

LICENSING.

No. 54 of 1967.

AN ACT to amend the Licensing Act, 1911-1965.

[Assented to 5th December, 1967.]

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 *Licensing Act Amendment Act, 1967.*

Short title
and
citation

(2) In this Act the Licensing Act, 1911-1965, is referred to as the principal Act.

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1966.

(3) The principal Act as amended by this Act may be cited as the Licensing Act, 1911-1967.

S. 5
amended.

2. Section five of the principal Act is amended—

- (a) by adding at the end of the interpretation, “owner”, the passage, “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;” ;
- (b) by adding, after the interpretation, “prescribed”, the following interpretation—

“Principal Receiver of Revenue” means the officer for the time being charged with the duty of receiving moneys paid pursuant to section seventy-three or two hundred and one of this Act; ; and
- (c) by deleting the passage, “(except when used in section seventy-three of this Act)”, in lines one and two of the interpretation, “receiver of revenue”.

S. 21
amended.

3. Section twenty-one of the principal Act is amended by substituting for the words, “are present the application or matter shall be adjourned”, in lines four and five of subsection (6), the passage, “have heard the application or matter, the record of the proceedings (including all submissions and argument) shall, thereupon, be referred to the third licensing magistrate who shall record his decision thereon, and the application or matter shall be determined accordingly”.

S. 33
amended.

4. Section thirty-three of the principal Act is amended—

- (a) by inserting after the word “waters” in line four of subsection (3) the word “cordials”;
- (b) by substituting for the words “and tobacco” in line five of subsection (3) the words “tobacco and matches”;

- (c) by adding, immediately after the word, "sale", being the last word in subsection (3), the passage, ", except in conformity with a permit granted under section thirty-three A of this Act";
- (d) by adding, immediately after the word, "compartments", in lines seven and eight of subsection (6), the passage, ", unless pursuant to a permit granted under section thirty-three A of this Act";
- (e) by adding, immediately after the word, "tobacco", in line eight of subsection (7), the words, "or except in conformity with a permit granted under section thirty-three A of this Act"; and
- (f) by repealing subsection (10) and re-enacting it, as follows—

(10) The provisions of subsection (1) of section one hundred and eighteen of this Act, relating to the supply of liquor by license holders, apply, with such adaptations as are necessary, to the supply of wine by the holder of an Australian wine license.

5. The principal Act is amended by adding, after section thirty-three, the following section—

33A. (1) Upon the application of the holder of an Australian wine license, the Court may, in its absolute discretion and subject to such conditions as it may, in a particular case, see fit to impose, grant to the licensee a permit to serve light meals of a kind, and on a part of the licensed premises, in each case approved by the Court and specified in the permit.

S. 33A
added.

Light
meals on
premises
subject of
Australian
wine
license.

(2) The provisions of paragraphs (a) and (b) of subsection (1) of section forty-eight of this Act apply to applications for a permit under this section.

(3) The Court may sit to hear an application for a permit under this section at any time or times that the Chairman appoints.

(4) The Court shall not grant a permit pursuant to this section, unless it is satisfied that—

- (a) the part of the licensed premises in respect of which the permit is sought is suitable for the purpose;
- (b) there are, on the licensed premises, all necessary and proper facilities for the preparation and service of light meals of the kind for which the permit is sought; and
- (c) there is a reasonable need, in the locality, for the service of the kind for which the permit is sought.

(5) A permit granted under this section shall, unless sooner revoked, remain in force until the end of the period in respect of which the license was granted and the Court may upon the application of the licensee renew the permit if and when renewing the license.

(6) The fee for the issue and for the renewal of a permit under this section is four dollars.

(7) A permit granted pursuant to this section does not authorise the licensee to have or keep his licensed premises open to the public at any time before or after that during which wine may be lawfully sold on the premises.

(8) A person who contravenes any condition to which the granting of a permit is subject or who serves light meals contrary to any specification in a permit commits an offence and the Court may, without affecting the penalty to which a person is liable under this subsection, revoke the permit.

Penalty: For a first offence, one hundred dollars, and, for any subsequent offence, two hundred dollars.

