

LIQUOR ACT, 1970–1978.

Analysis.

PART I.—PRELIMINARY.

- Sec.
1. Short Title.
 2. Commencement.
 3. Arrangement.
 4. Repeals.
 5. Saving.
 6. Act not to apply in certain cases.
 7. Interpretations.

PART II.—ADMINISTRATION.

Division 1.—Court.

8. Court established.
9. Constitution.
10. Appointment of members.
11. Jurisdiction of Court.
12. Power to summon witnesses.
13. Sittings.
14. Proceedings.

Division 2.—Appeals.

15. Appeals in certain cases.
16. Powers of Supreme Court.
17. Licences or permits to remain in operation pending appeal.

Division 3.—Officers.

18. Clerks.
19. Supervisors of licensed premises.
20. Duties and powers of supervisors.
21. Duties of Police.
22. Duties of local health authorities.

PART III.—SALE, SUPPLY AND CONSUMPTION OF LIQUOR.

Division 1.—Licences and Permits for Licensees.

23. Types of Licences.
- 23A. Special Provisions for New Years Eve.
24. Hotel licence.
25. Caterer's permit.
26. Tavern licence.
27. Limited hotel licence.
28. Canteen licence.
29. Winehouse licence.
30. Cabaret licence.
31. Theatre licence.
32. Railway refreshment room licence.
33. Packet licence.
34. Restaurant licence.
35. Club licence.
36. Store licence.
- 36A. Vigneron's licence.
37. Wholesale spirit merchant's licence.
38. Brewer's licence.
39. Australian wine licence.
- 39A. Special licence for West Australian Wine Festival.
40. Reception area permit.
41. Licenses and permits subject to further limitations.

Division 2.—Permits for Unlicensed Premises.

- Sec.
 42. Unlicensed club permit.
 43. Function permit.
 44. Permits subject to further limitations.

Division 3.—Liquor on Unlicensed Premises.

45. Limitation on bringing liquor to unlicensed premises.
 46. Limitation on the consumption of liquor on unlicensed premises.
 47. Prohibition orders for unlicensed restaurants.
 48. Interpretations.

**PART IV.—GRANTING OF LICENCES, PROVISIONAL CERTIFICATES
 AND PERMITS AND THE RENEWAL, TRANSFER, REMOVAL, ETC.,
 OF LICENCES.**

Division 1.—Granting of Licences, Provisional Certificates and Permits.

49. Disqualifications.
 50. Persons who may hold licences.
 51. Notices of application.
 52. Disposal of applications, etc.
 53. Police and supervisors to report.
 54. Fixing of areas affected by applications.
 54A. Special provisions relating to certain applications for the variation of licensed premises.
 54B. Court not to consider certain applications for licences.
 55. Who may object to grant of licences.
 56. Court may raise objections.
 57. Objections.
 58. Application for permits.
 59. Certificate of local health authority.
 59A. Certificate of local planning authority.
 60. Consideration of reports and certificates.
 61. Establishment and effect of objections.
 62. Provisional Certificates.
 63. Grant of hotel licences.
 63A. Certain formalities may be dispensed with in respect of the granting of licences when another licence is to be surrendered.
 64. Grant of tavern licences.
 65. Grant of limited hotel licences.
 66. Grant of works canteen licences.
 67. Grant of seafarers' canteen licences.
 68. Grant of winehouse licences.
 69. Grant of club licences.
 70. Special provisions for Anzac Club.
 71. Grant of store licences.
 72. Grant of other licences.
 73. Grant of licences generally.
 74. Grant of permits.

Division 2.—Renewal of Licences and Permits.

75. Currency of licences.
 76. Applications for renewal of licences.
 77. Period of and operation of renewal.
 78. Renewals of permits.
 79. Who may object to renewals.
 80. Objections to renewals.
 81. Procedure on applications for, and on granting renewals.
 82. Dealing with certain objections.
 83. Owners and others to have notice of failure to renew.

Division 3.—Transfer and Transmission of Licences.

84. Transfer of licences.
 85. Notices of application.
 86. Disposal of applications, etc.
 87. Objections.
 88. Transmission of licences.
 89. Transfer of licences following entry.

Division 4.—Removal of Licences.

- Sec.
90. Application for removal.
91. Grant of removal.
92. Temporary removal.

PART V.—IMPROVEMENT AND RATIONALIZATION OF LICENSED PREMISES.

Division 1.—Improvement and Maintenance of Premises.

93. Plans lodged with Court.
94. Variation of licensed premises.
95. Owners or licensees may submit proposals for variations.
96. Court may require variations.
97. Court may fix times for giving effect to directions.
98. Court may renew licences and modify requirements.
99. Licensed premises to be kept clean and in repair.
100. Owner may comply with directions to licensee.
101. Provisions applicable where licensee is not the owner.
102. Contract of sale varied in certain cases.
103. Power to cancel licences.
104. Power of Treasurer to guarantee expense of carrying out work.

Division 2.—Grading of Hotels.

105. Court may determine standards for grading.
106. Reference of system of grading to Tourist Advisory Council.
107. Notice of grading to owners and licensees.
108. Misrepresentation of grading.
109. Financial assistance for improvements.
110. Interpretations.

Division 3.—Rationalization of Licences.

111. Court to effect rationalization.
112. Court to review hotel licences.
113. Licensees to be required to show cause why premises should continue to be licensed.
114. Parties may show cause for continuance of licence.

Division 4.—Surrender of Licences.

115. Surrender by licensees, generally.
116. Surrender of club licences.
117. Consents of interested persons to be obtained.

PART VI.—OBLIGATIONS OF LICENSEES.

118. Name of licensee to be displayed.
119. One bar only, except by leave.
120. Bars to be kept closed during prohibited hours.
120A. Closing of premises in case of riot, civil disorders, etc.
121. Register of lodgers.
122. Services to be provided by certain licensees.
123. Duties of licensees as regards premises.
123A. Restaurant licensee to display prices.
124. Licence to be in custody of licensee and produced following demand.
125. Forfeiture of licences in certain cases.

PART VII.—OFFENCES AND LEGAL PROCEEDINGS.

Division 1.—Offences relating to Sale and Supply of Liquor.

126. Offences relating to sale and supply of liquor on licensed premises.
127. Offences on licensed premises.
128. Offence of permitting unlawful consumption of liquor off licensed premises.

Division 2.—Offences Generally.

Sec.

- 129. Offences on or relating to licensed or specified premises.
- 129AA. Court may order persons not to resort to licensed premises.
- 129A. Restriction on supply of liquor on vineyards.
- 130. [Repealed.]
- 131. Carrying away liquor during prohibited hours.
- 132. Unlicensed persons keeping up signs.
- 132A. False or misleading statements.
- 133. Tearing down or defacing notices.

Division 3.—Unlawful Dealing in Liquor.

- 134. Unlawful dealing in liquor.
- 135. Seizure of liquor unlawfully dealt in.
- 136. Persons in possession of seized liquor deemed guilty of unlawful dealing.
- 137. Arrests where persons found drinking on unlicensed premises.
- 138. Hawking liquor.
- 139. Sale of liquor under pretence.
- 140. Liquor not to be supplied to persons convicted of unlawful dealing.
- 141. Offences generally, and general penalty.
- 142. Complaints to be heard by Stipendiary Magistrate.

Division 4.—Miscellaneous Powers of Police and Others.

- 143. Admission to premises.
- 144. Power to seize liquor.
- 145. Powers with respect to persons unlawfully on licensed premises.
- 146. Prohibition of supply of liquor to inebriates.
- 147. Power to exclude or expel certain persons from licensed premises.
- 148. No action for price of liquor in certain cases.

Division 5.—Proceedings and Evidence.

- 149. Recovery of penalties and costs.
- 150. Certain justices not to hear complaints.
- 151. Allegations as to licences and permits.
- 152. *Prima facie* evidence of sale or consumption of liquor.
- 153. Averments as to liquor, lodgers and townsites.
- 154. Separate offences.
- 155. Presumption where charge is made for admission.
- 156. Certain persons not to be regarded as accomplices. Evidence of accomplices.
- 157. Offences by persons nominated to be responsible as licensee.

PART VIII.—FINANCIAL PROVISIONS.

Division 1.—Fees for Licences, Permits, etc.

- 158. Fees generally.
- 159. Annual Fees.
- 160. [Repealed.]
- 161. Payment of fees.
- 162. Penalty for late payment of fees.
- 163. Returns of liquor purchased and sold.
- 164. Fees for permits and applications.

Division 2.—Premiums.

- 165. Premiums payable on the issue of certain licences or provisional certificates.
- 166. Premiums on removal of licences.

Division 3.—Moneys for Relief, Education and Rehabilitation.

- 167. Moneys for Anzac Day Trust Fund.
- 168. Power of Treasurer to make payments for certain purposes.

PART IX.—MISCELLANEOUS.

