a) The provisions of section 24 (2) apply, with such adaptations as may be necessary, to the holder of a club licence.

(2) The provisions of section 24 (10) apply, with such adaptations as may be necessary, to the holder of a club licence; but, in deciding whether or not to grant an occasional permit, the Court shall have regard to the facilities available for the occasion and the extent to which the quiet enjoyment of the club by members may be affected by the operation of the permit.

(2a) Subject to subsection (2b), the Court may, on the application of the holder of a club licence made not later than 14 days before the day, or the first day, on which the permit is to take effect and on payment of the prescribed fee, issue to the licensee a voluntary associations permit to have effect on such day or days, excluding Sundays, Christmas Day and Good Friday, and in such part or parts of the premises, as the Court may specify, and subject to such conditions as the Court may see fit to impose.

(2b) The Court shall not grant a voluntary associations permit under subsection (2a) unless—

(a) in the opinion of the Court each voluntary association specified in the permit—

(i) is a body of persons associated together for a political, social, literary, sporting or other lawful purpose;

(ii) is well managed and imposes adequate restrictions upon the admission to membership of the association; and

(b) the Court is of opinion that the licensed premises to which the application relates are reasonably required by the voluntary association for the satisfactory conduct of its meetings and functions and that there are no premises the subject of an hotel or tavern licence otherwise available at which the meetings and functions of each voluntary association specified in the permit could be satisfactorily conducted.

(3) Except in the case of a club that has as its object, or one of its principal objects, the conduct of a prescribed competitive sport a person is deemed not to be the guest of a member of a club, unless his name and the date of his attendance has been entered in a guest book, kept by the licensee, and the entry has been subscribed by the member.

(4) In granting or renewing a club licence, the Court may, by endorsement on the licence, limit the number of persons who may be elected to membership of the club to such number as, in its opinion, is reasonable, having regard to the objects of the club and the amount and nature of the accommodation afforded, or to be afforded, by the licensed premises.

[Section 35 amended by No. 112 of 1970 s. 5; No. 128 of 1976 s. 11; No. 84 of 1978 s. 4; No. 84 of 1981 s. 19; No. 22 of 1982 s. 9.]

Temporary de-licensing of part of club premises

35A. (1) The Court may, on the application of the holder of a club licence made not later than 7 days, or such lesser period as the Court may in special circumstances allow, before the day, or the first day, on which the order is to take effect and on payment of the prescribed fee, by order exclude from the licensed premises of that club—

- (a) any specified part of the club premises;
- (b) during a specified period or specified periods in each week, month, or year or during a specified period or specified periods or a particular day or days.

(2) The Court shall not make an order under subsection (1) unless it is satisfied that the part of the licensed premises to be excluded is intended to be used during the period of exclusion only for the purpose of any function, class or activity to be attended by juveniles who have a connection or association with the club.

(3) Subject to subsection (5), the Court may, on the application of the licensee or of its own motion, vary or revoke an order under subsection (1).

(4) Subject to subsection (5), the Court may, in relation to an order under subsection (1), exercise the power of suspension in subsection (1) of section 83A and the power in subsection (3) of that section as if an order under subsection (1) of this section were a permit of a continuing nature.

(5) The Court may vary, suspend or revoke an order under subsection (1) (otherwise than on application by the licensee) only after it has given the licensee an opportunity of being heard.

[Section 35A inserted by No. 84 of 1981 s. 20.]

Store licence

36. (1) A store licence authorizes the licensee to sell and supply liquor, on the licensed premises, in sealed containers, for consumption off the premises only—

(a) between the hours of 8.30 a.m. and 8.30 p.m. on a weekday; and

(b) between 8.30 p.m. and 9 p.m. on any weekday on which—

(i) under section 85 (1) of the *Factories and Shops Act 1963*, a shop to which that section applies may be kept open until 9 p.m.; or

(ii) all shops to which section 85 (1) of the *Factories and Shops Act 1963* applies, which are in the same locality as the licensed premises, are granted a permit under section 84 (2) (b) of the *Factories and Shops Act 1963* to be kept open during that time.

(2) If the holder of a store licence obtains a late delivery permit, under subsection (3) he is authorized to supply liquor, off the premises, between the hours of 8.30 p.m. and 10 p.m., on a weekday if the liquor was sold or agreed to be sold, but not supplied, during the hours limited by subsection (1).

