

LICENSING.

13° GEO. V., No. XXI.

No. 39 of 1922.

AN ACT to amend the Licensing Act, 1911.

[Assented to 22nd December, 1922.]

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

1. This Act may be cited as the *Licensing Act Amendment Act, 1922*, and shall be read as one with the Licensing Act, 1911, hereinafter referred to as the principal Act. Short title.

2. Section five of the principal Act is amended by omitting the words "capable of producing intoxication," in the paragraph for the interpretation of "Intoxicating liquor," and by adding to the paragraph the words "but the terms do not include any liquor which does not contain more than two per centum of proof spirit." Amendment of
sec. 5.
S.A., No. 1322,
sec. 4.

3. Section six of the principal Act is amended by substituting the words "one-fifth" for the words "one-tenth." Amendment of
sec. 6.

4. A subsection is added to section eight of the principal Act, as follows:— Amendment of
sec. 8.

(3.) The same persons may be appointed the members of two or more Licensing Courts.

5. Section sixteen of the principal Act is amended by omitting the words in the proviso "and may be appointed deputy chairman of two or more courts," and inserting in place thereof "and it shall be no objection that he is chairman or deputy chairman of any other court or courts"; and by adding a paragraph, as follows:— Amendment of
sec. 16.

A deputy member of the Licensing Court shall, by virtue of his office, be a justice of the peace for the State.

Amendment of
section 18.

6. Section eighteen of the principal Act is amended by inserting at the commencement thereof the following words:—“Subject to the provisions of Section 20a.”

Repeal of par. (b)
of sec. 19.

7. Paragraph (b) of section nineteen of the principal Act is repealed.

Licensing Magis-
trates.
See Vic. No. 2855,
secs. 34 and 35.

8. A section is inserted in the principal Act, as follows:—

20a. (1.) On and after a date to be fixed by proclamation the Licensing Courts shall be constituted as provided by this section, and all persons immediately before the day so fixed holding office as members of the Licensing Courts shall cease to hold office as such.

(2.) The Governor may—

- (a) appoint three persons to be licensing magistrates;
- (b) appoint one of such licensing magistrates to be chairman of Licensing Courts;
- (c) appoint any person to fill any vacancy however caused in the office of licensing magistrate or chairman of Licensing Courts; and
- (d) in case of the absence or temporary incapacity of such chairman or of any licensing magistrate, appoint some person to act in his stead who, when so acting, may (as the case may be) exercise all the powers of the chairman or licensing magistrate in whose place he is appointed.

Ibid., sec. 35.

(3.) Licensing Courts shall be constituted by the licensing magistrates so appointed under this section, and—

- (a) shall have jurisdiction, and may act in and for every licensing district throughout the State; and
- (b) shall have and may exercise all the powers, authorities, duties, and functions conferred or imposed upon Licensing Courts and the chairman and members thereof by this Act.

Ibid., sec. 36.

(4.) Every person appointed as a licensing magistrate—

- (a) shall, subject to this Act, hold office for a period of three years from the date of his appointment;
- (b) shall be eligible for re-appointment; and

Ibid., sec. 37.

(c) shall be entitled to receive such salary or fees and travelling expenses as may be determined by the Governor.

(5.) Two licensing magistrates shall form a quorum for the constitution of the Court, provided that one of such members is the chairman or deputy chairman.

(6.) Every application or matter may be determined by a majority of the members of the Court, but in case of disagreement where only two licensing magistrates are present the application or matter shall be adjourned.

(7.) The licensing magistrates, with the approval of the Minister, may delegate to any licensing magistrate or resident magistrate any of their powers, authorities, duties, and functions relating to the renewal, transfer, and removal of licenses, and the granting of occasional and temporary licenses; and the powers, authorities, duties, and functions so delegated shall be exercised by any licensing magistrate or resident magistrate under such delegated authority accordingly.

Certain duties may be delegated to resident magistrates.

A Licensing Court shall be deemed to be duly constituted by a licensing magistrate or resident magistrate when sitting in any district under such delegated authority.

(8.) Every licensing magistrate shall be, by virtue of his office, a justice of the peace for the State.

9. Section twenty-one of the principal Act is amended by inserting after the words "from time to time" the words "appoint a clerk to the licensing magistrates, and."

Amendment of sec. 21.

10. Section twenty-four of the principal Act is amended by inserting before the word "December" the words "November or."

Amendment of sec. 24.

11. Section twenty-seven of the principal Act is amended as follows:—

Amendment of sec. 27.

(1) By omitting the words "two-gallon licenses," in paragraph (j), and inserting in place thereof "brewers' licenses."

(2) By omitting "(h) railway restaurant car licenses."

(3) By omitting the words "hotel license or," and the word "respectively," in subsection four.

Amendment of
Sale of Liquor and
Tobacco Act, 1916.

12. Section five of the Sale of Liquor and Tobacco Act, 1916, is amended by omitting the words "and newspapers," and inserting the word "and" before the word "tobacco," in subsections (1) and (2) thereof respectively, and by adding subsections, as follows:—

See Vic., No. 2683,
s. 215.

(2.) No person holding an Australian wine license shall keep or bring or permit to be brought on his licensed premises any liquor other than Australian wine, the produce of fruit grown in a State of the Commonwealth.

Penalty: Ten pounds.

(3.) An Australian wine license shall only be issued or renewed in respect of premises of a standard to be prescribed by the Licensing Court.

(4.) It shall be unlawful to have or use in any bar-room or saloon of premises for which an Australian wine license is held any partition of wood or other material so as to wholly or partially prevent or limit the uninterrupted view of the whole of the place where the bar is situated, or so as to wholly or partially divide such place into two or more compartments.

Penalty: Twenty-five pounds.

Amendment of
sec. 34.

13. Section thirty-four of the principal Act is amended by adding to the first paragraph of the section the words "to *bonâ fide* travellers on the railway, but not to any other person."

The section is further amended by omitting the words "Provided that sections ninety-seven and ninety-eight of this Act shall not apply to a railway refreshment room license."

Repeal of sec. 35.

14. Section thirty-five of the principal Act is repealed.

Amendment of
sec. 36.

15. Section thirty-six of the principal Act is repealed, and a section is inserted in place thereof, as follows:—

Spirit Merchant's
License.

36. A spirit merchant's license shall, subject to this Act, authorise the licensee to sell and dispose of any liquor on the licensed premises in quantities of not less than two gallons not to be consumed on the premises in which the liquor is sold.

The minimum quantity shall consist wholly of spirits or of wine, or of beer, or of some other kind of liquor, and shall be delivered and taken away from the premises at one time and not by instalments.

16. Section thirty-seven of the principal Act is repealed. Repeal of sec. 37

17. A section is inserted in the principal Act, as follows:— Brewer's License.

37. A brewer's license shall authorise the licensee, being a person, or the representative of a person, carrying on the trade or business of a brewer, to sell and dispose of beer on the licensed premises in quantities of not less than two gallons, not to be consumed on the premises, such beer being the produce of the brewery.

18. The following subsections are added to section forty of the principal Act:— Amendment of sec. 40.

(2.) A temporary license may authorise a licensee to exercise as aforesaid the privileges of his license within or beyond the limits of the district in which his licensed premises are situated.

(3.) Subject to the proviso to subsection (1), a temporary license may be granted to any club, or other organising body of race-meetings, or agricultural shows, or other sports meeting if, in the opinion of the Licensing Court or the chairman or members thereof to whom the application is made, the granting of a license is desirable for the accommodation of the public, and that the number of persons likely to be in attendance is sufficient to justify the issue of a license.

19. (1.) Section forty-four of the principal Act is amended by substituting for paragraph (b) of subsection (1) the following paragraphs:— Amendment of sec. 44.

(b) Being the occupier of a vineyard of not less than five acres of vines in full bearing, sells on such vineyard, in quantities of not less than one reputed quart bottle at any one time, wine manufactured by such person; or

(c) Being the occupier of an orchard of not less than five acres, sells on such orchard, in quantities of not less than one reputed quart bottle at any one time, cider or perry manufactured by such person.

And the proviso to subsection (1) is amended by omitting paragraph (ii), and inserting the following paragraphs:—

(ii) is neither sold nor delivered to any person to whom it is by this Act made unlawful to sell or supply liquor, and

(iii) is not sold or delivered during any day or time during which the sale of liquor is prohibited.

(2.) Subsection (3) of section forty-four of the principal Act is repealed, and a subsection is inserted in place thereof, as follows:—

(3.) The exercise by the Commissioner of Railways of the powers conferred by subsections (2) and (3) of section fifty-nine of the Government Railways Act, 1904, shall be subject to the sanction of the Licensing Court, and to such conditions as the Court may think fit to impose, and the Court may withdraw its sanction on proof to its satisfaction that the conditions have not been observed or performed; and, subject to the rights of lessees under current licenses, subsection (2) of section fifty-nine of the said Act is hereby repealed.

Amendment of
sec. 45.

New licenses.

Number of Licenses.
See N.S.W., No. 42
of 1919, sec. 5.

20. Section forty-five of the principal Act is repealed, and a section is inserted in place thereof, as follows:—

45. (1.) Subject to the provisions of Part VI. of this Act, every application for a license for premises not licensed at the commencement of this Act shall be granted or refused in the absolute discretion of the Court:

But the number of licensed premises in a district shall not, except in pursuance of a special authority granted under the next following subsection, at any time exceed the number of licensed premises of the same description in the district on the 31st day of December, 1922:

Provided that a brewer's license or spirit merchant's license may be granted to the holder of a two-gallon license or gallon license in lieu of such license; and a railway refreshment room license may be granted under this Act, in lieu of a license under subsection (2) of section fifty-nine of the Government Railways Act, 1904:

Provided also that premises for which a provisional certificate has been granted prior to the 31st day of December, 1922, shall be deemed to be licensed premises:

Provided also that the words "licensed premises," in this subsection, shall not include premises for which a billiard table license is granted, if such premises are not licensed for the sale of liquor":

Provided also that a brewer's license or a spirit merchant's license may be granted for premises not licensed prior to the 31st day of December, 1922, to authorise the sale of beer or liquor, as the case may be.

(2.) Where a petition is presented to the Governor asking that the Licensing Court may have authority to grant a new license within any district, and such petition is signed by a majority in number of the electors living in an area therein defined, and it is shown by such petition that—

Increases in number
of Licenses.
See N.S.W., No. 42
of 1919, sec. 6.

- (a) there has been an increase of population in such area, and that such increase is likely to be permanent;
- (b) there are insufficient licensed premises to meet public requirements or no licensed premises within such area,

the Governor may refer such petition for inquiry by the Licenses Reduction Board during the operation of Part V. of this Act, and thereafter by the Licensing Court.

(3.) The area defined in a petition—

- (a) shall be the area comprised within a circle having a radius of 40 chains from the site of the proposed licensed premises, if the new license is required for premises within the metropolitan district (as defined in section one hundred and forty-five); or
- (b) shall be subject to the approval of the Licenses Reduction Board, or the Licensing Court, as the case may be, if the new license is required for premises not situated within the metropolitan area.

In either case the petition shall, within seven days after its presentation, be published by the petitioners in the *Gazette* and a newspaper circulating in the district.

(4.) If, on such inquiry to be held fourteen days from the publication of the petition and after hearing evidence, the Board or the Court, as the case may be, is of opinion that the petition should be granted, it shall make a recommendation to that effect to the Governor.

(5.) On the receipt of such recommendation, the Governor may grant the petition, and shall so declare in the *Gazette*; and thereupon a license or provisional certificate may be granted by the Licensing Court notwithstanding that by such grant the number of licenses in the district will exceed the number therein on the 31st day of December, 1922.