- Sec.
169. Clerks to issue permits in certain cases.
170. Register of owners.
171. Notices not invalid for errors unlikely to mislead.
172. Governor may rectify irregularities.
173. Duties and liabilities of innkeepers.
174. Immunity of persons acting in good faith.
175. Rules.
176. Historic Inns.
177. Regulations.

FIRST SCHEDULE.

Repeals.

SECOND SCHEDULE.

Corresponding Licences under Repealed Act.

THIRD SCHEDULE.

Transmission of Licences.

FOURTH SCHEDULE.

Licence Fees.

Approved for Reprint 3rd October, 1979.

WESTERN AUSTRALIA.

LIQUOR.

No. 34 of 1970.¹

[As Amended by Acts:

No. 112 of 1970, assented to 8th December, 1970;
No. 76 of 1972,² assented to 20th November, 1972;
No. 94 of 1972³ (as amended by No. 19 of 1973);
No. 76 of 1973,⁴ assented to 17th December, 1973;
No. 44 of 1974, assented to 18th November, 1974;
No. 128 of 1976,⁵ assented to 2nd December, 1976,
No. 74 of 1977,⁶ assented to 28th November, 1977;
No. 29 of 1978, assented to 18th May, 1978;
No. 84 of 1978, assented to 27th October, 1978;

and reprinted pursuant to the Amendments Incorporation Act 1938.]

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

[Assented to 27th May, 1970.]

BE it enacted—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Liquor Act, 1970-1978*.

Short title.
Amended by
No. 84 of
1978, s. 1.

2. This Act shall come into operation on a date to be fixed by proclamation.¹

Commence-
ment.

¹ Came into operation on 1st July, 1970; *Gazette* 19/6/70, p. 1687.

² Sections 1-4, 6, 8-12, 15-22, 28, 29 and 32-34 came into operation on 1st December, 1972; sections 23-25, 27 and 38-39 came into operation on 1st January, 1973; see *Gazette* 1/12/72, p. 4559; sections 5, 7, 13, 14, 26, 31, 35, 36, 37 and subsection (2) of section 30 came into operation on 30th March, 1973; see *Gazette* 30/3/73, p. 865; subsection (1) of section 30 came into operation on 1st September, 1973; see *Gazette* 10/8/73, pp. 3005-6.

³ Metric Conversion Act 1972-1973. The relevant amendments included in this reprint effective from 1/1/74; see *Gazette* 2/11/73, p. 4109.

⁴ Came into operation on 18th January, 1974; see *Gazette* 18/1/74, p. 124.

⁵ Section 33 deemed to have come into operation on 1/7/70, see s. 2 of Act No. 128 of 1976; section 5 operated from assent; sections 3 (c), 4 (b), 11, 15 (a) and 35 to 38 (both inclusive) came into operation on 29th July, 1977, see *Gazette* 15/7/77 p. 2199. The remaining provisions came into operation on 17th June, 1977, see *Gazette* 3/6/77, p. 1633.

⁶ Came into operation 9th December, 1977; see *Gazette* 9/12/77, p. 4500.

Part I.

S. 3.

Arrangement.

3. This Act is divided into Parts, as follows—

PART I.—PRELIMINARY, ss. 1-7.

PART II.—ADMINISTRATION, ss. 8-22.

Division 1.—Court ss. 8-14.

Division 2.—Appeals, ss. 15-17.

Division 3.—Officers, ss. 18-22.

PART III.—SALE, SUPPLY AND CONSUMPTION OF LIQUOR, ss. 23-48.

Division 1.—Licences and Permits for Licensees, ss. 23-41.

Division 2.—Permits for Unlicensed Premises, ss. 42-44.

Division 3.—Liquor on Unlicensed Premises, ss. 45-48.

PART IV.—GRANTING OF LICENCES, PROVISIONAL CERTIFICATES AND PERMITS AND THE RENEWAL, TRANSFER, REMOVAL, ETC. OF LICENCES, ss. 49-92.

Division 1.—Granting of Licences, Provisional Certificates and Permits, ss. 49-74.

Division 2.—Renewal of Licences and Permits, ss. 75-83.

Division 3.—Transfer and Transmission of Licences, ss. 84-89.

Division 4.—Removal of Licences, ss. 90-92.

PART V.—IMPROVEMENT AND RATIONALIZATION OF LICENSED PREMISES, ss. 93-117.

Division 1.—Improvement and Maintenance of Premises, ss. 93-104.

Division 2.—Grading of Hotels, ss. 105-110.

Division 3.—Rationalization of Licences, ss. 111-114.

Division 4.—Surrender of Licences, ss. 115-117.

PART VI.—OBLIGATIONS OF LICENSEES, ss. 118-125.

PART VII.—OFFENCES AND LEGAL PROCEEDINGS, ss. 126-157.

Division 1.—Offences relating to Sale and Supply of Liquor, ss. 126-128.

Division 2.—Offences Generally, ss. 129-133.

Division 3.—Unlawful Dealing in Liquor, ss. 134-142.

Division 4.—Miscellaneous Powers of Police and Others, ss. 143-148.

Division 5.—Proceedings and Evidence, ss. 149-157.

PART VIII.—FINANCIAL PROVISIONS, ss. 158-168.

Division 1.—Fees for Licences, Permits etc., ss. 158-164.

Division 2.—Premiums, ss. 165-166.

Division 3.—Moneys for Relief, Education and Rehabilitation, ss. 167-168.

PART IX.—MISCELLANEOUS, ss. 169-177.

4. The Acts mentioned in the First Schedule are ~~repealed~~. ^{Repeals.}

5. (1) Nothing in this section affects the ^{Saving.} operation of the Interpretation Act, 1918.

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

- (a) the persons then holding office as licensing magistrates under the Licensing Act, 1911 (in this section called “the repealed Act”), shall, collectively, constitute the Court established under this Act; and the person then holding office as chairman of Licensing Courts and, those then holding office as licensing magistrates shall respectively, hold office as Chairman and Members of the Court, each for the unexpired portion of the term for which he was appointed to office;

Part I.

Ss. 5, 6.

- (b) all applications, matters and proceedings commenced under the repealed Act then pending or in progress may be continued, completed or enforced under this Act;
- (c) any proclamation, licence, permit, order, direction or notice that was issued, granted, made or given under the repealed Act and that corresponds to a proclamation, licence, permit, order, direction or notice that may be issued, granted, made or given under this Act shall, if then in force, have the same force and effect as if it were issued, granted, made or given under this Act.

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

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

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

Act not to
apply in
certain cases.
(S.46.1)

Amended by
No. 76 of
1972, S.3;
No. 84 of
1972, s. 4
(as amended
by No. 19
of 1973);
No. 128 of
1976, s. 3;
No. 84 of
1978, s. 2.

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

- (a) the sale or supply of liquor in the Houses of Parliament, with the leave of, and under the control of, Parliament;
- (b) the sale or supply of liquor by, or under the authority of, the Commissioner of Railways, pursuant to the Government Railways Act, 1904, and the by-laws made under that Act;

¹ The sectional references in the marginal notes to this Act are, except where otherwise indicated, references to a comparative section of the Licensing Act, 1911.

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- (c) the sale or supply of liquor in a Police Force canteen, conducted in accordance with regulations made under the Police Act, 1892;
 - (d) the sale, by auction, by the sheriff or any person authorised by him or by a bailiff or a member of the Police Force, of liquor taken in execution or seized under, or forfeited by operation of, this Act;
 - (e) the sale of liquor by a licensed auctioneer, for some other person, under, and in accordance with, the provisions of the Auction Sales Act, 1973, or the sale, by auction, of liquor at a bazaar or sale of gifts where the whole of the proceeds are devoted for charitable, educational or religious purposes;
 - (f) the sale of spirituous or distilled perfume, in good faith, as perfumery;
 - (g) the sale or administration of liquor, by a registered pharmaceutical chemist, for medicinal purposes, either pursuant to the direction of a legally qualified medical practitioner or as a constituent of a medicinal preparation;
 - (h) the sale, by the occupier of a vineyard of not less than two hectares of vines in full bearing or of an orchard of not less than two hectares, of wine manufactured by him, on the vineyard or orchard in quantities of not less than 740 millimetres, if the wine—
 - (i) is not consumed or intended to be consumed on the premises where it is sold;
 - (ii) is not sold or supplied to a person to whom it is unlawful to sell or supply liquor;

- (iii) is not sold or supplied at any time outside the hours of half-past eight in the morning and half-past eight in the evening on a week day other than Anzac Day;
 - (iv) is not sold or supplied on or from any premises other than the vineyard or orchard where it is manufactured; or
 - (v) is not sold for the purpose of being resold, except by the holder of a licence under this Act or by the occupier of another vineyard or orchard;
- (ha) the consumption, on a vineyard or orchard referred to in paragraph (h) of this section, by a prospective purchaser of wine manufactured thereon, of wine so manufactured which is supplied to him without charge as a sample of wine so manufactured;
- (hb) the supply of wine by the occupier of a vineyard or orchard as a sample in accordance with paragraph (ha) of this section;
- (i) the sale of distilled spirits in bond, by the occupier of a vineyard to the occupier of another vineyard; or
 - (j) the sale or supply of liquor at a function conducted for the purposes of training persons for employment in the catering industry at a tertiary educational institution approved of by the Minister charged with the administration of the Education Act, 1928.

