

LIQUOR.

No. 128 of 1976.

AN ACT to amend the Liquor Act, 1970-1974.

[Assented to 2nd December, 1976.]

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:—

1. (1) This Act may be cited as the *Liquor Act Amendment Act, 1976*. Short title and citation.

(2) In this Act the Liquor Act, 1970-1974 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Liquor Act, 1970-1976.

Commence-
ment.

2. (1) Section 33 of this Act shall be deemed to have come into operation on the first day of July, 1970.

(2) Section 5 of this Act shall come into operation on the day on which this Act receives the Royal Assent.

(3) The provisions of this Act, other than sections 5 and 33 shall come into operation on such date or such dates as is or are, respectively, fixed by proclamation.

Section 6
amended.

3. Section 6 of the principal Act is amended—

- (a) by deleting the word “Nothing” in line one and substituting the passage “(1) Subject to subsection (2) of this section, nothing”;
- (b) by deleting the passage “Auctioneers Act, 1921” in paragraph (e) and substituting the passage “Auction Sales Act, 1973”; and
- (c) by adding at the end thereof the following subsection—

(2) Any person who sells liquor pursuant to the exemption provided by paragraph (h) of subsection (1) of this section shall furnish to the Court 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 7
amended.

4. Subsection (1) of section 7 of the principal Act is amended—

- (a) by deleting the interpretation “licensed premises” and substituting the following interpretation—

“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; ; and

(b) by adding after the words “Fourth Schedule” in lines three and four of the interpretation “specified fee” the words “or in the regulations”.

5. Section 10 of the principal Act is amended— Section 10 amended.

(a) by deleting the word “Every” in line one of subsection (2) and substituting the passage “Subject to subsection (2a) of this section, every”; and

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

(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 eight years' standing, he may be so appointed for a term not exceeding seven 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. .

Section 23
amended.

6. Subsection (1) of section 23 of the principal Act is amended by deleting the words "spirit merchant's" in paragraph (m).

Section 25
amended.

7. Section 25 of the principal Act is amended—

- (a) by adding after the words "hotel licence" in line two of subsection (1), the words "or a tavern licence";
- (b) by adding after the words "hotel licence" in line two of subsection (2) the words "or a tavern licence";
- (c) by adding after the words "seven days" in line three of subsection (2) the passage ", or such lesser period as the Court in special circumstances may allow,"; and
- (d) by adding after the words "hotel licence" in line three of subsection (4) the passage "or tavern licence, as the case requires,".

Section 26
amended.

8. Section 26 of the principal Act is amended by adding after paragraph (b) of subsection (1) the following paragraph—

- (ba) with or ancillary to a meal supplied by the licensee, between the hours of—
 - (i) ten in the evening, on a weekday, and half-past twelve in the morning of the following day, notwithstanding that the following day is a Sunday, Christmas Day, Good Friday or Anzac Day;
 - (ii) twelve noon and three in the afternoon and the hours of half-past five in the afternoon and ten in the evening, 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; .

9. Subsection (1) of section 30 of the principal Act is amended by adding immediately before the word "artists" the words "an artist or".

Section 30
amended.

10. Section 31 of the principal Act is amended—

Section 31
amended.

- (a) by deleting the word "A" being the first word in subsection (1) and substituting the passage "Subject to subsection (1a) of this section, a";
- (b) by deleting the words "one hour before and one hour after" in subsection (1) and substituting the words "two hours before and two hours after";
- (c) by deleting the words "the artists or performers are" in subsection (1) and substituting the passage "the artist or artists or performer or performers is or are"; and
- (d) by adding after subsection(1) the following subsection —

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

11. Section 35 of the principal Act is amended—

Section 35
amended.

- (a) by deleting the passage "subsection (2)" in line one of paragraph (d) of subsection (1) and substituting the passage "subsections (1a) and (1b)";

(b) by deleting the word “and” appearing immediately after paragraph (e) of subsection (1);

(c) by adding after paragraph (e) of subsection (1) the following paragraph—

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

(d) by adding after subsection (2) the following subsections—

(2a) Subject to subsection (2b) of this section, the Court may, on the application of the holder of a club licence made not later than fourteen 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) of this section 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 licence otherwise available at which the meetings and functions of each voluntary association specified in the permit could be satisfactorily conducted.

12. Section 39A of the principal Act is amended—

Section 39A
amended.

- (a) by deleting the word “three” in line thirteen of subsection (1) and substituting the word “seven”; and
- (b) by adding after subsection (1) the following subsection—

(1a) The Court shall cause a copy of any application made by the Association for the grant of a licence under this section to be given to the Minister and the Court shall, when considering the application, take into account such recommendations, if any, as may have been made to it by the Minister in connection with the application.