(6.) The Licensing Court shall prescribe the necessary accommodation to be provided in the premises to be licensed, and shall call for tenders for a premium for the license or provisional certificate to be payable to the Consolidated Revenue Fund.

(7.) If, as a result of a petition and inquiry a new license is considered necessary in any district where a de-licensed house exists, the Court may, without calling for tenders, fix a premium to be paid by the owner of such premises for the granting of such license; and the licensing magistrates may fix a premium for the conversion of a hotel or wayside-house license into a publican's general license.

Repeal of sec. 47.

21. Section forty-seven of the principal Act is repealed.

Amendment of sec. 48.

22. A subsection is added to section forty-eight of the principal Act, as follows:—

See Vic., No. 2683, sec. 92.

(3.) Every applicant for a license or the transfer of a license shall with his application deliver to the clerk of the Licensing Court testimonials, and the Court may call and receive evidence as to the character and suitability for the particular premises of the applicant as a licensee or the proposed transferee, as the case may be, and it shall be the duty of an inspector of licensed premises to make a searching investigation as to such applicant's or proposed transferee's character and suitability, and as to the genuineness and value of such testimonials, and to report in writing thereon to the Court, and the Court in dealing with every such application shall take into consideration such testimonials and report and evidence. The written report above-mentioned shall be open to inspection by the applicant not less than forty-eight hours prior to the hearing of the application.

The Court may in its absolute discretion refuse an application for a transfer of a license.

Amendment of sec. 49.

23. Section forty-nine of the principal Act is amended by inserting in subsection (3) thereof after the words "licensed house" the words "is not provided with or," and a section is inserted in the principal Act, as follows:—

Accommodation required for licensed premises.

See Vic., No. 2683, sec. 28.

49A. (1.) No new publican's general license or hotel license shall be granted for any premises within the City of Perth or Town of Fremantle—

(a) unless such house contains not less than twelve bed-rooms and two sitting-rooms, besides the

rooms occupied by the family and servants of the applicant, together with a suitable complement of bedding and furniture; nor

- (b) unless every room so required for public accommodation is so constructed as freely to admit light and air, and contains at least one thousand two hundred cubic feet, except in the case of a bedroom intended for the accommodation of one person only, which shall contain at least eight hundred and fifty cubic feet; nor
- (c) unless such house is substantially constructed of durable materials and the rooms are furnished and divided by partitions of stone, brick, or plaster, or, in the case of rooms other than bedrooms, wholly or partly of glass, wood, or other material of which the Licensing Court approves; nor
- (d) unless such house is provided with at least one bath and one closet for every ten lodgers the house can accommodate, placed in suitable places for males and females separately, and also urinal conveniences on the premises for the use of the public frequenting the house, and also where necessary in the opinion of the Licensing Court with stabling sufficient for the accommodation of not less than three horses.

(2.) No new publican's general license or hotel license shall be granted for any premises elsewhere than in the City of Perth or Town of Fremantle—

- (a) unless such house contains not less than six bedrooms and two sitting-rooms besides the rooms occupied by the family and servants of the applicant, together with a suitable complement of bedding and furniture; nor
- (b) unless such house is provided with sufficient bath, closet, and urinal accommodation, and also where necessary in the opinion of the Licensing Court is provided with stabling sufficient for the accommodation of not less than three horses.

(3.) No publican's general license or hotel license, whether granted before or after the 7th day of April, 1911, shall be renewed after the 31st day of December, 1927, unless the requirements of subsection (1) or (2),

as the case may be, of this section are complied with in the meantime.

(4.) The Licensing Court may insert conditions as to further accommodation in its certificate, and any such conditions shall be deemed to be conditions imposed and binding on the licensee; and may require—

- (a) the licensed premises to be fitted with an approved system of sewage treatment;
- (b) all places used for the storage, preparation, serving, and consumption of food to be fitted with fly-proof screens; and
- (c) each bedroom to be supplied and fitted with a Yale lock, or a lock of a similar type.

(5.) If any such licensed house is not provided with or shall cease to be provided with the accommodation required by or under this section, or by the conditions inserted in the certificate, the Licensing Court, upon proof thereof to its satisfaction, may suspend the license until such accommodation is provided.

Amendment of
sec. 50.

24. Section fifty of the principal Act is amended by omitting the words “two members,” and inserting the word “member” in place thereof; and by inserting after the word “Court” the words “or by the clerk of the Court if the application is not opposed.”

Amendment of
Section 55.

25. Section fifty-five of the principal Act is amended, as follows:—In subsection (4) the words “any owner may enter on the premises at any time thereafter and thereupon” are omitted, and the words “on entry on the premises being lawfully made by the owner thereof” are inserted in place thereof. The following words are added to subclause (6):—“or in default of entry by a successor within the time therein limited.” In subclause (7), after the words “subsection (4),” the following words are inserted:—“or in default of entry by a successor within the time therein limited.”

Amendment of
sec. 57.

26. A paragraph is added to subsection (4) of section fifty-seven of the principal Act, as follows:—

The Licensing Court may require a premium (to be fixed by the Court) to be paid by the licensee as a condition to the granting of an application for the removal of a license.

27. (1.) Section fifty-eight of the principal Act is amended by striking out the words "for any period not exceeding twelve months," and inserting in lieu thereof the words "for such period as in the opinion of the Court is necessary for the repairing or rebuilding of the premises."

Amendment of
sec. 58.

(2.) A paragraph is added to section fifty-eight, as follows:—

(2.) A sitting of the Licensing Court may be held to deal with applications under this section at such time as the chairman may appoint.

28. Section fifty-nine of the principal Act is amended, as follows:—

Amendment of
sec. 59.

In subsection (1) the words "Subject to the provisions of section forty-five and of Part VI. of this Act" are substituted for the words "Subject to the provisions of Part V. of this Act"; and in subsection (5) "Part VI." is substituted for "Part V."

29. Section sixty-five of the principal Act is amended by inserting after the words "thirty years of age and" the words "unmarried or."

Amendment of
sec. 65.

30. Section sixty-seven of the principal Act is amended by inserting in place of the words "for the license," in lines two and six respectively, the words "on the issue of the license."

Amendment of
sec. 67.

31. Division (12) of Part IV. of the principal Act is repealed, and the nine following sections are inserted in the principal Act in place of sections seventy to seventy-four.

Repeal of Division
(12) of Part IV. and
substitution of
other provisions.

Division 12.—Fees.

32. [70.] (1.) The fees hereinafter prescribed shall be payable in respect of licenses granted, renewed, transferred, or removed under this Act.

Fees for Licenses.

(2.) Subject as hereinafter provided, the fees payable in respect of licenses authorising the sale of liquor shall be assessed at a percentage on the amount paid or payable for all liquor purchased for the licensed premises, or paid or payable by the licensee for liquor sold or supplied as hereinafter prescribed.

*See No. 32 of 1911,
sec. 71.*

Provided that a minimum annual fee shall be payable on the issue of a publican's general license, as follows:—

- (a) For any house or premises situated within a municipal district—
 - (i) if the annual value of the house or premises does not exceed five hundred pounds, Fifty pounds;
 - (ii) if the annual value of the house or premises exceeds five hundred pounds, Seventy-five pounds;
 - (iii) if the annual value of the house or premises exceeds one thousand pounds, One hundred pounds.
- (b) For any house or premises not situated within a municipal district—
 - (i) if the annual value of the house or premises does not exceed two hundred pounds, Forty pounds;
 - (ii) if the annual value of the house or premises exceeds two hundred pounds, Fifty pounds:

*See No. 32 of 1911,
sec. 72 (1).*

Provided also that a minimum annual fee shall be payable on the issue of other licenses, as follows:—

For an hotel license—Twenty-five pounds.

For a way-side house license—Fifteen pounds.

For an Australian wine and beer license—Ten pounds.

For an Australian wine license or an Australian wine bottle license—Five pounds.

For a packet license—Ten pounds.

For a spirit merchant's license—Thirty pounds if the premises are within fifteen miles of the General Post Office, Perth, or twenty pounds if elsewhere.

For a brewer's license—Thirty pounds if the premises are within fifteen miles of the General Post Office, Perth, or twenty pounds if elsewhere.

For a gallon license—Fifteen pounds.

*See No. 32 of 1911,
sec. 72 (2).*

Provided also that the minimum annual fee for a railway refreshment-room license shall not be less than Five pounds and not more than Thirty pounds, and shall be fixed by the Colonial Treasurer.

(3.) If the term of any license mentioned in this section shall commence on or after the first day of April, three-fourths of the fee for an annual license shall be payable as the minimum fee to be paid on the issue thereof; if on or after the first day of July, one half-of such fee; and if on or after the first day of October, one-fourth of such fee. See No. 32 of 1911, sec. 70.

(4.) If a publican's general license, hotel license, Australian wine and beer license, or wayside house license is granted to have effect only during a specified portion of the year, such part only of the minimum fee payable for such license on the issue thereof shall be payable as is proportionate to the period for which the license is to have effect. Ibid.

(5.) The fee payable on the issue of a temporary license shall be One pound for each day for which the license is granted. See No. 32 of 1911, sec. 72.

33. [71.] (1.) Save as otherwise expressly provided, every licensee (other than the holder of a spirit merchant's license or a brewer's license) shall on the 31st day of December and the 30th day of June in each year, or within seven days thereof, furnish and deliver to the Receiver of Revenue a return in writing signed by the licensee or some person acting with his authority and on his behalf, setting forth with regard to the six months ended on 31st day of December and 30th day of June respectively— Assessment of fees on returns of liquor purchased. See Vic., No. 2855, ss. 4, 10.

- (a) the quantity of liquor of various kinds purchased for the licensed premises by the licensee, or by any other person during such period of six months, but not including liquor so purchased but still in bond;
- (b) the amounts actually paid or the net amounts payable therefor respectively (less duties of customs or excise and cost of carriage from place to place within the State) whether purchased in Western Australia or elsewhere; and
- (c) the names and addresses of the persons who sold or supplied such various kinds of liquor,

and together with each such return the person furnishing the same shall, on the delivery thereof, pay to the Receiver of Revenue as a moiety of the annual fee for a license a sum equal to five pounds per centum of the amount so paid or payable for such liquors so purchased, less one-half of the minimum annual fee payable on the issue of the license.

(2.) Every licensee being the holder of a spirit merchant's license shall, on the 30th day of June and the 31st day of December in each year or within seven days thereafter, furnish and deliver to the Receiver of Revenue a return in writing signed by the licensee or some other person acting with his authority and on his behalf, setting forth, with regard to the six months ended on the 30th day of June and the 31st day of December respectively, the quantity of liquor of various kinds sold or supplied by the licensee during such period of six months to persons other than persons licensed to sell liquor or registered clubs or State hotels; and together with each such return the licensee shall, on the delivery thereof, pay to the Receiver of Revenue as a moiety of the annual fee for the license (in addition to the minimum fee paid on the issue thereof) a sum equal to five pounds per centum of the amount received by the licensee for the liquor sold or supplied, excluding the duties of customs or excise thereon, whether purchased in Western Australia or elsewhere.

(3.) Every licensee being the holder of a brewer's license shall on the 30th day of June and the 31st day of December in each year, or within seven days thereafter, furnish and deliver to the Receiver of Revenue a return in writing signed by the licensee or some person acting with his authority and on his behalf setting forth, with regard to the six months ended on the 30th day of June and the 31st day of December respectively, the quantity of beer sold or supplied by the licensee during such period of six months to persons other than persons licensed to sell liquor or registered clubs or State hotels, and together with each such return the licensee shall, on the delivery thereof, pay to the Receiver of Revenue, as a moiety of the annual fee for the license (in addition to the minimum fee paid on the issue thereof) a sum equal to five pounds per centum of the amount paid or payable to the licensee for the beer so sold or supplied, excluding the duties thereon.

