

LICENSING.

12° Elizabeth II., No. XX.

No. 20 of 1963.

AN ACT to amend the Licensing Act, 1911-1962.

[Assented to 6th November, 1963.]

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, 1963*. Short title and citation.

(2) In this Act the Licensing Act, 1911-1962, is referred to as the principal Act. Vol. 14 of the Reprinted Acts. Approved for reprint, 3rd June, 1960, and amended by Acts Nos. 17 of 1960, 73 of 1960, 53 of 1961, 59 of 1962, 64 of 1962 and 66 of 1962

(3) The principal Act as amended by this Act may be cited as the Licensing Act, 1911-1963.

S. 72
amended.

2. Section seventy-two of the principal Act is amended—

- (a) by inserting after the word, “thereof” in line four of subsection (4), the words, “and of the assessed annual fee payable in respect thereof”; and
- (b) by adding after subsection (5) the following subsection—

(6) When any license authorising the sale of liquor is suspended, surrendered or forfeited, the Treasurer may refund to the licensee such part of the annual fee paid by him as is proportionate to the period for which that license was suspended or by reason of its surrender or forfeiture ceased to be in force.

S 73
amended.

3. (1) Section seventy-three of the principal Act is amended—

- (a) by substituting for subsections (1) and (1a) the following subsections—

(1) Save as otherwise expressly provided by this Act, every licensee (other than the holder of a spirit merchant's license or a brewer's license) shall on or before the thirty-first day of January, one thousand nine hundred and sixty-three, as regards the period of six months ending the thirty-first day of December, one thousand nine hundred and sixty-two, and thereafter—

- (a) if his licensed premises are situated south of the twenty-sixth parallel of south latitude, on or before the thirty-first day of January in every year, as regards the period of twelve

months ending the thirty-first day of December next preceding that day; and

- (b) if his licensed premises are situated elsewhere than in paragraph (a) of this subsection referred to, on or before the thirty-first day of July, one thousand nine hundred and sixty-three, as regards the period of six months ending the thirtieth day of June, one thousand nine hundred and sixty-three, and thereafter on or before the thirty-first day of July in every year, as regards the period of twelve months ending the thirtieth day of June next preceding that day,

furnish to the Receiver of Revenue a return in writing signed by him, or by a person authorised by him in that behalf, setting forth—

- (i) the quantities of the various kinds of liquor purchased (excluding liquor purchased but still in bond) for the licensed premises during that period; and
- (ii) the gross amount paid or payable (including all duties but not any costs of carriage within the State to the licensed premises) for liquor wherever purchased for the licensed premises during that period; and
- (iii) the names and addresses of the persons who sold or supplied the various kinds of liquor purchased during that period.

(1a) Every licensee to whom subsection (1) of this section applies shall, notwithstanding the provisions of subsection (14) of this section, pay to the Receiver of Revenue as an annual fee for a license—

- (a) for the year commencing on the first day of January, one thousand nine hundred and sixty-three, a sum calculated on the gross amount paid or payable for the liquors purchased for the licensed premises during the period of twelve months ending the thirty-first day of December, one thousand nine hundred and sixty-two; and
- (b) for any other year, whenever commencing, a sum calculated on the gross amount paid or payable for the liquors purchased for the licensed premises during the period of twelve months immediately preceding the date of commencement of that year,

equal to five and one-half per centum of that gross amount, and shall pay that sum in two moieties the first being payable on the furnishing of the return pursuant to subsection (1) of this section and the other within a period of six months thereafter, less in the case of each moiety, one-half of the minimum annual fee paid on the issue of the license.

(1b) Notwithstanding the provisions of subsection (1a) of this section, a licensee to whom subsection (1) of this section applies, if his licensed premises are situated elsewhere than south of the twenty-sixth parallel of south latitude, shall pay to the Receiver of Revenue as

the license fee for the year that commenced on the first day of July, one thousand nine hundred and sixty-two—

- (a) in respect of the first half of that year, a sum assessed in accordance with the provisions of subsection (1) of this section as those provisions existed immediately prior to the commencement of the Licensing Act Amendment Act, 1962, on the amount paid or payable for the liquors purchased for the licensed premises during the period of six months ended the thirtieth day of June, one thousand nine hundred and sixty-two; and
- (b) in respect of the second half of that year, a sum assessed in accordance with the provisions of subsection (1a), as enacted by the Licensing Act Amendment Act, 1963, of this section, on the gross amount paid or payable for the liquors purchased for the licensed premises during the period of six months ending the thirty-first day of December, one thousand nine hundred and sixty-two,

less in each case one-half of the minimum annual fee paid on the issue of the license. ;