13. Subsection (2) of section 42 of the principal Act is amended—

Section 42
amended.

- (a) by adding after the words “tavern licence”, where first occurring in the subsection the passage “, a winehouse licence, an Australian wine licence”; and

- (b) by deleting the words “twenty-four kilometres” and substituting the words “eight kilometres”.

Section 43
amended.

14. Subsection (3) of section 43 of the principal Act is amended—

- (a) by adding after the words “winehouse licence” where first occurring in the subsection the passage “, an Australian wine licence”;
- (b) by deleting the passage “a winehouse licence,” in paragraph (a);
- (c) by deleting the words “twenty-four kilometres” in paragraph (a) and substituting the words “eight kilometres”; and
- (d) by adding after paragraph (a) the following paragraph—
 - (aa) the liquor to be supplied pursuant to the permit is obtained by, or made available to, the permit holder by a body or organisation (not being a manufacturer or producer of liquor) of which the sole or a principal object is the promotion of one or more types or varieties of Australian produced liquor; .

Section 51
amended.

15. Section 51 of the principal Act is amended—

- (a) by adding at the end of paragraph (b) of subsection (2) the passage “and when so displayed shall be of such size and specifications as is prescribed by regulations made under the provisions of section 177” ; and
- (b) by deleting the word “entertain” in line one of subsection (5) and substituting the word “hear”.

16. The principal Act is amended by adding after section 54 the following new section—

Section 54A
added.

54A. Where—

Special
provisions
relating to
certain
applica-
tions for
the varia-
tion of
licensed
premises.

- (a) an application or proposal for a variation or for the extension in area of licensed premises is submitted to the Court; and
- (b) the Court is of opinion that the variation or extension sought is of such a nature that it is reasonable that persons who might have objected to the grant of a licence for the premises or a provisional certificate for such a licence ought to be able to similarly object to the application or proposal for the variation or extension of the licensed premises,

the Court shall so order, and thereupon—

- (c) the provisions of subsection (1), paragraphs (b) and (c) of subsection (2), and paragraph (b) of subsection (4) of section 51, paragraphs (a), (b) and (d) of section 52, subsection (2) of section 53 and section 54 shall apply, subject to such modifications and adaptations as the Court thinks necessary in the circumstances, to and in relation to the application or proposal; and
- (d) the provisions of this Act relating to objections to the granting of licences or provisional certificates for licences shall apply with such modifications and adaptations as may be necessary to and in relation to the hearing and determining of the application or proposal.

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

Section 54B
added.

54B. (1) Where an application made for the grant of a licence or a provisional certificate for a licence has been refused by the Court on

Court not
to consider
certain
applica-
tions for
licences.

the grounds that the reasonable requirements of the affected area do not justify the granting of the licence or certificate, the Court shall refuse to hear or determine any other application for the same type of licence or certificate made within the period of twelve months immediately succeeding the date on which the first-mentioned application was made if in the opinion of the Court the affected area in relation to the second-mentioned application is substantially the same as that specified by the Court in relation to the first-mentioned application.

(2) In this section "licence" means an hotel licence, a tavern licence, a winehouse licence, a club licence or a store licence. .

Section 55
amended.

18. Subsection (3) of section 55 of the principal Act is amended by adding after the word "person" in line one the passage ", not being the Court,".

Section 57
amended.

19. Subsection (2) of section 57 of the principal Act is amended by adding after subparagraph (i) of paragraph (a) the following subparagraph—

(ia) that the granting of the application may reasonably be expected to lead to the creation of substantial economic hardship to a licensee or licensees in the affected area; .

Section 62
amended.

20. Section 62 of the principal Act is amended—

- (a) by deleting the passage " , on payment of the specified fee," in lines six and seven of subsection (1);
- (b) by deleting the passage "on payment of the specified fee," in lines six and seven of subsection (2); and
- (c) by repealing subsection (6).

21. Section 63 of the principal Act is amended—

Section 63
amended.

(a) by deleting paragraph (a) of subsection (1) and substituting the following paragraph—

(a) the population of the affected area or the number of persons resorting to or passing through the affected area is sufficient to warrant the granting of the licence; ;

(b) by deleting the passage “, there”, appearing at the end of subsection (1); and

(c) by adding at the end thereof the following subsections—

(4) For the purposes of subsection (3) of this section but subject to subsection (5) of this section, where the Court is satisfied on application made by the holder of an hotel licence, that by reason of seasonal or periodical fluctuations in the demand for residential accommodation at the hotel the subject of the licence, it is reasonable that the amount of residential accommodation required to be provided by the holder of the licence should not be the same during the whole of the period for which the licence is issued, but should vary during different parts of the period, the conditions imposed pursuant to subsection (3) of this section in relation to the provision of residential accommodation may provide accordingly.