For the purpose of this subsection, a two-gallon license held by the brewer for the year ending 31st December, 1922, shall be deemed a brewer's license.

(4.) Every holder of a temporary license shall, within fourteen days after the termination of the period of such license, deliver to the Receiver of Revenue a return in writing setting forth the amount paid or payable by him for liquor purchased (excluding the duties thereon) for sale or disposal under the license; and from the return so furnished the Receiver of Revenue shall assess the fee payable for the

license at a sum equal to five pounds per centum of such amount less the fee paid on the issue of the license, and such fee so assessed shall be payable forthwith.

(5.) If any licensee fails or neglects to furnish and deliver any return under this section, the Receiver of Revenue may, on such data as he thinks fit, assess the amount which would have been payable by the licensee by or on whose behalf the return should have been delivered, and the amount so assessed shall on demand be paid by such licensee to the Colonial Treasurer, and in addition such licensee shall be liable to a penalty of not more than fifty pounds.

(6.) If any false statement is made in any return under this section the Receiver of Revenue shall, on such data as he thinks fit, assess the amount which should have been paid by the licensee by or on whose behalf the return was made, and the amount so assessed less the amount (if any) previously paid by such licensee shall on demand be paid by such licensee to the Colonial Treasurer, and in addition the licensee by or on whose behalf the return is signed shall be liable to a penalty of not exceeding one hundred pounds.

(7.) The Colonial Treasurer may, by order in writing, require any brewer, spirit merchant, or other person carrying on business in Western Australia, to state, in such form as may be prescribed, the quantity and kind of all liquor sold to any licensed person or to any registered club named in such order during the period mentioned in such order, and the prices paid or payable for such liquor.

*See Vic., No. 285 E,
s. 11.*

Every such brewer, spirit merchant, or other person who within thirty days after service upon him of such order does not furnish such statement shall be liable to a penalty not exceeding one hundred pounds.

(8.) For the purposes of this section, any transferor of a license shall, on being required by the transferee by notice in writing so to do, furnish the transferee with a statement in writing signed by the transferor setting forth with respect to the whole or any portion of the said period of twelve months during which the transferor was the licensee of the premises the particulars required by this section.

*See N.S.W., No. 42
of 1919, s. 35 (2).*

Penalty: Fifty pounds.

(9.) The fee payable by a licensee under this section shall be a debt due to His Majesty, and may be sued for and recovered, and the obligation to make the returns as aforesaid may be enforced, in any court of competent jurisdiction, by the Colonial Treasurer suing in his official name.

(10.) The powers conferred by the Land and Income Tax Assessment Act, 1907, on the Commissioner of Taxation, or any officer acting with his authority, relating to the production and inspection of books and documents, and enabling the Commissioner of Taxation to require information or evidence, shall for the purposes of this section apply and may be enforced; and it shall be lawful for the Commissioner of Taxation, and he is hereby authorised, to communicate to the Colonial Treasurer for the purposes of this Act any matter which may come to his knowledge in the performance of his official duties, and any such information may be used as evidence in any legal proceedings under this Act.

(11.) No license shall be transferred or renewed unless the fees due under this section at the date of the hearing of the application for such transfer or renewal are paid.

(12.) In this section the term "licensee" includes any person who, during any portion of the period within which a return is required to be furnished under this section, was the licensee of the premises, and any transferee of the license, and the successor of the licensee within the meaning of the term in section fifty-five, and an owner entering under that section.

(13.) In the application of this section to licenses held for the year ending the 31st day of December, 1922 (to which licenses, subject as hereinafter provided, this section shall apply), the returns to be furnished on the 31st day of December, 1922, or within seven days thereafter, shall not extend to liquor purchased or sold or supplied, as the case may be, prior to the 1st day of September, 1922; but in the case of returns under subsection (1) of this section the proportionate part of the minimum annual license fee for which credit is to be given shall be one-third thereof.

(14.) Notwithstanding anything in this section contained, but subject to the provisions of subsection (6), no liquor upon which the percentage fee has already been assessed or paid shall be liable to a second or subsequent assessment or payment under this section.

34. [72.] (1.) The annual fee to be paid for an eating-house, boarding-house or lodging-house license shall be One pound.

(2.) The fee for a temporary eating-house, boarding-house or lodging-house license shall be Ten shillings.

(3.) Section seventy-one of the principal Act shall not apply to any such license or temporary license.

35. [73.] The fee for an occasional license shall be One pound.

Fee for occasional license.

36. [74.] The fee for a billiard-table license shall be Ten pounds.

Fee for billiard-table license.
Ibid., sec. 72.

37. [74a.] The fee for the indorsement of a transfer or removal of a license or of a confirmation shall be—

Fee for Transfer or Removal.
No. 32 of 1911, sec. 72.

(a) for a publican's general license, Five pounds;

(b) for an eating, lodging, or boarding house license, Ten shillings.

(c) for any other license, Two pounds.

38. [74b.] The fee on an application for a provisional certificate shall be Five pounds.

Fee for Provisional Certificate.
Ibid., sec. 72.

39. [74c.] (1.) On the granting or renewal of any publican's general license—

Annual value to be assessed.
No. 32 of 1911, sec. 71 (2).

(a) for any house or premises situated within a municipal district, the Licensing Court shall assess the annual value of the licensed house or premises as not exceeding five hundred pounds, or as exceeding five hundred pounds but not exceeding one thousand pounds, or as exceeding one thousand pounds; and

(b) for any house or premises not situated within a municipal district, the Licensing Court shall assess the annual value of the licensed house or premises as not exceeding two hundred pounds or as exceeding two hundred pounds,

and such value shall be stated in the certificate.

(2.) The annual value shall be assessed at the full annual rent at which the licensed house or premises might be expected to let, and in making such assessment the Licensing Court shall take into consideration, with the other evidence, the amount of every fine, premium, or other sum of money or valuable consideration that may have been paid or given, or agreed to be paid or given, in addition to the rent reserved or agreed upon on any letting or renewal, assignment, or transfer of tenancy or occupation of the house or premises.

(3.) License fees payable under this Act shall not be deemed of the nature of rent, or be regarded as a factor in fixing the annual value of licensed premises.

Increased license fee may be deducted from rent.

No. 32 of 1911, sec. 73.

40. [74d.] (1.) If, under the proviso to subsection two of section thirty-two [70] of this Act, any tenant of premises for which a publican's general license is held is required to pay on the issue of the license a larger minimum annual license fee than the annual license fee payable at the time when the lease of such premises was granted, the tenant shall, during the currency of such lease, be entitled to deduct from the rent payable under such lease the increase in the amount of the minimum annual license fee payable by him, and the amount so deducted shall be deemed to be a payment on account of the rent reserved by the lease.

Conditions as to set-off from rent.

Ibid., sec. 74.

(2.) Where, under the provisions of this section, a tenant is empowered to set off any part of the licensing fee against rent payable by him in respect of the premises, the following conditions shall apply:—

(a) If the immediate landlord of such tenant—

(i) is a former tenant under an original lease who has sublet at the same rental as that reserved in the original lease, and has not received any greater sum by way of ingoing than that paid by him to the lessor named in the original lease; or

(ii) is a mortgagee in possession who has entered into possession of the premises under the powers of a mortgage registered against the original lease, and has sublet to such tenant at the same rental as that reserved in the original lease, and has not received by way of ingoing any greater sum than that paid to the lessor named in such original lease,

the deduction of the increased licensing fee shall be made from the rental payable to the lessor named in the original lease.

(b) If the immediate landlord of such tenant—

(i) is a former tenant under an original lease who has sublet at a higher rental than that reserved in such original lease, or has received a greater sum by way of ingoing than that paid by him to the lessor named in the original lease; or

(ii) is a mortgagee in possession who has entered into possession of the premises under the powers of a mortgage registered against the original lease, and

has sublet to such tenant at a higher rental than that reserved in the original lease or has received a greater sum by way of ingoing than that paid by the original tenant to the lessor named in such original lease,

the increased licensing fee shall be payable by such immediate landlord.

(3.) This section shall not apply to license fees assessed under section thirty-three [71] so far as such fees exceed the minimum annual fees prescribed by section thirty-two [70].

41. Part V. of the principal Act is repealed, and the following provisions, contained in sections forty-two to fifty-eight, inclusive, are inserted in place thereof.

Repeal of Part V.,
(Local Option), and
substitution of
other provisions.

PART V.—LICENSES REDUCTION.

Preliminary.

42. [75.] In this Part—

Interpretation

“The Board” means the Licenses Reduction Board constituted under this Act.

“Lease” includes a sublease.

“Lessee” includes a sublessee and the assignee of a lease.

“Licensed premises” means premises in respect of which a publican’s general license, hotel license, wayside-house license, Australian wine and beer license, Australian wine license, Australian wine bottle license, or gallon licenses is held.

“Lessor” includes a sublessor and the assignee of a lessor or the person entitled for the time being to the rent of the premises.

“Mortgagee” includes a mortgagee of the land upon which any licensed premises are erected, or of any estate or interest therein, and also the holder of any bill of sale or assignment by way of mortgage of the lease, license, or goodwill of the licensed premises, or of the stock in trade or furniture or other chattels thereon or belonging thereto.

“Owner” of licensed premises includes a *cestui que trust* and means the person for the time being entitled to receive either on his own account, or as mortgagee or other encumbrancer in possession, any rent or profits of such premises, or who (not being a lessee in possession) would be entitled to the rent if the premises were let to a tenant; or if such person is absent from the State means the attorney or agent of such person capable of giving a valid receipt for such rent or profits.

Duration of this Part.

43. [76.] This part of this Act shall come into operation on the 1st day of January, 1923, and shall continue in operation for a period of six years, but no longer.

The Board.

Licenses Reduction Board.
See Vic., No. 2683,
s. 271.
N.S.W., No. 42 of
1919, s. 8.

44. [77.] (1.) For the purposes of this Part of the Act the licensing magistrates appointed under section twenty (a) shall be constituted and known as “The Licenses Reduction Board.”

(2.) The chairman or acting chairman for the time being of the Licensing Court shall be the chairman of the Board.

(3.) The Board shall have jurisdiction throughout the State.

(4.) The Governor may appoint any person to be a deputy member of the Board, and such deputy may in the case of the sickness, or absence of any member from any sitting of the Board, or from the State, exercise all the powers vested in and shall perform the duty of such member.

(5.) Each member and deputy member of the Board may receive such fees and travelling expenses as may be prescribed.

(6.) The Governor may at any time remove any member of the Board, and may fill up any vacancy occurring in the Board from any cause whatsoever.

(7.) The Governor may appoint a Clerk to the Board and such other officers as may be deemed necessary.

(8.) The fees and expenses of the Board, and the allowances to the clerk and any other officers, shall be a charge upon and payable out of the compensation fund hereinafter provided for.

Jurisdiction and procedure of the Board.

45. [78.] It shall be the duty of the Board—

- (a) to reduce the number of licenses in the State to the extent that the moneys for the time being to the credit of the compensation fund will allow of compensation being paid to the owners and licensees, and the lessees and mortgagees (if any) of licensed premises which under this Part are deprived of a license and are the subject of compensation;
- (b) to determine which of the licensed premises in any district shall be so deprived of a license; and
- (c) to assess the amount of compensation payable in respect of any licensed premises so deprived of a license:

Provided that after 30th June, 1926, the Board, unless otherwise required by Parliament, may refrain from any further reduction of licenses, if, in its opinion, having regard to the matters referred to in section forty-nine [82], such further reduction is unnecessary.

Duties of board.
See N.S.W. No. 42 of 1919, s. 9, Vic. No. 2683, s. 271.