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

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

Interpreta-
tions.
(S.5)
Amended by
No. 112 of
1970, s. 2;
No. 76 of
1972, s. 4;
No. 128 of
1976, s.s. 4
and 39;
No. 74 of
1977, s. 3.

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

“bar” means that part of licensed premises, not being premises to which a store licence, a wholesale licence or a brewer’s licence relates—

(a) from which liquor is supplied, over a counter, to a person other than the licensee or his servants or agents, for consumption on or off the premises; or

(b) that the Court may, from time to time, designate as a bar,

and the term includes any part of the licensed premises set aside for the sale of liquor in sealed containers;

“beer” includes ale, porter and stout;

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

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

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

“dining room” means—

(a) any separate room; or

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

Part I. S. 7.

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

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

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

“licensed premises” means—

(a) in relation to a packet licence—that part or those parts of the vessel or aircraft defined by the Court as being the part or parts to which the licence relates;

(b) in relation to any other type of licence—that part or those parts of the building or buildings and of the land adjoining it or them defined by the Court as being the part or parts to which the licence relates;

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

“liquor” means spirits, wine or beer containing more than two per centum of proof spirit;

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

“meal” means such substantial food as may be prescribed by the regulations and, until prescribed, means substantial food which is, in either case, taken as a luncheon or a dinner by participants seated at a table in a dining room of the premises or other area of the premises designated as a dining room by the Court;

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

- (a) on Anzac Day, where it falls on a weekday, the period between the hours of half-past twelve in the afternoon and ten in the evening or, in relation to an hotel licence authorising the sale and supply of liquor until eleven in the evening on a weekday, half-past twelve and eleven in the evening;
- (b) the period on a weekday, other than Anzac Day, between the hours of ten in the morning and ten in the evening or, in relation to a particular licence, the period or periods or hours endorsed, or deemed to have been endorsed, on the licence, under section 24 or 26;

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

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

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

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

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

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

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

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

"rules" means the rules made by the Court under this Act;

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

"Schedule" means a Schedule to this Act;

"seafarer" means a member of the crew of an ocean-going vessel of not less than one hundred tons gross registered tonnage;

“section” means a section of this Act;

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

“spirits” means potable spirit containing more than thirty-five per centum of proof spirit;

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

“weekday” means any day of the week other than a Sunday, Christmas Day or Good Friday; and a reference to any hours extending after half-past twelve in the afternoon, on a weekday, includes those hours on Anzac Day, where it does not fall on a Sunday;

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

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

- (a) the licensee is authorised to sell and supply liquor on any Anzac Day which falls on a Sunday between such of those hours only as are after half-past twelve in the afternoon on that day; and
- (b) the licensee is not authorised to sell and supply liquor between those hours on any Christmas Day which falls on a Sunday except where by this Act he is expressly authorised to so sell and supply on Christmas Day.

Part I,
and Part
II, Div. 1.

Ss. 7, 8.

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

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

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

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

(b) during or after the supply of the meal but within that particular period of hours,

shall be deemed for the purposes of this Act to have been supplied with or ancillary to that meal.

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

PART II.—ADMINISTRATION.

Division 1.—Court.

Court
established.
S. 21.

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

S. 15.

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

Ss. 9, 10. Part II,
Div. 1.

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

Constitu-
tion.
S.21.

10. (1) The Governor may—

Appoint-
ment of
members.
(S. 21 (2).)
Amended by
No. 128 of
1976, s. 5.

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

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

S. 21 (4).

- (a) hold office, subject to the succeeding provisions of this section, for a period of three years from the date of his appointment;
- (b) be eligible for re-appointment for any period not exceeding three years;
- (c) be entitled to such salary or fees, and to such travelling expenses, as the Governor may, from time to time, determine; and
- (d) by virtue of his office, be a justice of the peace for the State.

(2a) Where the person appointed to be a member and chairman is a practitioner as defined by the Legal Practitioners Act, 1893, of not less than eight years' standing, he may be so appointed for a term not exceeding seven years and shall be entitled to such salary, travelling and other allowances or

Part II,
Div. I.

Ss. 10, 11.

reimbursements, leave of absence, pension, and rights under the Superannuation and Family Benefits Act, 1938, as he would be if service as chairman of the Court were service as a District Court Judge, other than the Chairman of Judges, appointed pursuant to the District Court of Western Australia Act, 1969.

S. 21 (2).

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

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

Jurisdiction
of Court.
(S. 21 (3).)
Amended by
No. 76 of
1972, s. 5.

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

- (a) hear and determine all applications under this Act for—
 - (i) the granting, renewal, transfer, removal, forfeiture, cancellation, suspension or surrender of licences;
 - (ii) the granting, extension, variation or cancellation of provisional certificates; and
 - (iii) the issue, renewal or revocation of permits;
- (b) impose and vary or revoke conditions under which licences are granted or renewed and permits are issued or renewed; and

Ss. 11, 12. Part II,
Div. 1.

- (c) make all such orders and give all such directions as are authorised or contemplated to be made or given under this Act.

(1a) Without limiting the generality of subsection (1) of this section, the Court may, in accordance with the rules, impose, or vary or revoke conditions under which any licence is granted or renewed or any permit is issued or renewed, so as to have effect during the currency of the licence or permit.

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

See Acts 34
Vict. No. 24
and No. 37
of 1909.

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

S. 21 (7).

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

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

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

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

Power to
summon
witnesses.
S. 23.

(2) A person who, being required by summons to attend as a witness, fails, without reasonable excuse, to appear at the time and place specified in the summons or who, being in attendance whether

Part II,
Div. 1.

Ss. 12, 13, 14.

voluntarily or pursuant to a summons, refuses to be sworn or to make an affirmation or refuses to answer any lawful question is guilty of contempt of court.

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

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

Sittings.
Ss. 25, 26
and 27.

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

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

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

Proceedings.

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

S. 23.

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

Ss. 14, 15, 16, 17. **Part II,**
 Divs. 1
 and 2.
 s. 21 (6).

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

Division 2.—Appeals.

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

Appeals in
 certain
 cases.
 Amended by
 No. 76 of
 1972, s. 6.

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

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

Powers of
 Supreme
 Court.

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

17. (1) Where the holder of a licence or permit appeals against an order or determination of the Court forfeiting, revoking, cancelling or suspending the licence or permit or refusing to renew the licence or permit, the licence or permit (as the case may be) shall, subject to the payment of any fees then

Licenses or
 permits to
 remain in
 operation
 pending
 appeal.

Part II,
Divs. 2
and 3.

Ss. 17, 18, 19.

due and payable and subject to subsection (2) of this section, remain in force until the determination of the appeal.

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

Division 3.—Officers.

Clerks.
s. 22.

18. (1) A clerk of the Licensing Court may be appointed, subject to the Public Service Act, 1904, for every place at which the Court sits and, in the absence of an appointment in respect of any such place, the person appointed clerk of the Local Court nearest to that place shall perform the duties, and exercise the powers, of the clerk.

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

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

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

Supervisors
of licensed
premises.
Cf. s. 214.

19. (1) A senior supervisor of licensed premises and such other supervisors of licensed premises as may be necessary may be appointed, subject to the Public Service Act, 1904, for the purposes of this Act.

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

S. 20. Part II,
Div. 3.

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

Duties and powers of supervisors. Cf. ss. 215 and 216.

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

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

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

a licence or provisional certificate for a licence or the renewal of an existing licence in respect of those premises.

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

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

Duties of
police.
Cf. ss. 215
and 216.

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

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

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

Duties of
local health
authorities.

22. (1) Every local health authority shall, as regards licensed premises in its district, exercise the same powers as are conferred, and carry out the same duties as are imposed, on it by any other Act

Ss. 22, 23. Part II,
Div. 3 and
Part III,
Div. 1.

with respect to unlicensed premises; and, where the holder of a licence under this Act or any of his servants is convicted of an offence on the complaint of an officer of the local health authority, it shall report that event and the nature of the complaint to the Court.

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

PART III.—SALE, SUPPLY AND CONSUMPTION OF LIQUOR.

Division 1.—Licences and Permits for Licensees.

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

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

Types of
Licences.
(S. 28.)
Amended by
No. 76 of
1972, s. 7;
No. 128 of
1976, s. 6.

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

Part III,
Div. 1.

Ss. 23, 23A.

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

(4) Subject to the succeeding provisions of this Act, a person may apply for, and the Court may issue, any of the permits mentioned in items 2 and 3 of the Fourth Schedule.

Special
provisions
for New
Year's Eve.
Added by
No. 76 of
1972, s. 8.

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

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

the licensee is authorised by virtue of this section to sell and supply liquor from the expiration of that period of hours on that day until half-past twelve in the morning of the following day, if he has not later than the fifteenth day of December in that year given notice in writing to the clerk and the Commissioner of Police that he intends to sell and supply liquor under the authority of this section.