(5) The Court shall not impose conditions referred to in subsection (4) of this section with respect to an hotel a licence for which has not previously been subject to such conditions unless—

(a) it is satisfied that notice of the making of the application has been given to the Department of Tourism referred to in the

Tourist Act, 1973, the council of the municipality in which the hotel is situated, and such other persons as the Court considers have a sufficient interest in the provision of accommodation in the area in which the hotel is situated;

- (b) not less than twenty-eight days have elapsed since the service of all of the notices referred to in paragraph (a) of this subsection; and
- (c) it has afforded each person on whom such a notice has been served a reasonable opportunity to appear and be heard on the application.

Section 63A
added.

22. The principal Act is amended by adding after section 63 the following section—

63A. Notwithstanding any other provision of this Act, where—

- (a) an application is made for the grant of a licence;
- (b) all or part of the premises and land to which the application relates are already the subject of a different type of licence which is to be surrendered if the application is granted,

the Court may, if it thinks fit, order that all or any of the requirements of paragraphs (a) and (b) of subsection (4) of section 51, paragraphs (c) and (d) of section 52, section 53 and section 59 shall not apply to or in relation to the making, hearing and determining of the application.

Certain
formalities
may be
dispensed
with in
respect
of the
granting of
licences
when
another
licence
is to be
surrendered.

23. Section 64 of the principal Act is amended— Section 64 amended.

- (a) by deleting paragraph (a) of subsection (1) and substituting the following paragraph—
 - (a) the population of the affected area or the number of persons resorting to or passing through the affected area is sufficient to warrant the granting of the licence; ;
- (b) by deleting the words “in the affected area” in lines two and three of paragraph (b) of subsection (1);
- (c) by adding the word “affected” immediately before the word “area” in line four of paragraph (b) of subsection (1);
- (d) by deleting the words “in the affected area” in line three of subsection (2); and
- (e) by adding the word “affected” immediately before the word “area” in line five of subsection (2).

24. Subsection (3) of section 69 of the principal Act is amended by adding after the word “club” in line two of paragraph (b) the passage “, other than honorary members,”. Section 69 amended.

25. Subsection (1) of section 71 of the principal Act is amended— Section 71 amended.

- (a) by deleting paragraph (a) and substituting the following paragraph—
 - (a) the population of the affected area or the number of persons resorting to or passing through the affected area is sufficient to warrant the granting of the licence; ; and
- (b) by deleting the passage “, there”, appearing at the end of the subsection.

Section 88
amended.

26. Section 88 of the principal Act is amended by adding at the end thereof the following subsection—

(5) All or any of the provisions of this section may, in any case where the Court is of opinion that the circumstances so warrant, be declared by the Court to apply to and in relation to the holder of a provisional certificate, subject to such modification or terms and conditions or both as the Court may order.

Section 118
amended.

27. Subsection (2) of section 118 of the principal Act is amended by deleting the words “or emblem” in line one.

Section 120A
added.

28. The principal Act is amended by adding after section 120 the following new section—

Closing of
premises in
case of
riot, civil
disorder,
etc.

120A. (1) Where the senior member of the Police Force for the time being on duty at any place has reasonable grounds for believing that—

- (a) a riot, tumult or civil disorder is occurring or is likely to occur in or about that place; and
- (b) in the interests of maintaining the peace it is or may be necessary for one or more licensed premises at or in the vicinity of that place to be closed,

he may order or direct the licensee of any licensed premises situated at or in the vicinity of the place concerned, to close his licensed premises for such time as is thought fit by the said member of the Police Force.

(2) Any licensee of licensed premises who fails to keep his licensed premises closed as required by the terms of an order or direction given pursuant to subsection (1) of this section commits an offence.

Penalty: Five hundred dollars.

(3) It is not an offence against subsection (2) of this section for a licensee to permit a lodger at his premises or other person to enter the premises for a purpose other than the obtaining of liquor if, during the period when the order or direction is in force, liquor is not supplied to that lodger or other person. .

29. Section 121 of the principal Act is amended— Section 121
amended.

- (a) by deleting the words “in the form prescribed by the regulations” in line three of subsection (1) and substituting the words “in a form acceptable to the Court”; and
- (b) by deleting the word “The” in line one of subsection (2) and substituting the passage “Except where the Court has authorised the licensee to maintain the register in some other manner, either generally or in a particular case or class of cases, the”.