- (b) by repealing subsection (2) and re-enacting it with amendments as follows—

(2) Every licensee being the holder of a spirit merchant's license shall, on or before the thirty-first day of January, one thousand nine hundred and sixty-three, as regards the period of six months ending the thirty-first day of December,

one thousand nine hundred and sixty-two, and thereafter on or before the thirty-first day of January in every year, as regards the period of twelve months ending the next preceding thirty-first day of December, furnish to the Receiver of Revenue a return in writing signed by him, or by a person authorised by him in that behalf, setting forth the quantities of the various kinds of liquor sold or supplied by the licensee to persons other than persons licensed to sell liquor or to registered clubs or State hotels during that period, and such licensee shall, notwithstanding the provisions of subsection (14) of this section, pay to the Receiver of Revenue as an annual fee for a license—

- (a) for the year commencing on the first day of January, one thousand nine hundred and sixty-three, a sum calculated on the gross amount received by the licensee for the liquors sold or supplied (including all duties thereon) wherever purchased, during the period of twelve months ending the thirty-first day of December, one thousand nine hundred and sixty-two; and
- (b) for every subsequent year a sum (in addition to the minimum fee paid on the issue of the license) calculated on the gross amount received by the licensee for the liquors sold or supplied (including all duties thereon) wherever purchased, during the period of twelve months immediately preceding the commencement of that year,

equal to five and one-half per centum of that gross amount, and shall pay that sum in two moieties, the first being payable on the furnishing of the return pursuant to this subsection and the other within a period of six months thereafter, less in respect to the year referred to in paragraph (a) of this subsection, the minimum annual fee paid on the issue of the license. ;

- (c) by repealing subsection (3) and re-enacting it with amendments as follows—

(3) Every licensee being the holder of a brewer's license shall, on or before the thirty-first day of January, one thousand nine hundred and sixty-three, as regards the period of six months ending the thirty-first day of December, one thousand nine hundred and sixty-two, and thereafter on or before the thirty-first day of January in every year, as regards the period of twelve months ending the next preceding thirty-first day of December, furnish to the Receiver of Revenue a return in writing signed by him, or by a person authorised by him in that behalf, setting forth the quantity of beer sold or supplied by the licensee to persons other than persons licensed to sell liquor or to registered clubs or State hotels during that period, and such licensee shall, notwithstanding the provisions of subsection (14) of this section, pay to the Receiver of Revenue as an annual fee for a license—

- (a) for the year commencing on the first day of January, one thousand nine hundred and sixty-three, a sum calculated on the gross amount paid or payable to the licensee for the beer sold or supplied (including all duties thereon) during the

period of twelve months ending the thirty-first day of December, one thousand nine hundred and sixty-two; and

- (b) for every subsequent year a sum (in addition to the minimum fee paid on the issue of the license), calculated on the gross amount paid or payable to the licensee for the beer sold or supplied (including all duties thereon) during the period of twelve months immediately preceding the commencement of that year,

equal to five and one-half per centum of that gross amount, and shall pay that sum in two moieties, the first being payable on the furnishing of the return pursuant to this subsection and the other within a period of six months thereafter, less in respect to the year referred to in paragraph (a) of this subsection, the minimum annual fee paid on the issue of the license. ; and

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

(3a) In order to remove any doubts that but for the provisions of this subsection might arise, it is hereby expressly enacted that all license fees demanded or collected pursuant to this section after the commencement of the Licensing Act Amendment Act, 1962 and prior to the commencement of the Licensing Act Amendment Act, 1963, shall be deemed to have been lawfully assessed and lawfully demanded or collected.

(2) The provisions of paragraphs (a), (b) and (c) of subsection (1) of this section shall operate and have effect and shall be deemed to have operated and to have had effect from and including the day of the commencement of the Licensing Act Amendment Act, 1962.

4. The principal Act is amended by adding after section seventy-three the following section—

S. 73A
added.

73A. (1) Where under the provisions of this Act the fees payable in respect of licenses authorising the sale of liquor are required to be assessed at a percentage of the amount paid or payable for liquor purchased for the licensed premises, or paid or payable by the licensee for liquor sold or supplied, the Licensing Court shall fix the amount of any such fee as it thinks reasonable where—

Licensing
Court to fix
percentage
fees.