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

S. 44D
amended.

(3) Notwithstanding the provisions of the proviso to subsection (1) of this section, if the Court, after due inquiry, is satisfied that, by reason of the operations of the company on behalf of which the application is made, it is unreasonable or impracticable to require the premises in respect of which a canteen license is sought to be situate in conformity with that proviso, then, the Court may, subject to the other provisions of this Act relating to canteen licenses, grant a canteen license in respect of premises that are situate within twenty miles of premises the subject of a publican's general license or a wayside house license.

(4) Subsection (3) of this section shall continue in operation until the thirty-first of December, nineteen hundred and sixty-nine and no longer; and every canteen license granted by reason only of the operation of that subsection shall, after that date, cease to have effect. .

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

S. 44G
amended.

- (a) by adding, immediately after the word, "license", where appearing—
- (i) in line four of subsection (1);
 - (ii) in line six and in line eight of subsection (3);
 - (iii) in line four of subsection (4);
 - (iv) in line two of item (I), and in line three of item (II), of subparagraph (ii) of paragraph (a) of subsection (6); and
 - (v) in line five of subsection (8), the words, "or Australian wine license", in every case; and

- (b) by substituting for the words, "any liquor", in line five of subsection (6), the passage, "in the case of premises that are the subject of a publican's general license, any liquor, and, in the case of premises that are the subject of an Australian wine license, any liquor that may be sold and disposed of under such a license,".

S. 44H
amended.

8. Section forty-four H of the principal Act is amended by adding, immediately after the word, "license", where appearing in lines five, ten and thirteen of subsection (1), the words, "or Australian wine license", in every case.

S. 46
amended.

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

(a) as to subsection (1)—

- (i) by deleting paragraph (a);
- (ii) by substituting for the word, "on", where appearing in line three of paragraph (b) and in line two of paragraph (c), the word, "from", in each case;
- (iii) by adding immediately after the word, "wine", in line one of the proviso, the passage, ", cider or perry"; and
- (iv) by substituting for the passage, "prohibited.", being the concluding passage of the subsection, the following passage—
- prohibited; and
- (iv) is not sold for the purpose of being resold on other premises, except such as are licensed

premises or another vineyard or orchard, and is not delivered from any premises other than the vineyard or orchard on which it is manufactured.

- (b) as to subsection (2), by adding, immediately after the word, "purposes", in the last line of paragraph (e), the passage, ", pursuant to the prescription of a legally qualified medical practitioner";
- (c) as to subsection (3), by adding, immediately after the numerals, "1904", in line three, the passage, ", with respect to railway refreshment rooms"; and
- (d) by adding, after subsection (4), the following subsection—

(5) Notwithstanding any other provision of this Act, the Commissioner of Railways, may from time to time, grant to an officer employed by him or employed by the Commonwealth Railways Commissioner, a license for the sale of liquor in and from a railway dining car or buffet car, for consumption on the train only, for a period not exceeding one year from the date of the license, and may, from time to time renew, and at any time cancel, any such license; and a person so licensed may, during the currency of the license, upon such terms and conditions, and subject to such restrictions, as may be prescribed by by-laws made under the Government Railways Act, 1904, and subject to sections one hundred and forty-one and one hundred and forty-seven of this Act, sell and dispose of liquor in a railway dining car or buffet car, for consumption on the train only. .

S. 47
amended.

10. Section forty-seven of the principal Act is amended by adding, immediately after the word, "license", being the last word in subsection (8), the passage, ", but an applicant for any such license shall publish a copy of his application in a newspaper circulating in the district, at least fourteen clear days before the hearing of the application".

S. 51A
amended.

11. Section fifty-one A of the principal Act is amended by adding, after subsection (2), the following subsection—

(2a) Where an order has been made under subsection (1) of this section against an owner who is the vendor of the licensed premises under a contract of sale, if that owner is not in possession pursuant to any right of re-entry under the contract and has carried out the work, the sale price of the premises under the contract is, by operation of this section, increased by the total amount properly expended by the vendor in carrying out the work and the contract is deemed to be varied accordingly.

S. 51B
amended.

12. Section fifty-one B of the principal Act is amended by adding, immediately after the word, "license", in line five of subsection (1), the passage, ", a limited hotel license or a wayside-house license".