(2) Subject to subsection (3) of this section where the thirty-first day of December in a year falls on a day other than a Sunday the holder of an hotel licence, a tavern licence, a limited hotel licence, a wine house licence, a restaurant licence or a club licence is authorised by virtue of this section to sell and supply liquor from the expiration of ordinary trading hours on that day until half past twelve in the morning of the following day if he has not later than the fifteenth day of December, in that year given notice in writing to the clerk and the Com-

missioner of Police that he intends to sell and supply liquor under the authority of this section.

(3) Nothing in this section authorises—

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

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

Hotel
licence.
Ss. 29, 31,
121 and 122.
Amended by
No. 94 of
1972, s. 4
(as amended
by No. 19
of 1973).

- (a) at any time, to a lodger of the licensed premises;
- (b) during ordinary trading hours;
- (c) if the licensee has elected, under subsection (6) of this section, or is required, under subsection (5) of this section, to do so—
 - (i) between the hours of eleven in the morning and one in the afternoon and between half-past four and half-past six in the afternoon, on a Sunday; or
 - (ii) between such other hours, on a Sunday, as the Court may authorise, under subsection (2) of this section,
 for consumption on the premises, only;
- (d) with or ancillary to a meal supplied by the licensee, between the hours of—

- (i) ten in the evening, on a week-day, and half-past twelve in the morning of the following day, notwithstanding that the following day is a Sunday, Christmas Day, Good Friday or Anzac Day;

(ii) twelve noon and three in the afternoon and the hours of half-past five in the afternoon and ten in the evening, on a Sunday or Christmas Day, if the meal is supplied and taken in good faith, in a dining room, and the liquor is consumed in a dining room or a reception area, on the premises;

(e) if the licensee obtains an entertainment permit, under subsection (8) of this section, with or ancillary to entertainment provided by artists, present and performing in person, between the hours of ten in the evening and midnight, on the day or days, and in the part of the premises, specified, and subject to the conditions imposed, by the permit for consumption on the premises, only; and

S. 44.

(f) if the licensee obtains an occasional permit, under subsection (10) of this section, during the hours, on the day, to the persons or class of persons, and in the part of the premises, specified in the permit.

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

(a) the holder of an hotel licence may, if his licensed premises are situated within a prescribed area in each of any two periods during which he is authorised to sell and supply liquor on a Sunday, sell and supply beer, in sealed containers, in quantities not exceeding 1.5 litres to any one person, for consumption off the premises; and

(b) the Court may, having regard to the circumstances existing in the neighbourhood of the licensed premises and the needs of the public, from time to time, on the application of the holder of an hotel licence, authorise the holder of an hotel licence to sell and supply liquor, during a specified

period not exceeding, or two specified periods not exceeding in the aggregate, five hours, on a Sunday other than Anzac Day, for consumption on the premises, only; and an authority so conferred shall remain in force until the Court otherwise orders.

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

- (a) authorise the licensee to sell and supply liquor, during a specified period or specified periods, between the hours of six in the morning and eleven in the evening, on a week-day, other than Anzac Day; or
- (b) relieve the licensee of the obligation to sell and supply liquor during such of the ordinary trading hours as may be specified,

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

(4) Where, immediately prior to the coming into operation of this section, the holder of a licence that is deemed by virtue of section 5, to correspond to an hotel licence is authorised to sell and supply liquor during hours other than ordinary trading hours, the licence is deemed, for the purposes of this section, to be endorsed with the hours then authorised and those hours shall constitute the ordinary trading hours under that licence, unless and until the Court otherwise orders.

(5) The Court shall require every applicant for the granting, transfer or removal of an hotel licence, and may (but not so as to deprive any neighbourhood of a necessary service), from time to time, permit the holder of an hotel licence, to elect whether or not he will sell and supply liquor on the premises

as provided by paragraph (c) of subsection (1) of this section; and a successful applicant or the licensee (as the case may be) is bound by the terms of his election, until such time as the Court otherwise orders.

(6) Where, immediately prior to the coming into operation of this section, a licence that is deemed by virtue of section 5, to correspond to an hotel licence is current, then,—

- (a) if the licensee is authorised to sell and supply liquor on a Sunday, he shall continue to do so as provided by paragraph (c) of section (1) of this section;
- (b) if the licensee is not authorised to sell and supply liquor on a Sunday, he is not authorised to do so, under this Act,

unless and until he is permitted, under subsection (5) of this section, to elect to the contrary.

(7) Subject to subsection (8) of this section, the Court may, on the application of the holder of an hotel licence made not later than fourteen days before the day, or the first day, on which the permit is to take effect and on payment of the specified fee, issue to the licensee an entertainment permit, to have effect on such day or days, excluding Sundays, Christmas Day and Good Friday, and in such part of the premises, as the Court may specify and subject to such conditions as the Court may see fit to impose.

(8) The Court shall not issue an entertainment permit unless and until it is satisfied that the licensed premises in respect of which it is sought are so constructed as to enable entertainment to be provided by artists, present and performing in person, in an area that is divorced from any bar other than that serving the persons for whom the entertainment is provided and that light refreshments of such nature as the Court may approve, will continuously be available for purchase, during such period as the permit is in operation.

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

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

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

25. (1) If the licensee obtains a caterer's permit under this section, an hotel licence or a tavern licence authorises him to sell and supply liquor on such premises, other than the licensed premises, generally or on such day or days, excluding Good Friday, and during such period or periods on any of those days, as may be specified in the permit.

Caterer's
permit.
(Cl. s. 43.)
Amended by
No. 112 of
1970, s. 3;
No. 128 of
1976, s. 7.

(2) The Court may, on the application of the holder of an hotel licence or a tavern licence made not later than seven days, or such lesser period as the Court in special circumstances may allow before the day, or the first day, on which the permit is to take effect and on payment of the specified fee, issue to the licensee a caterer's permit to have effect—

- (a) on the premises, or on a defined part of premises, specified in the permit or, generally, on premises in respect of which a function permit is issued under this Act or on both those classes of premises;

- (b) generally or on any day or days, excluding Good Friday, specified in the permit;
- (c) during any period or periods, generally or on a specified day or specified days, between the hours of nine in the morning, of the one day, and two in the morning of the following day, notwithstanding that the following day is a Good Friday, specified in the permit.

(3) The Court may, on the application of the licensee or of its own motion, vary a caterer's permit with regard to the premises on which, the days on which, or the hours during which, the permit is to operate.

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

Tavern
licenses.
Amended by
No. 128 of
1976, s. 8.

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

- (a) during ordinary trading hours;
- (b) if the licensee has elected, by virtue of subsection (3) of this section, to do so—
 - (i) between the hours of eleven in the morning and one in the afternoon and between half-past four and half-past six in the afternoon, on a Sunday; or
 - (ii) between such other hours, on a Sunday, as the Court may authorise, by virtue of subsection (3) of this section,

for consumption on the premises, only;

- (ba) with or ancillary to a meal supplied by the licensee, between the hours of—

(i) ten in the evening, on a weekday, and half-past twelve in the morning of the following day, notwithstanding that the following day is a Sunday, Christmas Day, Good Friday or Anzac Day;

(ii) twelve noon and three in the afternoon and the hours of half-past five in the afternoon and ten in the evening, on a Sunday or Christmas Day.

if the meal is supplied and taken in good faith, in a dining room, and the liquor is consumed in a dining room or a reception area, on the premises;

(c) if the licensee obtains an entertainment permit, by virtue of subsection (3) of this section, with or ancillary to entertainment, between the hours of ten in the evening and midnight, on the day or days, and in the part of the premises, specified, and subject to the conditions imposed, by the permit, for consumption on the premises, only;

(d) if the licensee obtains an occasional permit, by virtue of subsection (3) of this section, during the hours, on the day, to the persons or class of persons, and in the part of the premises, specified in the permit.

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

(3) The provisions of subsections (2), (3), (5) and (7) to (11), inclusive of section 24 apply, with such adaptations as may be necessary, to the holder of a tavern licence.

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

Limited
hotel
licence.
S. 30.

- (a) at any time, to a lodger of the licensed premises;
- (b) with or ancillary to a meal supplied by the licensee, to any person, between the hours of—

- (i) noon and three in the afternoon, on any day, other than Good Friday, and the hours of half-past five in the afternoon, on a weekday, and half-past twelve in the morning of the following day, notwithstanding that the following day is a Sunday, Christmas Day, Good Friday or Anzac Day;

- (ii) half-past five in the afternoon and ten in the evening, on a Sunday or Christmas Day,

if the meal is supplied and taken in good faith, in a dining room, and the liquor is consumed in the dining room or a reception area, on the premises; and

- (c) if the licensee obtains an occasional permit, by virtue of subsection (2) of this section, during the hours, on the day, to the persons or class of persons, and in the part of the premises, specified in the permit.

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

Canteen
licence.
(S. 44.)
Amended by
No. 76 of
1972, s. 9.