46. [79.] The Board shall as occasion requires hold sittings for the purpose of determining which of the licensed premises situate in any licensing district shall be deprived of a license.

Sittings of board.

47. [80.] (1.) For the purposes of executing any of the powers, duties, and authorities conferred upon it, the Board may—

- (a) summon any person to appear and give evidence, and to produce books, papers, writings, or documents, and (in case of a licensee or his executor or administrator) copies of his own income tax returns or those of the testator or intestate as the case may be, and may hear, receive, and examine evidence upon oath;
- (b) require the production to the Board of any income tax returns in the custody of the Commissioner of Taxation made by or on behalf of any person who is or has at any time been the licensee of any licensed premises, which return the Commissioner of Taxation is hereby authorised and required to produce to the Board, anything in any other Act to the contrary notwithstanding;

Powers and authority of board.
See N.S.W. No. 42 of 1919, s. 14. Vic. No. 2683, s. 327.

(c) search the public registers of the Office of Titles and Registry of Deeds without payment of any fee.

(2.) The Board may, if it thinks fit, hear any proceeding under this Part in camera, and shall in any event treat as confidential the contents of any income tax return or copy thereof so produced.

(3.) Any person who—

(a) wilfully misbehaves himself before the Board; or
 (b) wilfully interrupts the proceedings; or
 (c) is guilty of wilful prevarication in giving evidence;
 or

(d) on being summoned by any member of the Board to appear before the Board as a witness, and without lawful excuse refuses or neglects to appear at the time and place appointed by the summons or to produce any books, papers, writings, or documents, or to produce or transmit to the Board any income tax returns or copies thereof mentioned in the summons; or

(e) refuses to be sworn, or who refuses or neglects without lawful excuse to answer any question which is put to him and to which an answer is required by the Board,

shall be liable to a penalty not exceeding twenty pounds.

48. [SL.] (1.) No licensed premises shall be deprived of a license by the Board unless the licensee thereof and (if the licensee is not the owner) the owner thereof has been served with a summons, at least twenty-one days before the date of hearing therein fixed, to show cause why such licensed premises should not be deprived of the license.

(2.) Such summons may be in the form or to the effect of the Fifteenth Schedule.

(3.) A copy of the summons shall also be served upon any person who, on a search of the public register at the Office of Titles and Registry of Deeds, appears to have any interest in the licensed premises.

(4.) It shall suffice if the summons or a copy thereof is served by any of the means prescribed for the service of documents by section thirty-one of the Interpretation Act, 1918: Provided that if such summons is served by post the same shall be served by registered letter.

Owners and licensees to be summoned to show cause.
 See N.S.W. No. 42 of 1919, s. 17, Vic. No. 2633 s. 277.

49. [82.] The Board, in determining which licenses shall cease to be in force, shall—

Matters to be considered by Board.

- (1) consider the convenience of the public and the requirements of the several localities in the district;
- (2) subject to the above consideration, have regard to—
 - (a) the character of, and the accommodation afforded by, any licensed premises;
 - (b) the manner in which the business has been and is being conducted as a place of accommodation and refreshment for the public; and
 - (c) the distance between such premises and the licensed premises nearest thereto;
- (3) subject to the above considerations, have regard to convictions of offences referred to in section one hundred and thirty-nine within three years prior to the date of hearing, against any person who, at the date of the offence, was a licensee of the premises: Provided that if the lessor has re-entered by reason of any such conviction this subsection shall not apply.

50. [83.] (1.) The Board, after hearing and considering such evidence as the Board may deem to be relevant, and after hearing what (if anything) is alleged by or on behalf of the licensee, owner, lessee, and mortgagee respectively, and what (if anything) is alleged by any member of the police force or inspector, and if it thinks fit, after a view of such or any other licensed premises, shall decide whether the licensed premises shall be deprived of the license.

Board to decide which premises are to be deprived of licenses.

N.S.W. No. 42 of 1919, s. 18, Vic. No. 2683, s. 278

(2.) The Board in any proceeding before it may hear any matters, and the respective parties thereto, in such order and by such method of procedure as to the Board seems fit.

(3.) The licensee and the owner, and any lessee, or mortgagee of the licensed premises and the Commissioner of Police shall have the right to be represented before the Board by a legal practitioner or an authorised agent.

51. [84.] So soon as the Board has decided that any licensed premises shall be deprived of a license, the Board shall cause to be served upon the licensee and the owner of the premises, and upon any lessee, mortgagee, or other person who, upon search at the Office of Titles or Registry of Deeds, shall appear to have any interest in the premises, a notice in writing informing them of the decision of the Board.

Notice of deprivation.

See N.S.W. No. 42 of 1919, s. 19, Vic. No. 2683, s. 279.

Compensation.

Assessment of
compensation.
N.S.W., No. 42
of 1919, s. 20.
Vic. No. 2683, s. 281.

52. [85.] (1.) The Board shall as soon as practicable assess the maximum amount of compensation payable in respect of each and every licensed premises deprived of a license—

- (a) to the owner of the freehold of such premises, and any lessee thereof by reason of the diminution in value of the premises owing to such premises being deprived of a license; and
- (b) to the licensee of the premises for the loss of his license and business.

Compensation to
owner.
See N.S.W., No.
42, of 1919, s. 22.
Vic. No. 2683,
s. 281.

(2.) The compensation shall, so far as regards such owner, be based on the difference, if any, between the rent which the owner will probably receive, or which if the premises were let to a tenant he would probably obtain, for three years after the premises are deprived of a license, and the rent which during the same period he would have received, or if the premises were let to a tenant he would probably have obtained, if the premises had continued licensed.

Compensation to
lessee.
See *ibid.*

(3.) The compensation shall, so far as regards a lessee, be based on the difference (if any) between the net rent of the premises which he will probably receive from a sublessee, or which if the premises were sublet he would probably obtain from a sublessee, for three years (or the unexpired term of his lease if less than three years) after the premises are deprived of a license, and the net rent which during the same period he would have received, or if the premises were sublet he would probably have obtained, if the premises had continued licensed.

In this subsection "net rent" means the amount of the rent received by a lessee from a sublessee above the rent payable by the lessee to his lessor.

Compensation to
Licensee.
See Vic., No. 2683,
sec. 281.
N.S.W., No. 42 of
1919, s. 22.

(4.) The compensation shall, as regards the licensee, be based, for each year or part of a year of the unexpired term of his tenancy (not exceeding two years) remaining at the date when the license ceases to be in force, on the average annual net profit accrued to the licensee, or the licensee for the time being, of the premises during a period of three years next preceding the notice of deprivation.

If the licensee is also the owner of the premises, he shall be entitled to compensation as owner and also to compensation as licensee as if he were a tenant, but in ascertaining such net profit a fair and proper sum shall be deducted therefrom as rent.

53. [86.] (1.) Every determination of the Board shall be final and conclusive, and shall not be questioned in or reviewed or amended by any court whatsoever.

Determination of board to be final. N.S.W. No. 42 of 1910, s. 24-25. Vic. No. 2683, s. 282-284.

(2.) The Board may at any time, if it thinks fit, rehear any matter which has been heard and determined by it.

(3.) No determination, order, or proceedings under any of the provisions of this Part shall be removed or removable by *certiorari* or otherwise into the Supreme Court for any want or alleged want of jurisdiction, or for any error or alleged error of form or substance, or on any ground whatsoever.

54. [87.] (1.) When any compensation is awarded by the Board to the owner or a lessee of the premises, six weeks' notice of the amount of compensation shall before the same is payable be given by the Board by advertisement in the *Gazette* and in a newspaper circulating in the district where the premises are situated.

Notice of compensation payable. See Vic. No. 2683, s. 286. N.S.W. No. 42 of 1910, s. 29.

(2.) (a) Every mortgagee from such owner or lessee shall have a lien upon the amount payable as compensation to the mortgagor for the amount of the mortgage debt upon giving notice in writing to the Board within one month from the date of such advertisement or within such extended time as the Board shall allow, and thereupon the same shall, unless otherwise ordered by a judge of the Supreme Court on application as hereinafter mentioned, be a first charge on the compensation (if any) payable to the mortgagor, which shall not be paid to the mortgagor unless with the consent in writing of the mortgagee.

Mortgagee to have lien on compensation.

(b) Upon receipt of such notice the Board shall forthwith send a copy thereof to such mortgagor, who, if he disputes the title of the mortgagee or the amount of the mortgage debt, may within fourteen days after the service of such notice as aforesaid, and upon notice to the mortgagee, apply by summons or otherwise in a summary way to a judge of the Supreme Court for a determination of such dispute, and the judge may make such order with respect to the compensation money and the costs of the proceedings as he thinks fit.

Dispute between mortgagee and owner decided in a summary way.

(3.) If no such application by the mortgagor is made, or subject to any order that such judge may make, the payment or tender of such amount to the mortgagee shall be deemed to be payment or tender to the mortgagor.

Payment to mortgagee.

Payment or
tender of
compensation.
Vic. No. 2683
s. 287.
N.S.W. No. 42
of 1919, s. 30.

55. [87a.] At any time after the amount of compensation determined in accordance with the provisions of this Part is payable to the party entitled to the same, payment or tender thereof may (subject to the provisions of the last preceding section) be made to such party personally, or if it is made to appear to the Board that such party cannot be found, then the Board may direct the compensation due to such party to be paid into the Treasury in trust for such party, or any person lawfully claiming under him.

Deprivation of License.

Date of closing.
See Vic. No. 2683,
sec. 287.
N.S.W. No. 42 of
1919, sec. 30.

56. [87b.] On payment or tender of such compensation the Board shall cause notice of its decision that the licensed premises shall be deprived of a license to be published in the *Gazette*; and, at the expiration of the current period for which the license was granted, the license shall cease and become absolutely void, and shall not be renewed.

Provisions applic-
able as between
lessor and lessee.
See No. 32 of
1911, s. 83.

57. [87c.] Where under this Part of this Act the license of any premises ceases to be in force, the following provisions shall apply between a lessor and the lessee of the premises:—

The lessee may within three months after the license ceases to be in force—

- (a) determine the lease by a surrender to the lessor; or
- (b) give to the lessor written notice that he desires to have the rent of the premises fixed by arbitration.

On such notice being given, the said rent shall be fixed by arbitration under the provisions of the Arbitration Act, 1895, and shall, from the date when the license ceases to be in force, and during the currency of the lease, be the rent payable thereunder in respect of the premises:

Provided that this section shall not apply to premises not licensed at the commencement of the lease unless the rent was fixed in view of a prospective license.

Compensation fund.

Compensation
fund to be
established.
See N.S.W., No.
42 of 1919, s. 32.
Vic., No. 2683,
s. 308.

58. [87d.] (1.) To provide for the payment of the compensation which may be granted by the Board, a trust fund, to be called the "Compensation Fund," shall be formed in the Treasury.

(2.) During the operation of this Part of this Act every licensee (being the holder of a license to which this Part applies) shall under and subject to section seventy-one of this Act pay to the Receiver of Revenue, in addition to the fee payable on the returns to be furnished thereunder, a sum equal to two per centum of the amount paid or payable for the liquor purchased for the licensed premises (excluding the duties thereon), as a compensation fee to be placed to the credit of the compensation fund. See sec. 33.

(3.) All the provisions of section seventy-one shall apply to the compensation fee payable under this section. See sec. 33.

Provided that any licensee paying such compensation fee shall, if the Board so orders, be entitled to deduct from any rent payable by him to his lessor in respect of the premises such sum, not exceeding one-half of the compensation fee, as the Board may think fit, having regard to the claim (if any) of such lessor on the fund; and where a sum is so deducted from such rent the lessor may in like manner, if the Board so orders, deduct from any rent payable by him such sum as the Board may think fit, and so on until the lessor to whom the rent is payable is not himself a lessee of another person. Apportionment between lessor and licensee. See N.S.W. No. 42 of 1919, s. 33. Vic. No. 2083, s. 309.