S. 51D
amended.

13. Section fifty-one D of the principal Act is amended—

(a) by adding, after subsection (4), the following subsection—

(4a) Notwithstanding any other provision of this section and in any event, the Court may withhold the making of a grading, or may from time to time vary or rescind any grading made, in respect of an hotel. ;

(b) by substituting for the word, "determination", in line three of subsection (5), the word, "grading"; and

(c) by adding, after subsection (5), the following subsection—

(6) A person who,—

(a) being the owner or licensee of an hotel, falsely represents, whether by word, sign or other means, that the hotel has been graded, or, having been graded, is graded as of a higher class than that in which it was graded, by the Court; or

(b) being the owner or occupier of unlicensed premises in which lodging or accommodation is offered or given for reward, falsely represents, whether by word, sign or other means, that the lodging or accommodation has been graded under, or by any such means represents that it conforms to, a system of grading determined by the Court,

commits an offence.

Penalty: One hundred dollars. .

14. Section fifty-nine of the principal Act is amended by repealing subsection (1) and re-enacting it with amendments, as follows—

S. 59
amended.

(1) Subject to subsection (8) of this section, a licensee requiring to remove his license from the licensed premises to some other premises shall apply to the Court for an order of removal and shall give notice of his intention to apply in the form in the Eighth Schedule to this Act, in the same manner as notice is required to be given by subsection (1) of section forty-eight of this Act, and shall publish a copy of the notice in a newspaper circulating in the district, at least fourteen clear days before the hearing of the application; but, where the intention is to remove the license to premises that have not been erected, paragraph (a) of the last mentioned subsection shall not apply. .

S. 61
amended.

15. Section sixty-one of the principal Act is amended by adding, after the word, "license", in line four of subsection (1), the passage, ", restaurant license".

S. 68
amended.

16. Section sixty-eight of the principal Act is amended, as to subsection (1),—

- (a) by deleting the words, "to the applicant", in line one of paragraph (a); and
- (b) by substituting for the words, "receiver of revenue", in line one of paragraph (b), the passage, "Principal Receiver of Revenue and to the Court, at Perth,"

S. 73
amended.

17. Section seventy-three of the principal Act is amended by adding, immediately after the word, "the", where occurring—

- (a) in line twenty-seven of subsection (1);
- (b) in line three of subsection (1a);
- (c) in line five of subsection (1b);
- (d) in line ten and in line eighteen of subsection (2);
- (e) in line ten and in line seventeen of subsection (3);
- (f) in line three and, secondly, in line eight of subsection (4);
- (g) in line two of subsection (5);
- (h) in line two of subsection (6);
- (i) in line five and in line ten of subsection (6a); and
- (j) firstly, in line nine of subsection (6b),
the word, "Principal", in every case.

S. 73B
amended.

18. Section seventy-three B of the principal Act is amended by adding, immediately after the word, "the" in line eight of subsection (1), the word, "Principal".

19. Section one hundred and sixteen of the principal Act is repealed and re-enacted with amendments, as follows—

S. 116
repealed and
re-enacted.

116. (1) Every licensee shall cleanse, disinfect and keep in good sanitary condition every part of the licensed premises and all accommodation, facilities and buildings appurtenant to the premises, to the satisfaction of an inspector and shall, at the direction of a qualified inspector, carry out such minor repairs to the premises and all accommodation, facilities and buildings appurtenant to the premises as may, in the opinion of the qualified inspector, be necessary.

Licensee to
cleanse and
repair.

(2) A licensee who is aggrieved by any requirement or direction of an inspector made known or given pursuant to subsection (1) of this section may, within fourteen days after the requirement is made known or the direction is given, submit his objections thereto to the Court; and the Court may uphold, vary or set aside the requirement or direction, as it thinks fit.

(3) A requirement made known or a direction given pursuant to subsection (1) of this section shall be in writing and, where a licensee refuses or neglects to comply with any such requirement or direction that has not been set aside by the Court or with any such requirement or direction as varied by the Court, the Court may direct the licensed premises to be closed and suspend the license until the licensee has complied with the requirement or direction or the Court may, in its discretion, impose on the licensee a penalty not exceeding fifty dollars.

(4) In this section—

“qualified inspector” means an inspector who is the holder of a qualifying certificate of competency as an inspector under the Health Act, 1911;

“minor repair” means an item of repair or reinstatement of which the reasonable cost does not exceed two hundred dollars. .