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

- (a) to persons engaged in work being carried on by the licensee company;
- (b) to persons who carry on business in, or are ordinarily employed in, the neighbourhood of the licensed premises, and to persons

who are temporarily present in the neighbourhood of the licensed premises for the purpose of carrying on business there or for the purpose of their employment;

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

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

Winehouse
licence.
(Ss. 33 and
33A.)
Amended by
No. 76 of
1972, s. 10.

- (a) during ordinary trading hours;
- (b) if the licensee has elected, by virtue of subsection (3) of this section, to do so—
 - (i) between the hours of eleven in the morning and one in the afternoon and between half-past four and half-past six in the afternoon, on a Sunday; or
 - (ii) between such other hours, on a Sunday, as the Court may authorise, by virtue of subsection (3) of this section,

for consumption on the premises, only;

- (c) with or ancillary to a meal supplied by the licensee, between the hours of ten in the evening, on a weekday, and half-past twelve in the morning of the following day, notwithstanding that the following day is a Sunday, Christmas Day, Good Friday or Anzac Day, if the meal is supplied and taken in good faith, and the liquor is consumed, in a dining room on the premises;

(ca) if the licensee obtains an entertainment permit, by virtue of subsection (3) of this section, with or ancillary to entertainment, between the hours of ten in the evening and midnight, on the day or days, and in the part of the premises, specified, and subject to the conditions imposed, by the permit, for consumption on the premises, only;

(d) if the licensee obtains an occasional permit, by virtue of subsection (3) of this section, during the hours, on the day, to the persons or class of persons, and in the part of the premises, specified in the permit.

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

(3) The provisions of subsections (2), (3), (5), and (7) to (11), inclusive of section 24 apply, with such adaptations as may be necessary, to the holder of a winehouse licence.

**Cabaret
Licence.**
Amended by
No. 112 of
1970, s. 4;
No. 76 of
1972, s. 11;
No. 128 of
1976, s. 8;
No. 84 of
1978, s. 3.

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

(a) on a weekday, and half-past three in the morning of the following day, notwithstanding that the following day is a Sunday, Christmas Day, Good Friday, or Anzac Day; and

(b) on a Sunday falling on the thirty-first day of December in any year, and half-past three in the morning of the following day.

Ss. 30, 31. Part III,
Div. 1.

(1a) The holder of a cabaret licence is required to make light refreshments continuously available for purchase and consumption on the premises, between the hours during which he sells and supplies liquor under the authority of subsection (1) of this section.

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

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

(3) The Court may impose such conditions on the granting of a cabaret licence as it thinks fit, including conditions defining the extent and nature of the entertainment and the light refreshments to be provided.

31. (1) Subject to subsection (1a) of this section, a theatre licence authorises the licensee to sell and supply liquor, on the licensed premises, on a week day during the periods of two hours before and two hours after, and during the periods of intermissions to, a performance of which the artist or artists or performer or performers is or are present and performing, in person, for consumption on the premises only.

Theatre
licence.
Amended by
No. 76 of
1972, s. 12;
No. 128 of
1976, s. 10.

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

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

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

Railway
refreshment
room
licence.
(S. 36.)
Amended by
No. 94 of
1972, s. 4
(as amended
by No. 19 of
1973).

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

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

Packet
licence.
Repealed and
re-enacted
by No. 76 of
1972, s. 13.

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

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

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

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

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

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

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

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

Part III,
Div. 1.
Restaurant
licence.
S. 44G (e).

S. 34.

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

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

(i) noon and three in the afternoon, on any day other than Good Friday, and the hours of half-past five in the afternoon, on a week day, and half-past twelve in the morning of the following day, notwithstanding that the following day is a Sunday, Christmas Day, Good Friday or Anzac Day;

(ii) half-past five in the afternoon and ten in the evening, on a Sunday or on Christmas Day,

if the meal is supplied and taken in good faith and the liquor is consumed in the dining room or a reception area, on the premises, only;

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

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

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

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

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

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

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

- (a) at anytime, to a member who is a lodger of the club;
- (b) during ordinary trading hours and between the hours of ten and eleven in the evening, on a weekday and on Christmas Day where it does not fall on a Sunday, to a member of the club and to his guests, not exceeding three in number, in his company, for consumption on the premises;
- (c) during the hours mentioned in paragraph (b) of this subsection, to a member of the club, in sealed containers, for consumption off the premises;
- (d) subject to subsections (1a) and (1b) of this section, between the hours of eleven in the morning and one in the afternoon and between half-past four and half-past six in the afternoon, on a Sunday, to a member of the club and to his guests, not exceeding three in number, in his company, for consumption on the premises;

Club
licence.
(S. 188.)
Amended by
No. 112 of
1970, s. 5;
No. 128 of
1976, s. 11;
No. 84 of
1978, s. 4.

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

(i) noon and three in the afternoon, on any day other than Good Friday, and the hours of half-past five in the afternoon, on a weekday, and half-past twelve in the morning of the following day, notwithstanding that the following day is a Sunday, Christmas Day, Good Friday or Anzac Day;

(ii) twelve noon and three in the afternoon and the hours of half-past five in the afternoon and ten in the evening, on a Sunday or Christmas Day,

to a member, for consumption by him and by such of his guests of whose attendance four hours prior notice has been given to the licensee, if the meal is supplied and taken in good faith, in a room regularly used as a dining room on the premises;

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

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

(1a) The provisions of subsection (2) of section 24 apply, with such adaptations as may be necessary, to the holder of a club licence that relates to premises situated within an area prescribed for the purposes of paragraph (a) of that subsection.

(1b) The holder of a club licence that relates to premises other than such as are mentioned in subsection (1a) of this section may apply to the Court for a variation of the hours mentioned in paragraph (d) of subsection (1) of this section; and the Court may, if satisfied that the variation is, in the particular circumstances of the case, warranted, vary those hours so as to authorise the licensee to sell and supply liquor, for consumption on the premises, only, during any period of two hours falling between the hours of half-past ten in the morning and one in the afternoon, and falling between the hours of four in the afternoon and seven in the evening, on a Sunday other than Anzac Day, until the Court otherwise orders.

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

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

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

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

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

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

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

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

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

Store
licence.
Cf. s. 38.

36. (1) A store licence authorises the licensee to sell and supply liquor, on the licensed premises, in sealed containers, between the hours of half-past eight in the morning and half-past eight in the evening, on a weekday, other than Anzac Day, for consumption off the premises, only.

(2) If the holder of a store licence obtains a late delivery permit, under subsection (3) of this section, he is authorised to supply liquor, off the premises, between the hours of half-past eight in the evening and ten in the evening, on a weekday, other

than Anzac Day, if the liquor was sold or agreed to be sold, but not supplied, during the hours limited by subsection (1) of this section.

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

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

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

Vigneron's
licence.
Repealed and
re-enacted
by No. 74 of
1977, s. 4.
Amended by
No. 29 of
1978, s. 2.

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

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

Part III.
Div. 1.

Ss. 36A, 37, 38.

(3) A vigneron's licence authorises, on and from the premises named, between the hours of half-past eight in the morning and ten in the evening on a week day other than Anzac Day, or in relation to a particular licence the hours endorsed thereon—

- (i) the licensee to sell or supply, in quantities of not less than seven hundred and thirty eight millilitres in sealed containers, whether for consumption on or off the premises, wine manufactured by him; and
- (ii) the supply to a prospective customer as a sample without charge of wine manufactured by the licensee, and the consumption of that sample by the customer.

Wholesale
spirit
merchant's
licence.
(S. 37.)
Amended by
No. 112 of
1970, s. 6;
No. 76 of
1972, s. 15;
No. 94 of
1972, s. 4
(as amended
by No. 19 of
1973); and
No. 128 of
1976, s. 39.

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

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

Brewer's
licence.
(S. 40.)
Amended by
No. 76 of
1972, s. 16;
No. 94 of
1972, s. 4
(as amended
by No. 19
of 1973).

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

S. 39. 39A. Part III,
Div. 1.

39. (1) An Australian wine licence authorises the licensee to sell and supply wine, made in a State of the Commonwealth from fruit grown in the Commonwealth, on the licensed premises, during ordinary trading hours.

Australian
wine
licence.
(S. 33.)
Amended by
No. 76 of
1972, s. 17.

(2) The Court shall not grant a new Australian wine licence.

(3) Subject to the succeeding provisions of this section, the Court shall not renew an Australian wine licence in respect of premises in which liquor of any kind other than Australian wine is sold or offered or exhibited for sale, or apparently for sale.

(4) The holder of an Australian wine licence shall not keep, or bring or permit to be brought, on the licensed premises any liquor other than Australian wine.

39A. (1) Notwithstanding any other provision of this Act but subject to this section, a licence may be granted by the Court once in every calendar year to the West Australian Wine Festival Association Inc. authorising—

Special
licence for
West
Australian
Wine
Festival.
Added by
No. 76 of
1972, s. 18.
Amended by
No. 128 of
1976, s. 12.