- (a) no information is produced to the Licensing Court, or the information produced is insufficient to enable it to determine the gross amount paid or payable for liquor purchased or sold or disposed of, as the case may be; or
- (b) there is no previous period of twelve months, or information in respect of a period of twelve months cannot be produced,

and the amount so fixed shall be final and conclusive, but the provisions of this subsection are subject to those of subsections (5) and (6) of section seventy-three of this Act.

(2) Every applicant for the grant of a new license shall at the time of the application furnish to the Licensing Court all particulars available to enable it to estimate the probable extent of the annual purchases of liquor for sale or disposal under that license.

(3) This section shall operate and take effect and shall be deemed to have operated and to have had effect from and including the day of the commencement of the Licensing Act Amendment Act, 1962.

S. 195
amended.

5. Section one hundred and ninety-five of the principal Act is amended—

- (a) by inserting after the word, “following” in line six of subsection (1), the passage, “, if the premises of the club are situated south of the twenty-sixth parallel of south latitude, or the 30th day of June then next following, if the premises of the club are not so situated”; and
- (b) by inserting after the word, “be” in line five of subsection (3), the passage, “, and of the assessed annual fee payable in respect of such certificate or renewal”.

S. 201
amended.

6. Section two hundred and one of the principal Act is amended—

- (a) by substituting for subsection (1a) the following subsections—

(1a) The fee payable for a certificate of registration of a club for a year and for every renewal thereof shall, notwithstanding the provisions of subsection (14) of section seventy-three of this Act, be assessed and determined by the Licensing Court at a percentage of five and one-half per centum on the gross amount paid or payable for all liquor (including all duties thereon but not any costs of carriage within the State to the premises of the club) purchased by or for the club during the period of twelve months ended the thirtieth day of September, one thousand nine hundred and sixty-two as regards a certificate of registration granted or renewed for the year commencing on the first day of January, one thousand nine hundred sixty-three, and during the period of twelve months ending the thirty-first day of August, one thousand nine

hundred and sixty-three as regards a certificate granted or renewed for the whole or part of the year commencing on the first day of January, one thousand nine hundred and sixty-four, and as regards any other year whenever commencing the fee payable for a certificate or a renewal thereof shall be so assessed and determined at the percentage and in the manner referred to in this subsection in respect of liquor purchased by or for the club during the period of twelve months ending—

- (a) the thirty-first day of August next preceding the commencement of that year where the premises of the club are situated south of the twenty-sixth parallel of south latitude; and
- (b) the last day of February next preceding the commencement of that year where the premises of the club are situated elsewhere,

and if the certificate is granted or renewed for a period in excess of six months the fee payable under this subsection shall be paid in two moieties, the first being payable before the commencement of the period for which the certificate is granted or renewed and the other within a period of six months thereafter; and except in so far as subsection (14) of section seventy-three of this Act is not applicable to this subsection, the provisions of that section shall *mutatis mutandis* apply.

(1b) When prior to the commencement of the Licensing Act Amendment Act, 1962, a club has paid any fee in respect of the grant or renewal of a certificate of registration for the year commencing

on the first day of January, one thousand nine hundred and sixty-three assessed and determined in accordance with the provisions of subsection (1) of this section, that club shall upon the commencement of that Act be liable for and pay the additional amount of the fee payable in respect of that year as assessed and determined pursuant to subsection (1a) of this section.

(1c) The provisions of subsections (1a) and (1b) of this section as those subsections are enacted by the Licensing Act Amendment Act, 1963, shall operate and have effect and shall be deemed to have operated and to have had effect from and including the day of the commencement of the Licensing Act Amendment Act, 1962. ;

- (b) by substituting for the subsection designation “(1b)” in line one of subsection (1b), the subsection designation, “(1d)”;
- (c) by repealing subsection (2) and re-enacting it with amendments as follows—

(2) Every applicant for the renewal of registration of a club shall at least fourteen days before the hearing of his application by the Licensing Court furnish to the clerk of that Court a return in writing signed by him setting forth, with regard to the twelve months ended on the preceding last day of February or, as the case may require, the thirty-first day of August, the gross amount (including all duties thereon but excluding the cost of carriage) paid or payable for liquor purchased by or for the club; and shall also, if required by the Court to do so, produce the books and accounts of the club for inspection by the Court. ;

- (d) by substituting for the words, "the said period" in lines three and four of subsection (3), the words, "any period for which the Court is required to assess and determine the fee payable under this section"; and
- (e) by adding after subsection (5) the following subsection—

(6) When any certificate of registration of a club under this section is suspended or cancelled, the Treasurer may refund to that club such part of the annual fee paid by it as is proportionate to the period for which the certificate of registration of that club was suspended or was not in force.