(3) The Court may, on the application of the holder of a store licence and, if satisfied that the nature of the business conducted on the licensed premises is such as to require the making of late deliveries of liquor sold there, on payment of the specified fee, issue to the licensee a late delivery permit, to remain in force, unless sooner revoked, for the period during which the store licence is current or for such lesser period as the Court may, on the issue of the permit, specify.

(4) Where, in any proceeding under, or by virtue of, this Act, the question arises as to whether liquor supplied pursuant to a late delivery permit was sold or agreed to be sold, during the hours limited by subsection (1), the burden of showing that it was so sold shall rest upon the licensee.

[Section 36 amended by No. 84 of 1981 s. 21; No. 20 of 1983 s. 2.]

Vigneron's licence

36A. (1) A vigneron's licence may be granted or renewed if the Court is satisfied that the applicant carries on the business of a vigneron on the premises named in the licence and is—

- (a) the occupier of such premises, being a vineyard of not less than 2 hectares of vines in full bearing or an orchard of not less than 2 hectares; or
- (b) an apiarist owning not less than 100 hives in production, the honey from which is processed on such premises.

(2) Where a person who would otherwise be eligible for the grant of a vigneron's licence satisfies the Court that the vineyard or orchard occupied by him, or the place where he processes honey, is not a convenient location for the sale of wine, a vigneron's licence may be granted to that person in respect also of other premises situate in reasonable proximity thereto and named in the licence.

(3) A vigneron's licence authorizes the licensee on and from the premises named in the licence—

- (a) to sell and supply in sealed containers wine manufactured by him, in quantities of not less than 740 millilitres, for consumption on or off the premises; and
- (b) to supply wine manufactured by him to a prospective customer as a sample without charge, for consumption on the premises,

between the following hours—

- (c) on a weekday between the hours of 8.30 a.m. and 10 p.m. or between such other hours as are specified in or endorsed on the licence; and
- (d) such hours on a Sunday as the Court may authorize under subsection (4).

(4) The Court may, on the application of the holder of a vigneron's licence, if it is satisfied that—

- (a) a demand exists for the sale and supply of wine to persons visiting vignerons' premises as tourists and sightseers on Sundays; and
- (b) that the premises are suitable for the purpose of catering to that demand,

authorize the holder of the licence to sell and supply wine as provided in paragraphs (a) and (b) of subsection (3) on a Sunday during a specified period, no part of which is outside the hours mentioned in paragraph (c) of that subsection.

[Section 36A substituted by No. 74 of 1977 s. 4; amended by No. 29 of 1978 s. 2; No. 84 of 1981 s. 22.]

Wholesale licence

37. (1) A wholesale licence authorizes the licensee to sell and supply liquor, on the licensed premises, in sealed containers in quantities of not less than 9 litres, for consumption off the premises, only.

(2) The Court shall not grant or renew a wholesale licence unless it is satisfied that the business carried on, or to be carried on, under the licence is, or will be, except where that business is or will be principally the business of the supplying of ships' stores, wholly or principally that of selling and supplying liquor to the holders of licences.

[Section 37 amended by No. 112 of 1970 s. 6; No. 76 of 1972 s. 15; No. 94 of 1972 (as amended) s. 4 (1); No. 128 of 1976 s. 39.]

Brewer's licence

38. A brewer's licence authorizes the licensee to sell and supply beer, in sealed containers, in quantities of not less than 9 litres, on the licensed premises, for consumption off the premises, only.

[Section 38 amended by No. 76 of 1972 s. 16; No. 94 of 1972 (as amended) s. 4 (1).]

Ballroom licence

38A. (1) A ballroom licence authorizes the licensee to sell and supply liquor on the licensed premises, for consumption on the premises, with or ancillary to a ball or dance being conducted on the premises, between the hours of—

- (a) 8 p.m. on a weekday, and 2 a.m. of the following day, notwithstanding that the following day is a Sunday, Christmas Day, Good Friday or Anzac Day; and
- (b) 8 p.m. and midnight on a Sunday.

(2) It is a condition of every ballroom licence that the licensee shall—

- (a) make light refreshments, of a kind approved by the Court, continuously available for purchase and consumption on the premises; and
- (b) cause dance music to be provided by a band or orchestra present and performing in person,

between the hours during which he sells and supplies liquor under the authority of subsection (1).

[Section 38A inserted by No. 84 of 1981 s. 23.]