(a) the Association; and

(b) such vignerons and other persons associated with, or participating in, the wine festival conducted by the Association, as the Court thinks fit and endorses on any licence so granted,

to sell and supply wine and brandy in any quantity during a period not exceeding seven days, for consumption on such premises as are specified in the licence, or in sealed containers for consumption off such premises, subject to such conditions as may be imposed by the Court.

(1a) The Court shall cause a copy of any application made by the Association for the grant of a licence under this section to be given to the Minister

and the Court shall, when considering the application, take into account such recommendations, if any, as may have been made to it by the Minister in connection with the application.

(2) A licence granted under this section shall be in the form approved by the Court for the purpose, and shall authorise the Association and the other persons whose names are endorsed thereon to sell and supply wine and brandy in accordance with the provisions of the licence and the conditions imposed by the Court notwithstanding any other provision of this Act and notwithstanding that one of the days in respect of which the licence is granted may be a Sunday.

(3) Any application made by the Association for the grant of a licence under this section shall be in a form approved by the Court, and where an application is made in such a form, the Court may, if it thinks fit, grant the licence, but the provisions of Part IV of this Act, except insofar as the Court requires those provisions to be complied with, do not apply to or in relation to the making of the application for, consideration or granting of such a licence.

(4) A fee of five dollars is payable for any licence granted under this section, and no other fee is payable under this Act in respect of such a licence.

Reception
area
permit.

40. (1) The Court may, on the application of the holder of a licence that authorises the licensee to sell and supply liquor, on the licensed premises, with or ancillary to a meal, if it is satisfied that the premises are of such size and standard as to warrant the issue of the permit, on payment of the specified fee, issue to the licensee a reception area permit authorising the consumption of liquor by persons, ancillary to a meal, in an area on the premises, other than the dining room, specified in the permit.

(2) In the case of a restaurant, the area of the floor of a reception area shall not exceed one-fifth of the area of the floor of the dining area and

Ss. 40, 41, 42. Part III,
Divs. 1
and 2.

provision shall not be made for the accommodation, in the reception area, of more than one-fifth of the number of persons who may be accommodated in the dining area.

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

41. The authority conferred by a licence or permit, under this Division, is subject to such further limitations as may be imposed by the succeeding provisions of this Act.

Licences
and permits
subject to
further
limitations.

Division 2.—Permits for Unlicensed Premises.

42. (1) The Court may, on the application of an unlicensed club that, in the opinion of the Court,—

Unlicensed
club permit.
Amended by
No. 76 of
1972, s. 19;
No. 94 of
1972, s. 4
(as amended
by No. 19
of 1973);
No. 128 of
1976, s. 13.

- (a) is a body of persons associated together for a political, social, literary, sporting or other lawful purpose;
- (b) imposes adequate restrictions upon the admission to membership of the club;
- (c) has been well managed for a period of at least two years prior to the making of the application,

on payment of the specified fee, issue to the applicant an unlicensed club permit, authorising the club to sell and supply liquor, between such hours, on such days, and on such premises, as may be specified in the permit, to a member of the club, and to his guests not exceeding three in number, in his company, for consumption on the premises.

(2) It is a condition of a permit issued under this section that the liquor sold and supplied pursuant to the permit be purchased from the holder of an hotel licence, a tavern licence, a winehouse licence,

an Australian wine licence or a store licence as nearly as may be practicable in the vicinity of the premises specified in the permit, except where there are no premises the subject of an hotel licence, a tavern licence or a store licence situated within eight kilometres of the premises specified in the permit.

(3) A permit issued under this section remains in force until the thirty-first day of December, or the thirtieth day of June, next following its issue, according to whether the club is operating south or north of the twenty-sixth parallel of south latitude.

Function
permit.
(*Cf.* s. 44.)
Amended by
No. 112 of
1970, s. 7;
No. 78 of
1972, s. 20;
No. 94 of
1972, s. 4
(as amended
by No. 19
of 1973);
No. 128 of
1976, c. 14.

43. (1) The Court may, on the application of an unlicensed person, body or association of persons, issue to the applicant a function permit authorising the applicant to sell and supply liquor, as provided by subsection (2) of this section, during such period or periods between the hours of nine in the morning, on any day other than Good Friday, and two in the morning of the following day, notwithstanding that the following day is Good Friday, and on such premises, as may be specified in the permit.

(2) A function permit authorises the sale and supply of liquor either separately or by way of an inclusive charge with some other service or the sale and supply of liquor by virtue of a caterer's permit issued under section 25, for consumption on the premises to which the permit relates and not otherwise.

(3) The liquor sold and supplied pursuant to a function permit shall be purchased from the holder of an hotel licence, a tavern licence, a winehouse licence, an Australian wine licence, a store licence or a caterer's permit except where—

- (a) there are no premises the subject of an hotel licence, a tavern licence, or a store licence situated within eight kilometres of the premises specified in the function permit;

Ss. 43, 44, 45.

Part III,
Divs. 2
and 3.

- (aa) the liquor to be supplied pursuant to the permit is obtained by, or made available to, the permit holder by a body or organisation (not being a manufacturer or producer of liquor) of which the sole or a principal object is the promotion of one or more types or varieties of Australian produced liquor;
- (b) the permit is issued to the organizing body of an agricultural show or race meeting or to a person conducting a canteen at a live-stock saleyard; or
- (c) the premises to which the function permit relates form part of a vineyard of not less than two hectares of vines in full bearing or an orchard of not less than two hectares in which event wine manufactured on the vineyard or orchard by the occupier thereof and owned by or purchased from him may be sold and supplied pursuant to the permit.

44. The authority conferred by a permit, under this Division, is subject to such further limitations as may be imposed by the succeeding provisions of this Act.

Permits
subject to
further
limitations.

Division 3.—Liquor on Unlicensed Premises.

45. (1) Except for the purposes of its sale and supply pursuant to a licence or permit under this Act, a person shall not—

Limitation
on bringing
liquor to
unlicensed
premises
Amended by
No. 76 of
1972, s. 21.

- (a) bring liquor into, or have liquor in his possession or under his control in, a sports ground, during a period commencing one

hour before and ending one half-hour after, the holding or conduct of any sport, game, exhibition, amusement or other event there;

or

(b) bring liquor into an unlicensed restaurant—

(i) at any time on Good Friday; or

(ii) subsequent to a period of one half hour beyond cessation of ordinary trading hours as relating to hotel licences in the neighbourhood, on any other day, and twelve noon on the following day;

or have liquor in his possession or under his control in any such premises on Good Friday or between the hours of twelve midnight, on any other day, and twelve noon on the following day.

(2) A person—

(a) being the occupier or having the management or control of any premises mentioned in subsection (1) of this section; or

(b) being the servant or agent of such a person as is referred to in paragraph (a) of this subsection,

shall not permit or suffer any other person to bring liquor into, or have liquor in his possession or under his control in, those premises in contravention of that subsection.

(3) The provisions of paragraph (a) of subsection (1) of this section do not apply to liquor that is to be gratuitously supplied to persons attending a private function, not open to the public, in a building annexed to a sports ground.

Penalty—One hundred dollars.

S. 46. Part III,
Div. 3.

46. (1) A person shall not consume liquor on any premises, including a park or reserve, without the consent of the occupier or of the person or authority having the control of the premises; and, in any event, shall not consume liquor—

Limitation
on the
consumption
of liquor on
unlicensed
premises.
(S. 134A.)
Amended by
No. 112 of
1970, s. 8;
No. 76 of
1972, s. 22;
No. 94 of
1972, s. 4
(as amended
by No. 19
of 1973).

- (a) upon a road within the boundaries of a town or townsite, or outside, but within 400 metres of a hall, while a dance or other entertainment is being conducted in the hall;
- (aa) in or on any class of premises, not being licensed premises, to which the public is permitted to have access, whether on payment of a charge or otherwise, and which are prescribed for the purposes of this paragraph;
- (b) within a sports ground, during a period commencing one hour before, and ending one half-hour after, the holding or conduct of any sport, game, exhibition, amusement or other event there, unless the liquor is sold and supplied pursuant to a licence or permit under this Act, or unless the person is attending a private function, not open to the public, there; or
- (c) in an unlicensed restaurant—
 - (i) on Good Friday; or
 - (ii) between the hours of twelve midnight, and twelve noon on the following day, unless the liquor is sold and supplied pursuant to a permit under this Act.

(2) A person—

- (a) being the occupier or having the management or control of any premises mentioned in paragraph (aa), (b) or (c) of subsection (1) of this section; or

Part III,
Div. 3.

Ss. 46, 47.

Prohibition
orders for
unlicensed
restaurants.
S. 134B.

- (b) being the servant or agent of such a person as is referred to in paragraph (a) of this subsection,

shall not permit or suffer any other person to bring liquor into, or have liquor in his possession or under his control in, those premises in contravention of that subsection.

Penalty: One hundred dollars.

(3) It is no defence to a complaint of an offence against this section that the liquor was consumed in, or upon, a vehicle.