(4.) If under Part VI. of this Act the proposal that prohibition shall come into force is carried, any moneys remaining to the credit of the Compensation Fund when the proposal takes effect shall be distributed by the Board, in its discretion, amongst those licensees who have contributed to the fund and who have not already received compensation under this Part.

59. Part VI. of the principal Act is repealed, and the following provisions, contained in sections sixty to seventy-two, inclusive, are inserted in place thereof. Repeal of Part VI. and substitution of a new Part.

PART VI.—PROHIBITION.

60. [87e.] In the year one thousand nine hundred and twenty-five, and in every fifth year thereafter, on a day to be fixed by proclamation, there shall be taken a poll of the electors in every electoral district on the proposal that prohibition shall come into force in Western Australia; and the voting paper shall be in the form in the Sixteenth Schedule: The Poll. 16th Schedule.

Provided that where on the taking of a poll prohibition has been previously carried and is in force, the proposal shall

be that licenses for the sale of intoxicating liquor shall be restored; and the voting paper shall be in the form in the Seventeenth Schedule.

17th Schedule.

Voters.

61. [87f.] The persons entitled to vote at such poll shall be those who, for the time being, are entitled to vote at an election of members of the Legislative Assembly, and no other.

Majority for carrying proposal,

62. [87g.] The proposal shall be carried if three-fifths at least in number of the votes given throughout the State are in favour of the proposal:

Provided that a proposal shall not be carried unless thirty per centum or more of the number of the Assembly electors throughout the State vote for the proposal.

Effect of prohibition,

63. [87h.] (1.) If the proposal that prohibition shall come into force is carried, it shall take full effect throughout the State at the expiration of the year in which the vote is taken.

(2.) When such proposal so takes effect, all licenses for the sale of intoxicating liquor shall cease to be in force within the State, and the registration under this Act of all clubs within the State shall be annulled; and thereupon, and until licenses are restored, the following provisions shall apply:—

(a) It shall not be lawful to grant or renew any license of any description, or the certificate of the registration of a club.

(b) The provisions in this Act relating to the sale of liquor without a license shall apply generally to the sale, supply, barter, or other disposal of liquor, and, subject as hereinafter provided, the exemptions in section forty-four shall cease to have effect:

Provided that nothing in this section shall be held to prohibit the sale, possession, or disposal, in accordance with regulations made by the Governor, of alcoholic liquor for use in the arts or manufactures, or medical, scientific, sacramental, or industrial purposes.

(3.) If any person sells or supplies liquor otherwise than as herein provided, he shall be liable to a penalty of not exceeding One hundred pounds, or to imprisonment for not exceeding six months.

64. [87i.] If the proposal that licenses for the sale of intoxicating liquor shall be restored is carried, licenses may be granted, renewed, and transferred under and subject to this Act, at the expiration of the year in which the vote is taken.

Effect of restoration.
No. 32 of 1911,
s. 79.

65. [87j.] The following provisions shall apply to the taking of a vote under this Part:—

Provisions for voting.

- (a) The vote shall in each district be taken at the polling-places appointed by the Governor and notified in the *Gazette*.
- (b) A returning officer appointed by the Governor shall conduct the taking of the vote in each district, and shall, with respect to such poll, have all the powers possessed by a returning officer under the law for the time being regulating the conduct of elections for the Legislative Assembly.
- (c) The manner of voting shall be similar to that followed in the election of members to serve in the Legislative Assembly, but the voting paper shall be marked as prescribed thereon.
- (d) The provisions of any law for the time being regulating the conduct of elections for the Legislative Assembly shall, so far as they can be made applicable, *mutatis mutandis*, apply to the taking of a vote under this Part.
- (e) A voting paper shall be invalid if the voting paper is not endorsed with the initials of the officer presiding at the polling-both.

66. [87k.] (1.) The result of the polling shall be ascertained by scrutiny.

Scrutiny.

(2.) The returning officer for each district shall, after the close of the voting in that district, examine the voting papers for the district, and after rejecting all invalid voting papers—

Method of dealing with voting papers.

- (a) count the number of votes given for prohibition, and against prohibition, or that licenses be restored or be not restored, as the case may be; and
- (b) seal up the voting papers in two parcels and the rejected votes in a third parcel, and forward the parcels with a statement of the result of the count to the Chief Electoral Officer.

(3.) The Chief Electoral Officer shall, at a time and place to be notified in the *Gazette*, deal with all the voting papers of all electoral districts throughout the State, and ascertain the results of the polling, and certify—

- (a) the number of electors on the rolls;
- (b) the number of votes given in each district and throughout the State for and against the proposal; and
- (c) that the proposal was or was not carried, as the case may be,

and shall forward his certificate to the Governor, who shall cause the same to be published in the *Gazette*, and such publication shall be conclusive evidence of the result of the polling.

Scrutineers.

67. [87l.] The Licensed Victuallers' Association may appoint two scrutineers, and the West Australian Alliance Incorporated and the Anti-Liquor League of Western Australia may each appoint one scrutineer to represent them—

- (a) at each polling place during the polling; and
- (b) at the scrutiny at the place where a scrutiny is conducted for each district; and
- (c) at the scrutiny to be conducted by the Chief Electoral Officer.

Provisions where vote is void.

68. [87m.] If in any district a vote of electors under this Part is for any reason void, the Governor may appoint another day and the places for taking the vote in such district, and may appoint officers and make necessary arrangements for the purpose of such vote being taken.

Provisions applicable as between lessor and lessee.
See No. 32 of 1911, s. 83.

69. [87mm.] (1.) Where, in pursuance of a vote under this Part, the license of any premises demised as licensed premises by a lease granted prior to the 7th day of April, 1911, ceases to be in force, the lessee may within three months after the license ceases to be in force—

- (a) determine the lease by a surrender to the lessor; or
- (b) give to the lessor written notice that he desires to have the rent of the premises fixed by arbitration.

On such notice being given, the said rent shall be fixed by arbitration under the provisions of the Arbitration Act, 1895, and shall, from the date when the license ceases to be in force, and during the currency of the lease, be the rent payable thereunder in respect of the premises.

(2.) In this section—

“Lessee” includes a mesne lessee and an assignee of a lease and a sub-lease;

“Lessor” includes a mesne lessor and the person for the time being entitled to the rent of the premises.

70. [87n.] Where pursuant to a resolution under this Part prohibition is carried, no compensation shall be payable to any person whomsoever. No compensation.

71. [87o.] No poll shall be taken under this Part of this Act on the same day as that appointed for the election of members of the Legislative Council or Legislative Assembly or either House of the Commonwealth Parliament. Poll not to be taken on a day fixed for Parliamentary election.

72. [87p.] The Governor may make such regulations as he may think fit for the purpose of carrying out the provisions of this Part of this Act. Regulations.

73. The following words are added to section ninety-three of the principal Act, namely:—“Penalty: Fifty pounds.” Amendment of sec. 93.

74. Section ninety-four of the principal Act is amended as follows:— Amendment of sec. 94.

(a) The words “Penalty: Fifty pounds” are substituted for “Penalty: Twenty pounds.”

(b) A proviso is added to the section as follows:—“Provided that the burden of proof that there was reasonable cause for not complying with this section shall lie upon the licensee.”

(c) Subsections are added as follows:—

(2) The Licensing Court may prescribe the hours during which meals shall be obtainable.

(3) Where the Licensing Court is satisfied that any such licensee is not genuinely catering for the requirements of the public, the Court may prescribe tariffs for meals to be supplied to customers by the licensee, and it shall be the duty of the licensee to provide meals as prescribed, if so required by a customer, at not exceeding the tariff so fixed. Penalty: Twenty pounds.

Amendment of
sec. 97.

Licensed premises
not to be open
before or after
certain hours.
See W.A., 1911,
No. 32, sec. 97.

75. Section ninety-seven of the principal Act is repealed and a section is inserted in place thereof as follows:—

97. (1.) No licensee shall in any part of the State except the Goldfields district—

- (a) have or keep his licensed premises open for the sale of liquor; or
- (b) sell any liquor or permit or suffer any liquor to be drunk or consumed in or upon his licensed premises,

at any time before nine o'clock in the morning or after nine o'clock in the evening upon any day in the week, except under the authority of an occasional license.

Penalty: For a first offence, Fifty pounds; for any subsequent offence, One hundred pounds.

(2.) No licensee shall in the Goldfields district—

- (a) have or keep his licensed premises open for the sale of liquor; or
- (b) sell any liquor or permit or suffer any liquor to be drunk or consumed in or upon his licensed premises,

at any time before nine o'clock in the morning or after eleven o'clock at night upon any day in the week, except under the authority of an occasional license.

Penalty: For a first offence, Fifty pounds; for any subsequent offence, One hundred pounds:

Provided that the Governor may, on the recommendation of the Licensing Court, by proclamation extend or reduce the hours in any licensing district or part of a district within the Goldfields district, and this subsection shall have effect as so modified, but any such proclamation may, on the recommendation of the Licensing Court, be varied or revoked by a subsequent proclamation.

(3.) This section shall not prohibit the sale of liquor to any *bonâ fide* traveller or lodger, or the consumption of liquor by the licensee or any member of his family, or any servant of the licensee living on the premises if the liquor is not drunk at the public bar of the licensed premises.

(4.) Any servant or agent of a licensee who sells or supplies liquor contrary to this section shall be guilty of an offence.

Penalty: Two pounds.

(5.) In this section "Goldfields district" means the area comprised within the Boulder, Brown Hill-Ivanhoe, Coolgardie, Cue, Gascoyne, Hannans, Kalgoorlie, Kanowna, Kimberley, Mount Leonora, Menzies, Mount Magnet, Mount Margaret, Murchison, Pilbara, Roebourne, and Yilgarn electoral districts, as constituted at the commencement of this Act, and the town of Westonia, in the Avon electoral district.

76. Section ninety-eight of the principal Act is amended, as follows:— Amendment of
Section 93.

(a) By omitting subsection (2) thereof, and inserting a subsection, as follows:—

(2) But this section shall not prohibit the sale of liquor to any *bonâ fide* traveller, lodger, or weekly or other boarder, or the consumption of liquor by the licensee or any member of his family, or any servant of the licensee living on the premises, if the liquor is not drunk at a public bar of the licensed premises.

(b) By adding subsections, as follows:—

(3) Any servant or agent of a licensee who sells or supplies liquor contrary to this section shall be guilty of an offence.

Penalty: Two pounds.

(4) The word "boarder" in this section means a person who habitually from day to day obtains his meals on the licensed premises, but only while he is obtaining such meals between the hours of twelve and two in the afternoon and six and eight in the evening.

77. A section is inserted in the principal Act, as follows:—

98a. (1.) The holder of every publican's general license, hotel license, wayside-house license, and Australian wine and beer license shall keep a book in the form prescribed to be called "the register of lodgers."

(2.) In the said book the licensee shall enter, or cause to be entered, the name and address of every *bonâ fide* lodger for the time being in such premises, showing opposite the name of each lodger the distinguishing number or description of the room occupied by him, and the book shall be signed by the lodger.

Register of
lodgers.
See S.A., No. 1322,
S. 100.

(3.) This section shall apply in respect of regular as well as casual lodgers.

(4.) The register of lodgers shall be kept on the licensed premises, and shall be open to inspection at any time on demand by any member of the police force or inspector.

(5.) The fact that any person is found on licensed premises to which this section applies at any time during which the sale of liquor is prohibited by law shall, unless his name appears in the register of lodgers kept on such premises, together with the distinguishing number or description of the room occupied by him, be conclusive evidence as against the licensee, and *prima facie* evidence as against such person, in any proceedings under this Act, that such person was not a *bona fide* lodger in such premises where he was found.