30. Subsection (2) of section 128 of the principal Act is amended by adding after the passage “at his request,” in line six the passage “or is sold and supplied to the holder of a function permit or an unlicensed club permit in a case where, pursuant to subsection (2) of section 42 or subsection (3) of section 43, the holder of the permit is not required to purchase the liquor to be sold and supplied pursuant to the permit from the holder of an hotel licence, a tavern licence, a winehouse licence, a store licence or an Australian wine licence,”. Section 128
amended.

31. Section 129 of the principal Act is amended— Section 129
amended.

- (a) by deleting paragraph (d) of subsection (1); and
- (b) by adding after subsection (1) the following subsection—
 - (1a) Every person who, being or being known to be drunken, violent, quarrelsome or disorderly, refuses or

fails to leave licensed premises, having been requested by the licensee or a servant or agent of the licensee or a member of the Police Force to leave the premises, or, having left the premises, re-enters them within twelve hours after being requested to leave, commits an offence.

Penalty—One hundred dollars or imprisonment for six months. .

Section
129AA
added.

32. The principal Act is amended by adding immediately after section 129 the following section—

Court may
order
persons not
to resort
to licensed
premises.

129AA. (1) Where a person has been convicted of an offence against subsection (1a) of section 129 or of any other offence against any law of the State which was committed in or in the vicinity of licensed premises and of which an assault or violent or disorderly conduct is an element, the court convicting the person may, in addition to any other penalty which it imposes in respect of the commission of the offence, order, provided that it is satisfied, where the person has been convicted of an offence other than against subsection (1a) of section 129, that the consumption of alcohol by that person has been a contributing factor to the commission of the assault or the violent or disorderly conduct, that the person be prohibited from entering licensed premises for such period, not exceeding twelve months from the date of the conviction, as it specifies.

(2) Subject to the succeeding provisions of this section, a person who enters licensed premises at any time when he is prohibited from so doing by order made by a court pursuant to subsection (1) of this section, commits an offence.

Penalty—Two hundred dollars or imprisonment for twelve months.

(3) It is not an offence for a person in respect of whom an order has been made under subsection (1) of this section to enter licensed premises being licensed premises the subject of a limited hotel licence or a packet licence for the purposes of obtaining accommodation or food or undertaking a journey if, while on those premises, the person does not consume liquor. .

33. Section 159 of the principal Act is amended by adding after subsection (1) the following subsection—

Section 159
amended.

(1a) For the purposes of paragraph (a) of subsection (1) of this section, liquor purchased by the holder of an hotel licence or a tavern licence for sale pursuant to a caterer's permit held by the holder of the licence shall be deemed to have been purchased for the premises to which the hotel or tavern licence relates. .

34. Section 160 of the principal Act is repealed.

Section 160
repealed.

35. Subsection (1) of section 164 of the principal Act is amended by substituting for the words "set out in the Fourth Schedule" the words "specified by the regulations".

Section 164
amended.

36. Section 170 of the principal Act is amended by adding after subsection (2) the following subsection—

Section 170
amended.

(2a) Where there is any change in the ownership of any licensed premises the person or persons who have become the owner or owners shall, within seven days of the change, give notice thereof in the prescribed form to the principal clerk. .

Section 177
amended.

37. Subsection (2) of section 177 of the principal Act is amended—

(a) by adding after paragraph (a) the following paragraph—

(aa) specifying fees for the purposes of section 164; ; and

(b) by deleting paragraph (c).

Fourth
Schedule
amended.

38. The Fourth Schedule to the principal Act is amended by deleting items 2, 3, 4 and 5.

Miscellan-
eous
amend-
ments.

39. The principal Act is amended as set out in the Schedule to this Act.

THE SCHEDULE

Provision amended	Amendment
Section 7(1)	Delete "spirit merchant's" in the interpretation "bar".
Section 37(1)	Delete "spirit merchant's" in line one.
Section 37(2)	Delete "spirit merchant's" in line two.
Section 51(2)(b)	Delete "spirit merchant's" in line four.
Section 94(4)	Delete "spirit merchant's" in line three.
Section 123(3)	Delete "spirit merchant's" in line two.
Section 159(1)(a)	Delete "spirit merchant's" in line two.
Section 159(1)(b)	Delete "spirit merchants" in lines one and two.
Section 161(1)	Delete "spirit merchant's" in line two.
Section 161(2)	Delete "spirit merchant's" in line four.
Section 163(1)	Delete "spirit merchant's" in line two.

THE SCHEDULE—*continued.*

Provision amended	Amendment
Section 163(2)	Delete "spirit merchant's" in line one.
Section 163(2)(a)	Delete "spirit merchant's" in lines three and four.
Second Schedule	Delete "spirit merchant's" appearing in item nine of column two.
Fourth Schedule	Delete "spirit merchant's" in item 1.