47. (1) Where the Court, on the complaint of a supervisor, a member of the Police Force or a person authorised in that regard by the council of the local authority for the district within which the premises are situated, is, after giving the occupier an opportunity of being heard, satisfied that an unlicensed restaurant—

- (a) is occupied, managed or controlled by a person who—
- (i) is of drunken or dissolute habits or is otherwise of bad repute;
 - (ii) has, within a period of twelve months immediately prior to the making of the complaint been convicted of selling or supplying liquor without a licence or has, within that period, twice been convicted of an offence against one or other of sections 45 and 46; or
 - (iii) has, within a period of six months immediately prior to the making of the complaint, been convicted of supplying or giving liquor, or of causing liquor to be supplied or given, to a juvenile;

- (b) is in a state of disrepair or is unsuitable for use as an unlicensed restaurant;
- (c) is conducted in a disorderly or unseemly manner or in a manner that disturbs the quiet of the immediate vicinity or the comfort of the residents in the immediate vicinity;
- (d) is frequented by persons for the purpose of obtaining liquor, or by juveniles for the purpose of consuming liquor, there; or
- (e) is, for any other reason, a place wherein liquor ought not to be consumed, at all or without restriction,

the Court may, by order, prohibit the bringing of liquor into, and the consumption of liquor in, the unlicensed restaurant, either absolutely or except in conformity with such terms and conditions, consistent with this Act, as may be specified in the order and until such time as the order is varied or rescinded.

(2) The Court may, from time to time, on the application of a complainant such as is mentioned in subsection (1) of this section or of the occupier of an unlicensed restaurant that is subject to an order made under that subsection, after giving the occupier or, as the case may require, the original complainant an opportunity of being heard, vary the order and may, on the application of the occupier, if satisfied that the applicant—

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

will be so conducted as to warrant the premises being no longer subject to the order,

rescind the order.

(3) A person who, being the occupier or having the management or control of an unlicensed restaurant that is subject to an order under subsection (1) of this section, permits or suffers liquor to be brought into, or to be consumed in, those premises contrary to the provisions of the order commits an offence.

Penalty—For a first offence, two hundred dollars and, for a subsequent offence, four hundred dollars.

(4) A person who brings liquor into, or consumes liquor in, an unlicensed restaurant that is subject to an order under subsection (1) of this section, commits an offence.

Penalty—One hundred dollars.

(5) It is a defence to a complaint of an offence against subsection (4) of this section that the defendant did not know and had no reasonable means of knowing that the unlicensed restaurant was subject to an order under subsection (1) of this section.

(6) In making an order under subsection (1) of this section on any ground other than that mentioned in paragraph (b) or (e) of that subsection, the Court may direct that the order apply to any other unlicensed restaurant in the same municipal district that is then, or may subsequently be, occupied by the occupier of the premises that were the subject of the complaint.

48. In this Division—

“public hall” means premises that are, from time to time, let or hired out to the public or to which the public is, from time to time, admitted, whether upon the payment of a fee or otherwise;

Ss. 48, 49. Part III,
Div. 3 and
Part IV,
Div. 1.

"road" has the same meaning as it has in, and for the purposes of, the Traffic Act, 1919;

"unlicensed restaurant" includes any premises where food or refreshments are ordinarily sold or served to the public, for consumption on the premises.

PART IV.—GRANTING OF LICENCES, PROVISIONAL CERTIFICATES AND PERMITS AND THE RENEWAL, TRANSFER, REMOVAL, ETC., OF LICENCES.

Division 1.—Granting of Licences, Provisional Certificates and Permits.

49. (1) Except where the Court is satisfied that special circumstances justifying the grant of a licence exists, it shall not grant a licence to—

Disqualifica-
tions.
Ss. 28 (3),
(3a), 66 and
67.

- (a) a person holding office or employment in the public service, or in any agency or instrumentality, of the Crown, in right of the Commonwealth or the State;
- (b) a sheriff's officer, bailiff or other person employed or authorised to execute any legal process; or
- (c) a licensed auctioneer.

(2) The Court shall not, in any event, grant a licence to a person who—

- (a) is under the age of twenty-one years;
- (b) is bankrupt or has assigned his estate for the benefit of his creditors;
- (c) is suffering from mental disorder or is incapable, by reason of mental disorder, of managing his affairs; or
- (d) is under, or is deemed by virtue of any other Act to be under, sentence of imprisonment.

Part IV. Ss. 50, 51.
Div. 1.

Persons who
may hold
licences.

50. (1) Subject to this Division, any one person may apply to the Court for the grant or transfer of a licence under this Act; and for the purposes of this Part a body or association such as is mentioned in paragraph (b) of subsection (2) of this section and a club is deemed to be a person, whether incorporated or not.

(2) Where a licence under this Act is granted or transferred—

- (a) to a body corporate, it shall nominate and may, from time to time, nominate a person, as provided by the rules, to be responsible as licensee on behalf of the body corporate and, if the court approves of the nominee, he shall be responsible as licensee;
- (b) to a body or association approved by the Minister for the purposes of a seafarers' canteen, it shall nominate and may, from time to time, nominate a person, as provided by the rules, to be responsible as licensee and, if the Court approves of the nominee, he shall be responsible as licensee;
- (c) to a club, it shall nominate, and may, from time to time, nominate a person, as provided by the rules, to be responsible as licensee on behalf of the club and, if the Court approves of the nominee, he shall be responsible as licensee.

Notices of
application.
(Ss. 47, 48, 49
and 190.)
Amended by
No. 128 of
1976, S.S. 15
and 39.

51. (1) Every person applying for the grant of a licence or a provisional certificate for a licence shall give notice of his application in the prescribed form.

(2) The notice of application shall—

- (a) be lodged by the applicant sending or delivering four copies of the notice to the principal clerk, at Perth, not later than thirty days before the earliest day on which the application may be heard; and

- (b) except in the case of an application for the grant of a packet licence, a canteen licence (not being a seafarers' canteen), a wholesale licence or a brewer's licence, be continuously and conspicuously displayed on or adjoining the premises to which it relates, during a period of twenty-one days falling between the lodging of the notice and the hearing of the application and when so displayed shall be of such size and specifications as is prescribed by regulations made under the provisions of section 177; and
 - (c) be advertised once in a daily newspaper circulating in the area in which the premises to which it relates are situated, within the period of seven days next succeeding the lodging of the notice.
- (3) An applicant is deemed to have complied with the requirements of paragraph (b) of subsection (2) of this section if the Court is satisfied that—
- (a) the applicant took all reasonable steps to ensure that the notice was continuously and conspicuously displayed during the specified period; and
 - (b) any failure to keep the notice so displayed was not occasioned by any fault of the applicant.
- (4) An applicant shall, at the time of lodging a notice of application deliver to the clerk—
- (a) two testimonials as to the character or reputation of the applicant and of his or its suitability to be the holder of the kind of licence sought and, as the case may require, of the character of and the suitability of a nominee to be responsible as licensee;

Part IV,
Div. 1.

Ss. 51, 52.

- (b) such number of copies of such plans and specifications, as may be prescribed by the rules, of the proposed or existing premises or of the existing premises as proposed to be altered, extended, renovated or repaired; and
 - (c) in the case of an application for a club licence—
 - (i) three printed copies of the rules of the club, certified as correct under the hand of the secretary of the club; and
 - (ii) a list of the names and addresses of the members of the club, as at the date of the lodging of the notice, verified by a statutory declaration made by the secretary of the club.
- (5) The Court shall not hear the application of a person who has not complied with such of the provisions of this section as apply to him or it.

Disposal of
applications,
etc.
(Cf. s. 48
(3).)
Amended by
No. 94 of
1972, s. 4
(as amended
by No. 19
of 1973).

52. The principal clerk shall indorse on every notice of application for the grant of a licence or provisional certificate for a licence the date of its lodgment and shall, thereupon,—

- (a) cause a copy of the notice to be publicly displayed at his office, at Perth;
- (b) where the application relates to premises that are outside a radius of forty-eight kilometres from the General Post Office, Perth, cause a copy of the notice to be publicly displayed at the office of the clerk nearest to those premises;
- (c) forward to the Commissioner of Police or to such other member of the Police Force as the Commissioner may direct a copy of the notice and the testimonials and, where the case requires, a copy of the rules and the list of members, delivered pursuant to subsection (4) of section 51; and

Ss. 52, 53. Part IV.
Div. 1.

- (d) notify the senior supervisor of the application and hand to him a copy of each of the plans and specifications and, where the case requires, of the rules delivered pursuant to subsection (4) of section 51.

53. (1) The Commissioner of Police shall, generally or from time to time, give such directions as may be necessary for—

Police and
supervisors
to report.
S. 49 (3).