(6.) Any holder of a license to which this section applies who—

- (a) neglects or fails to keep a register of lodgers, as provided by this section; or
- (b) neglects or fails to enter or cause to be entered in such register the particulars required by this section to be entered therein; or
- (c) makes or causes to be made in such register or retains in such register any false or misleading entry in respect of any of the particulars required to be entered therein; or
- (d) refuses or neglects to produce such register for inspection when required so to do under subsection (4),

shall be liable to a penalty for a first offence of not more than five pounds, and for every subsequent offence of not less than five pounds or more than fifty pounds.

For the purposes of this section lodger includes boarder.

Amendment to
Section 99.

78. Section ninety-nine of the principal Act is amended by omitting the words “eleven o’clock at night and six o’clock in the morning,” and inserting “during the hours when the licensed premises may not be lawfully open for the sale of liquor” in place thereof.

79. Section one hundred of the principal Act is repealed, and in lieu of such section the following is inserted:—

Repeal of Section 100.

100. No person shall be deemed to be a *bona fide* traveller within the meaning of this Act—

- (a) if the place where he demands to be or is supplied with liquor is within an area bounded by a circle having a radius of twenty miles from the Town Hall in Perth; or
- (b) if the place where he demands to be or is supplied with liquor is elsewhere than within an area bounded by a circle having a radius of twenty miles from the Town Hall in Perth, unless such place is more than ten miles from the place where he lodged during the preceding night; such distance to be calculated by the shortest practicable route along or over any public highway or thoroughfare or by or across any arm of the sea, inlet, river, or creek between the place of lodging and supply:

Provided that notwithstanding this section, the sale or supply of liquor by the holder of a railway refreshment room license to travellers on a railway shall be lawful during the hours when licensed premises may be lawfully open to the public for the sale of liquor in the district in which the railway refreshment room is situated.

80. A section is inserted in the principal Act, as follows:—

Penalty for carrying liquor during prohibited hours. See Vic. No. 2683, s. 190.

102a. Any person other than a *bona fide* lodger who carries away liquor in any vessel from any licensed premises on any day or any time during which the sale of liquor is prohibited by law, commits an offence against this Act.

Penalty: Two pounds.

81. Section one hundred and three of the principal Act is repealed, and a section is inserted in place thereof, as follows:—

Amendment of Section 103.

103. (1.) Any person found drinking liquor, or ascertained to have been drinking liquor, on any licensed premises, or found in the act of leaving any licensed premises with liquor in his possession, at any time when such

premises should not have been open for the sale of liquor commits an offence against this Act.

Penalty: For a first offence, Ten pounds; for any subsequent offence, Thirty pounds.

(2.) Any person found on licensed premises at any time when such premises should not be open for the sale of liquor shall, unless he satisfies the Court that his presence on such premises at such time was not in contravention of the provisions of this Act, be deemed to have committed an offence against this Act.

Penalty: Two pounds.

(3.) Provided that this section shall not relate to a *bonâ fide* traveller, lodger, or a weekly or other boarder within the meaning of section one hundred or ninety-eight, or to the licensee or any member of his family, or any servant of the licensee living on the premises.

Sale of liquor by the glass.

82. A section is inserted in the principal Act, as follows:—

104a. No licensee shall supply to any person by the glass liquor to be consumed with water or aerated water on the premises of the licensee after the 1st day of July, 1923, unless such liquor is supplied in a glass capable of holding at least one and a quarter gills.

Penalty: Five pounds.

Penalty if liquor is drunk on premises contrary to license.

Vic., No. 2683, sec. 220.

83. A section is inserted in the principal Act, as follows:—

106a. (1.) If any purchaser of any liquor from a person who is only licensed to sell the same not to be drunk on the premises, drinks such liquor on the premises where the same is sold, or in any street, road, or place adjoining or near such premises, the seller of such liquor shall, if it appears that such drinking was with his privity or consent, be liable for a first offence to a penalty of not less than two nor more than five pounds, and for a second and every subsequent offence to a penalty of not less than two nor more than ten pounds.

(2.) For the purposes of this section, the expression "premises where the same is sold" shall include any premises adjoining or near the premises where the liquor is sold, if belonging to the seller of the liquor, or under his control, or used by his permission.

(3.) In any proceeding under this section, it shall not be necessary to prove that the premises or place or places

to which such liquor is taken to be drunk belonged to or were hired, used, or occupied by the seller if proof is given to the satisfaction of the court hearing the case that such liquor was taken to be consumed thereon or therein with intent to evade the condition of the license.

84. A section is inserted in the principal Act, as follows:— Supplying liquor under a false description.

106b. Any licensee who supplies or causes to be supplied any liquor and charges for it under a fictitious heading or description, or who has upon the licensed premises any liquor under a fictitious heading, trade name, brand, or description commits an offence.

Penalty: For a first offence, Twenty pounds, for any subsequent offence, Fifty pounds and not less than Twenty pounds.

85. Section one hundred and eight of the principal Act is amended by omitting the words “not being the holder of a publican’s general license,” and by adding to the section a paragraph, as follows:— Amendment of sec. 108.

Provided that this section shall not apply to the holder of a publican’s general license if the billiard table or bagatelle table is kept on the licensed premises.

86. A subsection is added to section one hundred and ten of the principal Act, as follows:— Amendment of sec. 110.

(2.) Any person who at the time of being supplied with liquor or if supplied with meals or accommodation at licensed premises, on demand of payment by such licensee or by his servant or agent, refuses to pay a reasonable sum therefor commits an offence. N.S.W., 1912, No. 42, sec. 60.

Penalty: Ten pounds.

87. Section one hundred and twelve of the principal Act is amended, as follows:— Amendment of sec. 112.

(a) The words “on any licensed premises” are omitted. See Vic., No. 2083, sec. 176.

(b) After word “intoxication,” the words “or visibly affected by liquor, or who aids or abets any person in a state of intoxication or visibly affected by liquor in obtaining or consuming any liquor.”

(c) A paragraph is added, as follows:—

If an offence against this section is committed by a servant or agent of a licensee, on or in the

vicinity of the licensed premises, the licensee, and also such servant or agent, shall be liable to the penalty for such offence.

Amendment of
sec. 113.

88. Section one hundred and thirteen of the principal Act is amended by inserting after the word "licensee," in line three, the words "and also such servant or agent."

Amendment of
sec. 115.

89. Section one hundred and fifteen of the principal Act is amended by inserting the words "dining-room" after the word "bar."

Only one bar room
except by per-
mission of Court.
S.A., No. 1322,
sec. 134.
Vic., No. 2683,
sec. 214.

90. A section is inserted in the principal Act, as follows:—

115a. (1.) No licensee shall sell or supply liquor in more than one bar-room in or upon his licensed premises, or shall have more than one bar-room in or upon such premises, unless he has obtained the permission of the Court so to do.

For the purposes of this section, a room divided into compartments by wooden partitions, if approved by the Court, shall be one room if there are doors in the partition giving at all times direct access from one such compartment to the other.

(2) Every applicant for such permission shall, with the notice of his application, deposit with the clerk a plan showing the position of each proposed additional bar-room for which he has not at the time such permission.

(3.) No such additional bar-room shall be deemed to form any part of the accommodation required by this Act to be provided in any licensed premises.

(4) (a) Any licensee on whose licensed premises any liquor is sold or supplied in more than one bar-room, or on whose licensed premises there is more than one bar-room, except as permitted under the provisions of this Act, shall be liable to a penalty for a first offence of not less than five nor more than twenty pounds, and for every subsequent offence of not less than twenty pounds:

(b) A separate offence shall be deemed to be committed upon every day upon which, contrary to this section, liquor is sold or supplied, or a bar-room exists:

(c) A separate offence shall be deemed to be committed in respect of every bar-room in which liquor is sold, or which exists contrary to the provisions of this section.

(5) Whenever a license is transferred the transfer shall be deemed also to apply to any permission under this section, for the time being in force, to use an additional bar-room on the licensed premises.

91. Section one hundred and sixteen of the principal Act is amended by substituting for the word "fourteen," in subsection (4), the word "eighteen"; and by substituting the word "or" for the word "and," in subsection (6).

Amendment of
sec. 116.

92. Section one hundred and seventeen of the principal Act is amended, as follows:—

Amendment of
sec. 117.

(a) In subsection (1) the words "or servant or agent of a licensee" are inserted after the words "no licensee," and the word "eighteen" is omitted and "twenty-one" inserted in place thereof;

S.A., No. 1322,
sec. 170.
Q., 1912, No. 29,
sec. 71.

(b) In subsection (2) the words "or servant or agent of a licensee" are inserted after the word "licensee"; and the word "eighteen" is omitted and "twenty-one" inserted in place thereof; and

(c) A subsection is added, as follows:—

Q., 1914, No. 21,
sec. 15.

(3) Any person who in any place not being licensed premises but on a highway or place adjacent to licensed premises supplies or causes or permits to be supplied any liquor to any person apparently under the age of twenty-one years commits an offence.

Penalty: Twenty pounds.

93. A section is inserted in the principal Act, as follows:—

Persons under 21
not to be employed
in bars.

117a. No licensee shall employ any person under the age of twenty-one years as a barman or a barmaid, or suffer or permit any person under that age to be so employed.

This section shall not apply to any person over the age of eighteen years who was *bonâ fide* employed as a barman or barmaid on the 24th August, 1922.

Penalty: Twenty pounds.

See 10 Edw. VII.
and 1. Geo. V., Ch.
24. sec. 68.

But it shall not be unlawful for a licensed person to employ a member of his family, or his servant, whose age exceeds sixteen years, as a messenger to deliver intoxicating liquor.

Penalty for obtain-
ing liquor by false
statement as to
age.

94. A section is inserted in the principal Act, as follows:—

117b. Any person who, by falsely representing himself to be over the age of twenty-one years, obtains or attempts to obtain liquor at any licensed premises commits an offence.

Penalty: Five pounds.

Amendment of
sec. 118.

95. Section one hundred and eighteen of the principal Act is amended by inserting after the words “any other person” the words “or solicit or receive from an aboriginal native an order for the supply or delivery of liquor.”

Amendment of
sec. 125.

96. Section one hundred and twenty-five of the principal Act is amended by omitting the words “lawful purpose” in subsection (4) and substituting the words “purpose not made unlawful by this Act or any other Act relating to the sale of liquor”; and by substituting for the words “Penalty: Five pounds,” the words “Penalty: Ten pounds”; and by adding a subsection, as follows:—

(5.) If it is proved that the licensee took all reasonable care to prevent such person coming or remaining on the licensed premises for an unlawful purpose, or took all reasonable care to ascertain and actually believed that the purpose for which such person had come or remained on the licensed premises was a lawful purpose, the Court shall dismiss the case against the licensee.

Amendment of
sec. 128.

97. Section one hundred and twenty-eight of the principal Act is amended by substituting for the words “Penalty: Five pounds,” in subsection (3), the words “Penalty: Twenty-five pounds”; and by adding a subsection, as follows:—

(6) All proceedings under subsection (1) of this section shall be heard *in camera*.

S.A., No. 1322,
s. 175.

Amendment of
sec. 130.

98. Section one hundred and thirty of the principal Act is amended by inserting after the words “suffer any female,” in subsection (1) the words “other than his wife or daughter over the age of twenty-one years,” and by substituting the words “the closing hour” for “eleven o’clock,” in paragraph (c).

99. Section one hundred and thirty-one of the principal Act is amended by omitting the words "Penalty: Thirty pounds," and inserting "Penalty: For a first offence, Fifty pounds; for any subsequent offence after a previous conviction, One hundred pounds."