S. 118
amended.

20. Section one hundred and eighteen of the principal Act is amended—

- (a) by adding immediately after the word, “lodging” in line six of subsection (1), the passage, “, whether the refusal is at or about the time when the food, refreshment, liquor or lodging is sought or at the time when it is sought to make a reservation in advance”; and
- (b) by substituting for the words, “tariffs for”, in line four of subsection (3), the passage, “the nature of, and tariffs for,”.

S. 122
amended.

21. Section one hundred and twenty-two of the principal Act is amended by substituting for the words, “the liquor”, in line nine of subparagraph (iii) of paragraph (c) of subsection (2), the word, “beer”.

S. 123
amended.

22. Section one hundred and twenty-three of the principal Act is amended.

- (a) by adding, immediately after the word, “him”, in the last line line of subsection (2), the words, “and such further particulars as may be prescribed”; and
- (b) by adding, after the word, “by”, in line three of paragraph (b) of subsection (6), the passage, “, or prescribed under,”.

S. 134B
amended.

23. Section one hundred and thirty-four B of the principal Act is amended—

- (a) by adding, after subsection (5) the following subsection—

(5a) Where an objection succeeds on any ground mentioned in subsection (3) of this section, except that in paragraph (c), the Court may make an order prohibiting the bringing of liquor onto,

and the consumption of liquor on, any other unlicensed premises in the district then, or subsequently, occupied by the occupier of the unlicensed premises that are the subject of the objection. ;

- (b) by adding after the word, "such" in line seven of subsection (6) the passage, "period, not exceeding twelve months, between such";
- (c) by adding, after the word, "sections", in line one of subsection (9), the passage, "fifty-four, fifty-five," ;
- (d) by adding, after subsection (9), the following subsection—

(9a) The occupier of unlicensed premises that are subject to an order made under subsection (5) of this section may, after giving notice to the objector at whose instance the order was made, apply to the Court for the variation of the conditions of a permit to which the premises are subject or for the rescission of the order; and the Court, after giving all parties an opportunity of being heard, may, as the case may require, vary the conditions of the permit or, where the applicant—

- (a) being the occupier when the order was made, satisfies the Court that the premises have, for a period of at least six months since the making of the order, been so managed and the business thereon so conducted as to warrant the premises being no longer subject to the order; or
- (b) satisfies the Court that he is, in fact, a new occupier of good character and that the premises will be so managed and the

business thereon so conducted as to warrant the premises being no longer subject to the order,

may rescind the order. ;

and

- (e) by adding after the word, "permit" in line one of subsection (11), the words, "or the renewal of a permit".

S. 177
amended.

24. Section one hundred and seventy-seven of the principal Act is amended by substituting for paragraph (c) of subsection (1) the following paragraph—

- (c) fails to maintain the premises and the accommodation thereof at a standard that is reasonable, having regard to the type of license applying to the premises, the part of the State in which the premises are situated and the reasonable requirements of the public in that part of the State; .

S. 190
amended.

25. Section one hundred and ninety of the principal Act is amended,—

(a) as to subsection (1), by substituting—

- (i) for the words, "applying for the same", in lines one and two of paragraph (a), the words, "the commencement of the sitting at which the application is to be heard";
- (ii) for the word, "preceding", in lines two and three of paragraph (b), the words, "before filing notice of"; and
- (iii) for the words, "time of making", in line one of paragraph (c), the words, "hearing of"; and

- (b) as to subsection (2), by substituting for the words, "Such application", in line one the passage, "The notice mentioned in paragraph (a) of subsection (1) of this section".

26. Section one hundred and ninety A of the principal Act is amended by substituting for the words, "making the conditional application" in lines one and two of subsection (2), the words, "the commencement of the sitting at which the conditional application is to be heard".

S. 190A
amended.

27. The principal Act is amended by adding, after section two hundred, the following section—

S. 200A
added.

200A. A club may, by resolution duly passed at a general meeting of members convened in accordance with the rules of the club or, where there are no members, at the requirement of a majority of the trustees of the club, surrender its certificate of registration. .

Surrender of
certificate.

28. Section two hundred and one of the principal Act is amended by adding after the word, "is", in line two of subsection (6), the passage, "surrendered,".

S. 201
amended.

29. Section two hundred and sixteen of the principal Act is amended by substituting for the word, "pounds", being the last word in the section, the word, "dollars".

S. 216
amended.