Amendment of
sec. 131.

100. A section is inserted in the principal Act, as follows:—

Posting of betting
placards.

131a. No licensed person shall placard, post up, or exhibit or permit or suffer to be placarded, posted up, or exhibited in or on or about his licensed premises any information or notices relating to betting or the results of horse racing.

Penalty: Twenty pounds and not less than Five pounds.

101. A section is inserted in the principal Act, as follows:—

Betting in licensed
premises unlawful.
Vic., No 2683,
sec. 200.

(131b.) Any licensed person who either himself or by means of any agent, clerk, or servant bets on horse-racing in his licensed premises with any other person or permits or is privy to or connives at betting on horse-racing on his licensed premises shall be guilty of an offence, and shall be liable to a penalty of not less than twenty nor more than one hundred pounds, and for a second or subsequent offence to a penalty of not less than one hundred nor more than two hundred pounds.

102. Section one hundred and thirty-two of the principal Act is amended by omitting the words "did not permit such drunkenness," in subsection (1), and inserting in place thereof "and the persons employed by him took all reasonable steps to prevent drunkenness on the premises."

Amendment of
sec. 132.

103. Section one hundred and thirty-three of the principal Act is repealed, and a section is inserted in place thereof, as follows:—

Amendment of
sec. 133.

133. (1.) No licensee of premises licensed for the sale of liquor situated within a radius of twelve miles of the General Post Office in Perth shall permit any billiards, bagatelle, or other games to be played on his licensed premises by any person other than *bonâ fide* lodgers during the hours when liquor may not be lawfully sold or disposed of to the public on the licensed premises.

Restriction as to
the playing of
billiards and other
games.

See W.A., 1911, No.
32, Sec. 133; S.A.
No. 1322, Sec. 24.

Penalty: Twenty pounds.

(2.) No licensee of premises licensed for the sale of liquor situated outside a radius of twelve miles of the General Post Office in Perth shall permit any billiards, bagatelle, or other games to be played on his licensed premises after eleven o'clock at night by any person other than *bonâ fide* lodgers except under the authority of an occasional license, or at any time on Sunday, Christmas Day, or Good Friday.

Penalty: Twenty pounds.

(3.) No licensee under a billiard table license for premises not licensed for the sale of liquor shall permit any billiards, bagatelle or other games to be played on his licensed premises after eleven o'clock at night except under the authority of an occasional license, or at any time on Sunday, Christmas Day, or Good Friday.

Penalty: Twenty pounds.

Prohibition of
unlawful games.
See 44, Vic., No. 9,
sec. 40.

104. A section is inserted in the principal Act as follows:—

133a. (1.) No licensee shall suffer any person to play any unlawful games or engage in any unlawful sport, or suffer any gaming on his licensed premises or the appurtenances thereto.

Penalty: Fifty pounds.

(2.) Any person who plays at any unlawful game or engages in any unlawful sport on licensed premises shall be guilty of an offence.

Penalty: Ten pounds.

Closing of licensed
premises in case of
riot.

See S.A., No. 1322,
sec. 154.

105. A section is inserted in the principal Act, as follows:—

133b. Any police or resident magistrate may, if any riot or tumult happens or is expected to take place, order or direct the licensee of any licensed premises situated at or near to the place where such riot or tumult happens or is expected to take place, to close his licensed premises for such time as the magistrate thinks fit, and any person who does not obey such order or direction shall be liable to a penalty of not exceeding Twenty pounds.

Amendment of
sec. 139.

106. Section one hundred and thirty-nine of the principal Act is amended, as follows:—“By omitting the words and figures ‘Sections 97, 98, 106, 131, or 136 of this Act,’ and by

inserting in place thereof the following:—“Sections 94, 97, 98, 106, 111, 112, 113, 115 (relating to the subletting of bars), 118, 131, 136, and 180 (in respect of adulteration of liquor with deleterious substances,’ ” and by inserting after the word “offence,” in line nine, the words “or the Licensing Court.”

107. Section one hundred and forty-one of the principal Act is amended by adding the following paragraphs:— Amendment of sec. 141.

(e) is of drunken or dissolute habits and unfit to hold a license; or

(f) knowingly suffers his licensed premises to be used for immoral purposes; or

(g) fails to keep a well appointed eating-house with requisite appliances in operation for the daily preparing and serving of meals to guests on his licensed premises.

And by adding to the section the following words:—“or at the discretion of the Court such licensed person shall forfeit and pay for such offence a penalty of not more than one hundred pounds.”

A sitting of the Licensing Court may be held to deal with offences under this section at such time as the Chairman may appoint.

108. A section is inserted in the principal Act, as follows:— Standard measure. S.A., No. 1922, sec. 151.

141a. All liquor sold under the authority of this Act, in a quantity not less than half a pint shall, if required by the purchaser, be measured and delivered according to imperial standard measures, and shall, upon demand by the person receiving the same, be remeasured for his satisfaction in the same premises and in the same measures, or any other standard measures he procures, but not if the liquors have been taken to any other room of or away from the licensed premises, or have been partly consumed before a remeasurement is demanded. On failure to measure or remeasure as aforesaid the licensed person shall, for every offence, be liable to a penalty of not more than five pounds.

109. A section is inserted in the principal Act, as follows:— State Hotels.

141b. The manager of a State hotel shall be deemed a licensee, and the State hotel shall be deemed licensed

premises, as regards the hours of trading and conditions imposed by this Act on licensees, and for the purposes of the following sections of this Act, namely, Sections 91, 92, 112, 113, 116, and 117, and Part X. of this Act; and such manager shall for a breach of the provisions of this Act be personally liable to the penalties thereby imposed on a licensee.

Amendment of
sec. 145.

110. Section one hundred and forty-five of the principal Act is amended, as follows:—

(1) By adding to paragraph (a) the following words:—
“and in the case of a club registered for the first time after the commencement of the Licensing Act Amendment Act, 1922, the minimum number of members shall be one hundred if the club premises are situated in the Metropolitan District, and fifty if the club premises are situated elsewhere.”

(2) By adding a paragraph to the section, as follows:—
In this section “Metropolitan District” comprises Perth, East Perth, North Perth, West Perth, Subiaco, Leederville, Claremont, Fremantle, North-East Fremantle, South Fremantle, Canning and Guildford Electoral Districts.

Amendment of
sec. 146.

111. Section one hundred and forty-six of the principal Act is amended, as follows:—

(1.) Paragraph “(k)” is amended by substituting “twenty-one” for the word “eighteen,” and by adding to the paragraph the words “and no member under the age of twenty-one years shall be admitted to any portion of the club premises where liquor is sold or consumed.”

(2.) Paragraph “(1)” is deleted, and a paragraph is inserted in place thereof, as follows:—

(1.) That no person under eighteen years of age shall be employed in the club; but this restriction shall not apply to persons employed in the administrative work of the club:

Provided that no person under the age of twenty-one shall serve in the bar:

Provided also that no person under the age of eighteen shall be employed in or about a bar or in the delivery of liquor on the club premises.

(3.) Paragraph “(m)” is amended by omitting the words “is provided for,” and by substituting for the words and figures “under Section 15 of the Early Closing Act, 1904,” the words “may for the time being be lawfully employed.”

112. Section one hundred and forty-seven of the principal Act is amended by substituting for the words “Penalty: Ten pounds,” the following:—“Penalty: For a first offence, Ten pounds; for any subsequent offence after a previous conviction, Twenty pounds.” Amendment of sec. 147.

113. Section one hundred and forty-nine of the principal Act is repealed, and a section is inserted in place thereof, as follows:— Amendment of sec. 149.

149. (1.) Subject as hereinafter provided it shall be unlawful— Strangers and visitors.

(a) for any stranger to use the club premises; or

(b) for any member or other person to admit any stranger to the use of the club premises:

Provided that it shall not be an offence, during the hours when liquor may be lawfully sold or disposed of to the public on licensed premises within the district, for a stranger to use or be admitted to the use of such part of the club premises as is set apart for visitors:

Penalty: Ten pounds.

(2.) No stranger or visitor shall be admitted to the club premises during the hours when liquor may not be lawfully sold or disposed of to the public on licensed premises within this district:

Provided that it shall be lawful for a member of a residential club, which contains not less than ten bedrooms if in the metropolitan area, and not less than two bedrooms if outside the metropolitan area, together with a suitable complement of bedding and furniture, and in which meals are customarily provided, on giving six hours' notice in writing to the Secretary, and subject to the approval in writing of the Committee, to invite not more than three guests, whose names shall be stated in the notice, to dinner in the club premises on any day except Sunday, and thereupon such guests shall be entitled to use the club premises or such parts of the club premises as are set apart for the use of guests between six p.m. and twelve midnight on such day; but no such guest shall

pay or be allowed to pay for any meal, liquor, or other refreshment in the club.

(3.) If any stranger or visitor is admitted or permitted to use the club premises contrary to this section, the secretary or other person in charge of the registered club commits an offence and shall be liable to a penalty not exceeding Twenty pounds.

Provided that on the application of the secretary of any club, the chairman or any member of the Licensing Court or the Clerk of the Court, when the application is not opposed, may by an order in writing suspend the operation of this section in regard to such club on any special occasion during certain hours to be specified in the order.

(4.) The term "stranger" includes any person not being a member, an honorary member, an extraordinary honorary or temporary member, or an officer or servant of the club, or a workman employed on the club premises.

Sale of liquor.

114. A section is inserted in the principal Act, as follows:—

149a. Every registered club shall be closed for the sale of liquor at the hour of eleven o'clock at night, and shall continue so closed until the hour of nine o'clock the following morning, except to *bona fide* lodgers; but no person shall be deemed a *bona fide* lodger in club premises unless such club contains ten bedrooms if in the metropolitan area, and two bedrooms if outside the metropolitan area, together with a suitable complement of bedding and furniture:

Provided that the Licensing Court may grant an occasional license which shall exempt the club from the provisions of this section on any special occasion during certain hours, and on the special occasion to be specified in the license.

**Amendment of
sec. 155.**

115. Section one hundred and fifty-five of the principal Act is amended, as follows:—

In paragraph (b) the word "thirty" is omitted, and the words "as prescribed by paragraph (a) of section one hundred and forty-five" are inserted in place thereof; and a paragraph is inserted, as follows:—

(ee) That persons who are not members are habitually admitted to the club premises merely for the purpose of obtaining liquor.

116. Section one hundred and sixty-two of the principal Act is amended by omitting the words in subsection (1) "two pounds ten shillings per centum on the gross amount paid or payable for all liquor (including the duties thereon)," and inserting in place thereof "five pounds per centum on the amount paid or payable for all liquor (excluding the duties thereon and the cost of carriage from place to place within the State)," and by adding to the first paragraph of subsection (1) the words "and the provisions of section seventy-one of this Act shall, *mutatis mutandis*, apply."

Amendment of
sec. 162.

117. Section one hundred and sixty-three of the principal Act is amended by omitting the words "the next sitting," and inserting the words "a sitting," in subsection (1), and by adding a subsection, as follows:—

Amendment of
sec. 163.

(3a) A sitting of the Licensing Court may be held to determine complaints under this section at such time as the chairman may appoint.

118. A section is inserted in the principal Act, as follows:—

Sale of liquor on
Sundays.

See Vic., No. 2633,
sec. 260.

165a. No liquor shall be sold or disposed of in any club on Sunday except to *bonâ fide* lodgers or to members of the club being served with a meal between the hours of twelve and two in the afternoon or six and nine in the evening.

Penalty: For a first offence, Fifty pounds; for any subsequent offence, One hundred pounds.

119. A section is inserted in the principal Act under the subheading "Inspection," as follows:—

Premises to be open
to inspection.
See Vic., No. 2633,
sec. 134.

165b. (1.) Club premises shall be open at all times to the inspection of any inspector of licensed premises or inspector of liquor, or a member of the police force authorised in writing by a member of the Licensing Court, who shall respectively have power to enter into and search all such premises.

(2.) The secretary or other person in charge of a registered club who refuses to admit an inspector or such authorised member of the police force on his demanding to enter, or obstructs him or causes or permits him to be obstructed or delayed in the discharge of his duty, commits an offence against this Act.

(3.) Part X. of this Act shall apply to club premises which shall be deemed to be licensed premises for the purposes of Part X.

Penalty: Twenty pounds.

Register of lodgers.

120. A section is inserted in the principal Act, as follows:—

169a. It shall be the duty of the secretary of every registered club to keep a register of lodgers, and the provisions of this Act relating to the register of lodgers to be kept by licensed persons shall *mutatis mutandis* apply, and such register shall at all times be open to inspection by any inspector of licensed premises or police officer acting with the authority in writing of a member of the Licensing Court.

Penalty: Twenty pounds.

Amendment of sec. 170.

121. Subsection (1) of section one hundred and seventy of the principal Act is amended by inserting the words “one hundred and seventeen” after the words “one hundred and twelve.”

Amendment of sec. 173.

122. Section one hundred and seventy-three of the principal Act is amended by omitting all words after the word “therein,” in paragraph (c), and inserting in place thereof the following:—“and such report shall describe the condition of the premises, fittings, and furniture, and the manner in which such premises have been conducted during the preceding twelve months, and generally as to whether the provisions of this Act are duly observed. Copies of such reports to be forwarded to the Commissioner of Police.”

Branch of Police Department to deal with inspection, etc., of licensed premises.

123. A section is inserted in Part IX. of the principal Act, as follows:—

176a. A branch of the Police Department shall be established to deal with the inspection of licensed premises, or any other premises in which intoxicating liquor is for sale.

Such branch shall, subject to the control of the Commissioner of Police, be in charge of an experienced senior officer, whose time shall be devoted exclusively to such

duties and the inspection of liquor and reporting upon the management and condition of licensed premises, or any other premises in which intoxicating liquor is for sale, to the Commissioner of Police and the Licensing Courts.

Such officer, and any member of the police force attached for the time being to such branch of the department shall, *ex officio*, be an inspector of licensed premises.

Inspectors of liquors appointed under the Health Act shall be officers of the Police Department established under this section.

124. A section is inserted in the principal Act, as follows:— Proof strength of beer.

180a. (1.) No person shall sell or supply to any other person, or have on his premises apparently for sale, whisky that has not been kept for at least three years in wood.

Penalty: For a first offence, Fifty pounds; for any subsequent offence, One hundred pounds.

(2.) The provisions of the Health Act, 1911-19, relating to liquor are incorporated with this Act, and any offences thereunder shall be deemed to be offences under this Act.

125. (1.) In sections one hundred and eighty-one, one hundred and eighty-two, and one hundred and eighty-three of the principal Act, the words "or other person authorised in that behalf by the Minister" are inserted after the words "inspector" and "inspector of licensed premises." Amendment of Sections 181-3.

(2.) Section one hundred and eighty-two of the principal Act is further amended by the addition of a subsection, as follows:—

(3.) If the liquor cannot be conveniently divided into three parts, it shall suffice if it is divided into two parts, one being delivered to the seller and the other retained by the inspector for future comparison or analysis.

126. Section one hundred and eighty-four of the principal Act is amended by deleting all the words after "analyst," in line two down to the end of the section, and inserting in lieu thereof the words "with a suitable identification number by the inspector." Amendment of Section 184.

Apportionment of
rent and premium,
No. 63 of 1915,
s. 16.

127. A section is inserted in Part XI. of the principal Act, as follows:—

188a. (1.) If any licensed premises are held under lease, granted prior to the Licensing Act Amendment Act, 1922, the lessee shall be allowed by the lessor a proportionate reduction of the rent of the premises, in the same ratio to the full rent as the reduction in hours bears to the time during which the premises might have been lawfully open for the sale of liquor except for that Act, and a like proportionate return of a part of the premium (if any) paid by the lessee to the lessor.

Provided that if any lessee or lessor considers himself insufficiently recompensed or unduly penalised by this section he may require the question of adjustment of rent or rent and premium to be submitted to arbitration under the provisions of the Arbitration Act, 1895, and by an award to be made thereunder the rent or rent and premium to be payable by the lessee during and in respect of such period shall be at such reduced rate as in the circumstances of the case may be deemed reasonable, and the award shall be binding upon the parties and final.

(2.) Where a lease has been assigned or transferred for monetary consideration, the right which, except for such assignment or transfer, would have continued in the lessee to a proportionate return of a part of the premium paid by the lessee to the lessor shall, subject as herein-after provided, vest in the assignee of the lease: Provided that where such consideration paid by an assignee or transferee is less than the amount of the premium paid by the lessee, the proportionate return of a part of the premium shall be calculated on the amount of such consideration.

(3.) This section

- (a) shall only apply to premises for which a publican's general license, an hotel license, a way-side house license, an Australian wine and beer license, a railway refreshment-room license is held; and
- (b) shall not apply to premises not licensed at the commencement of the lease, unless the amount of rent or premium (if any) was fixed in view of a prospective license.

(4.) In this section—

“Lessee” includes the mesne lessee and an assignee of a lease and a sub-lessee, and also a mortgagee of a lease or sub-lease.

“Lessor” includes a mesne lessor and the person for the time being entitled to the rent of the premises, and also a mortgagee of the lessor or of the land comprised in the lease.

128. Subsection (1) of section one hundred and ninety-four of the principal Act is repealed, and a subsection is inserted in place thereof, as follows:—

Amendment
sec. 194.

(1.) Any person alleged in any complaint under this Act to be a licensed person shall, for all purposes connected with and in all proceedings under or upon such complaint, be deemed to be a licensed person, and to be licensed in respect of the premises (if any) in respect of which he is, in such complaint, alleged to be licensed, unless he at the hearing of such complaint satisfies the Court to the contrary.

Proof of License
S.A., No. 1322
sec. 279.

129. The second schedule to the principal Act is amended, as follows:—

Amendment of
Second Schedule.

(1.) In the form of a Spirit Merchant’s License, all the words after the words “sell and dispose of” to the words “Licensing Act, 1911,” are omitted, and the following words are inserted in place thereof:—“on the said premises any liquor in quantities of not less than two gallons, so that such liquor shall not be consumed on the premises, and that the minimum quantity shall consist of spirits, or of wine, or of beer, or of some other kind of liquor, and shall be delivered and taken away from the premises at one time and not by instalments, under and subject to the provisions of the Licensing Act, 1911.”

(2.) The form of “Two Gallon License” is omitted, and the following form is inserted in place thereof:—

THE LICENSING ACT, 1911.

BREWER’S LICENSE.

WHEREAS the Licensing Court for the Licensing District of.....
..... at a sitting held on the.....day of.....,
192 , by its certificate dated the.....day of.....192 ,
authorised the issue to.....of a Brewer’s
License for the brewery of.....

situated at.....And whereas the said.....has paid the sum of £....., as the fee for the said license: Now it is hereby declared that the said, being a person or the representative of a person carrying on the trade or business of a brewer, is licensed to sell and dispose of beer, the produce of the brewery, in quantities of not less than two gallons, so that such liquor is sold or disposed of on the premises of the licensee situated at.....and is not consumed on the premises and shall be in quantities of not less than two gallons to be delivered or taken away from the premises at one time and not by instalments, and subject to the provisions of the Licensing Act, 1911.

This License to commence on the.....day of.....192 , and to continue until the 31st day of December, 192 , if not forfeited in the meantime.

Dated this.....day of.....192

Receiver of Revenue.

(Place of Issue.)

Amendment of Third Schedule.

130. In the third schedule to the principal Act in the form of application for a spirit merchant's license and other licenses, the words "Two Gallon License" are omitted and "Brewer's License" inserted in place thereof.

Schedules 15, 16, and 17.

131. The following schedules are hereby substituted for schedules 15, 16, and 17 respectively in the principal Act:—

FIFTEENTH SCHEDULE.

Licensing Act 1911.

SUMMONS.

In the.....Licensing District.
To.....
of.....

You are hereby summoned to appear before the Licenses Reduction Board aton the.....day of....., 19....., at the hour of.....o'clock in thenoon to show cause why the licensed premises known as.....and situated at.....should not be deprived of a license.

Given under my hand this.....day of.....19.....

Chairman [or member] of the Board.



SIXTEENTH SCHEDULE.*Licensing Act, 1911.*

VOTING PAPER.

Do you vote for Prohibition ?

YES

NO

Indicate your vote by placing a cross thus **X** in one of the above squares.**SEVENTEENTH SCHEDULE.***Licensing Act, 1911.*

VOTING PAPER.

Do you vote that licenses be restored ?

YES

NO

Indicate your vote by placing a cross thus **X** in one of the above squares.

132. (1.) Section two of the Licensing Act Amendment Act, 1911, and section eleven of the Sale of Liquor and Tobacco Act, 1916, are hereby repealed.

Licensing Act Amendment Act, 1911, sec. 2, and Sale of Liquor and Tobacco Act, 1916, sec. 11 repealed.

(2.) Section three of the Sale of Liquor and Tobacco Act, 1916, is amended by inserting after the words "Licensing Act of 1911," in line two, the words "or a brewer's license or a spirit merchant's license."

133. Notwithstanding anything contained in this Act to the contrary, a gallon or two-gallon license, or a spirit merchant's license, under and subject to the principal Act may, on payment of the fee payable under that Act, be granted or issued to any person who, prior to 31st December, 1922, is an applicant or the holder of a certificate for such license, but section thirty-four of this Act shall apply to such license.

Saving of right of renewal of certain licenses under pending applications.

Provided that the Receiver of Revenue shall, if required so to do—

- (a) issue to the holder of a certificate for a gallon license or two gallon license, in lieu of such license, a spirit's merchant's license under and subject to this Act, on payment of the prescribed fee;

- (b) issue to the holder of a certificate for a two-gallon license held by or on behalf of a person carrying on the business of a brewer, in lieu of such license, a brewer's license, and also, if so desired, a spirit merchant's license under and subject to this Act, on payment of the prescribed fees;
- (c) issue to the holder of a certificate for a spirit merchant's license under the principal Act, in lieu of such license, a spirit merchant's license under and subject to this Act, on payment of the prescribed fee.

134. All copies of the principal Act to be hereafter printed by the Government Printer shall be printed as amended by this Act, by the Licensing Act Amendment Act, 1911, by sections fifteen, sixteen, seventeen, and eighteen of the Illicit Sale of Liquor Act, 1913, and by the Sale of Liquor and Tobacco Act, 1916, under the superintendence of the Clerk of Parliaments, and all necessary references to the amending Acts shall be made in the margin.

The sections in this Act when inserted in the principal Act shall respectively bear the numbers set against each of them in square brackets; and with regard to the Sale of Liquor and Tobacco Act, 1916, section three thereof shall be inserted in the principal Act as section 37a, and section six shall be inserted as subsection (3) of section 38, the words "granted under the Licensing Act, 1911," being deleted; and section five shall be inserted as subsections of section 32, and section seven shall be inserted as subsection (2) of section 32a.

In subsection (1) of section twenty-seven of the principal Act, paragraph (o) "Gallon licenses" shall be transposed to precede paragraph (j) "Brewers' licenses," and section forty-two (gallon license) shall be transposed to precede section thirty-seven (brewer's license).

In such reprint of the principal Act the sections may be renumbered in arithmetical order, and all cross-references shall be adjusted so far as necessary.