- (a) the investigation of—
 - (i) the genuineness and value of testimonials delivered by an applicant for the grant of a licence or a provisional certificate for a licence;
 - (ii) the character or reputation of an applicant; and
 - (iii) the suitability of an applicant to hold any licence sought and, where the case requires, of a person nominated by the applicant, to be responsible as licensee, including his knowledge of the provisions of this Act;
 - (b) ascertaining whether an applicant is disqualified from holding a licence under this Act;
 - (c) ensuring the correctness of the list of members, and the adequacy, for the purposes of this Act, of the rules, delivered by an applicant club; and
 - (d) the making of a report to the Court on any of the foregoing matters or things and the lodging of such objections to the granting of the licence as may be necessary or required in the circumstances.
- (2) The senior supervisor shall—
- (a) cause the plans and specifications delivered by an applicant for the grant of a licence or a provisional certificate for a licence to be examined as to their adequacy and to

- be compared with the proposed site or with the existing premises to which they relate;
- (b) inquire into the suitability of a proposed site or existing or proposed premises for the type of licence sought in respect of it or them;
 - (c) consider the adequacy, for the purposes of this Act, of rules delivered by an applicant club; and
 - (d) report to the court on any of the foregoing matters or things and lodge such objections to the granting of the licence as may be necessary or required in the circumstances.

Fixing of
areas
affected by
applications.
(S. 47 (3).)
Amended by
No. 76 of
1972, s. 23.

54. (1) The Court shall, as soon as may be practicable after the lodging of an application for the grant of an hotel licence, tavern licence, limited hotel licence, winehouse licence, club licence, cabaret licence, restaurant licence or store licence or of a provisional certificate for any of those licences, specify an area adjoining the premises to which the application relates (in this Part called the "affected area") to which the application shall be deemed to apply.

(2) In specifying an affected area, the Court shall take into account—

- (a) the kind of licence sought or for which a provisional certificate is sought;
- (b) the area from which and the persons from whom a person holding a licence of that kind, on the premises to which the application relates, might reasonably be expected to derive his patronage;
- (c) the nature and zoning of the neighbourhood of the premises to which the application relates; and
- (d) the extent to which access to that neighbourhood, from any particular direction, may be affected by any natural or artificial barrier.

(3) The applicant and any other person interested or concerned in an application may obtain, from the principal clerk at Perth or from the clerk at the place where the application is to be heard, a copy of the specification of the affected area to which the application is deemed to apply.

54A. Where—

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

Special provisions relating to certain applications for the variation of licensed premises. Added by No. 128 of 1976, s. 16.

the Court shall so order, and thereupon—

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

Part IV,
Div. 1.

Ss. 54B, 55.

Court not
to consider
certain
applica-
tions for
licences.
Added by
No. 128 of
1976, s. 17.

54B. (1) Where an application made for the grant of a licence or a provisional certificate for a licence has been refused by the Court on the grounds that the reasonable requirements of the affected area do not justify the granting of the licence or certificate, the Court shall refuse to hear or determine any other application for the same type of licence or certificate made within the period of twelve months immediately succeeding the date on which the first-mentioned application was made if in the opinion of the Court the affected area in relation to the second-mentioned application is substantially the same as that specified by the Court in relation to the first-mentioned application.

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

Who may
object to
grant of
licences.
(S. 63.)
Amended by
No. 76 of
1972, s. 24;
No. 19 of
1972, s. 4
(as amended
by No. 19
of 1973);
No. 128 of
1976, s. 18.

55. (1) An objection to the granting of any licence, or a provisional certificate for any licence, under this Act, may be made by—

- (a) a supervisor;
- (b) a member of the Police Force;
- (c) a person authorised by the council of the municipality within which the premises to which the application relates are situated; and
- (d) the owner of the premises to which the application relates.

(2) An objection to the granting of—

- (a) an hotel licence, tavern licence and a club licence or a provisional certificate for any of them may be made—
 - (i) by the holder of an hotel licence or a tavern licence whose licensed premises are in the affected area or by an association of licensees of which any of those persons may be a member;

-
- (ii) by a resident of the affected area;
and
 - (iii) by a person authorised in writing in that regard by the Chairman of the Tourist Advisory Council, constituted under the Tourist Act, 1973;
- (b) a limited hotel licence or a provisional certificate for such a licence may be made by—
- (i) the holder of an hotel licence or a limited hotel licence whose licensed premises are in the affected area, or by an association of licensees of which either of those persons may be a member;
 - (ii) a resident of the affected area; and
 - (iii) a person authorised in writing in that regard by the Chairman of the Authority mentioned in paragraph (a) of this subsection;
- (c) a winehouse licence or a provisional certificate for such a licence may be made—
- (i) by the holder of a tavern licence or a winehouse licence whose premises are in the affected area or by an association of licensees of which either of those persons may be a member; and
 - (ii) a resident of the affected area;
- (ca) a restaurant licence or a provisional certificate for such a licence may be made—
- (i) by the holder of a restaurant licence whose licensed premises are in the affected area or by an association of licensees of which such a holder is a member; and

- (ii) by a resident of the affected area not being the holder of any licence under this Act other than a restaurant licence;
- (d) a canteen licence or a provisional certificate for such a licence made under section 66, may be made by the holder of an hotel licence or tavern licence whose licensed premises are situated within a distance of thirty-two kilometres of the premises to which the application relates or by an association of licensees of which either or those persons may be a member;
- (e) a cabaret licence or a provisional certificate for such a licence may be made—
 - (i) by the holder of a cabaret licence whose licensed premises are in the affected area or by an association of licensees of which such a holder is a member; and
 - (ii) by a resident of the affected area not being the holder of any licence under this Act other than a cabaret licence; and;
- (f) a store licence or a provisional certificate for such a licence may be made by the holder of an hotel licence, a tavern licence, a winehouse licence or a store licence, whose licensed premises are in the affected area or by an association of licensees of which any of those persons may be a member.

(2a) Where pursuant to subsection (2) of this section the holder of an hotel licence, a limited hotel licence, a tavern licence, a winehouse licence, a cabaret licence, a restaurant licence or a store licence, situated in any particular area is authorised to object to the grant of a licence or a provisional certificate for a licence, the holder of a provisional certificate for such a licence granted in respect of premises situated in that particular area is also authorised to make similar objection.

ss. 55, 56, 57. **Part IV.**
Div. 1.

(3) A person, not being the Court, intending to object to the granting of a licence or a provisional certificate for a licence shall give to the applicant and lodge with the principal clerk notice of his intention and full particulars of the grounds upon which his objections will be based, not less than seven days before the earliest day on which the application may be heard.

(4) Unless the applicant consents or the Court otherwise orders, a person is not entitled to make an objection on any ground of which notice has not been given in accordance with subsection (3) of this section.

56. On the hearing of an application for the grant of a licence or of a provisional certificate for a licence, the Court may, notwithstanding that the application is not opposed, raise any objection that might have been made by any person or by any association of licensees and may, after giving the applicant an opportunity of being heard and affording him any adjournment that he may reasonably require, find the validity of the objection established.

Court may
raise
objections.
s. 64.

57. (1) The objections that may be made to the granting of any licence, or a provisional certificate for any licence, under this Act, are—

Objections.
(s. 63.)
Amended by
No. 76 of
1972, s. 25;
No. 128 of
1976, s. 19.

(a) that the applicant, or a director of, or a person nominated to be responsible as licensee by, the applicant—

(i) is not of good character or repute or is not a suitable person to be the holder, or responsible as licensee, of the licence sought; or

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

(ii) has during the period of one year immediately preceding the lodging of the application been deprived of a licence, under this Act, or been convicted of selling or supplying liquor without a licence or of selling adulterated liquor;

(b) that the premises to which the application relates are in disrepair or are not adequate or suitable for the purposes for which they are to be used or do not comply with by-laws made under, or standards prescribed by or under, any other Act.

(2) The objections that may be made to the granting of—

(a) an hotel licence, a limited hotel licence, a tavern licence, a winehouse licence, a cabaret licence, a store licence or a provisional certificate for any of them are—

(i) that the reasonable requirements of the affected area do not justify the granting of the licence or certificate;

(ii) that the accommodation and services provided or proposed to be provided by the applicant are inadequate to meet the needs of the public in the area or for the type of licence sought;

(iii) that the premises to which the application relates are in the immediate vicinity of a place of worship, hospital or school; or

(iv) that the quiet of the immediate vicinity of the premises to which the application relates would be unduly disturbed, if a licence were granted;

(b) a restaurant licence or a provisional certificate for such a licence are such as are mentioned in subparagraphs (i), (ii) or (iv) of paragraph (a) of this subsection;

(c) a canteen licence or a provisional certificate for a canteen licence are—

- (i) that the number of persons engaged in work being carried on, and the number of persons who may, from time to time, be present for the purposes of carrying on business, in the neighbourhood of the premises to which the application relates is insufficient to warrant the granting of the licence or certificate; or
- (ii) that there is an hotel licence or tavern licence operating within such proximity to the premises to which the application relates as to be reasonably capable of meeting the requirements of persons engaged in work, and from time to time present, in the neighbourhood;

(d) a club licence or a provisional certificate for such a licence are— S. 194.

- (i) that the application made by the club is, or the rules of the club are, or any of them is, in the respect specified in the objection, not in conformity with this Act;
- (ii) that the club comprises less ordinary members than the number provided by section 69;
- (iii) that the club is not conducted in good faith as a club or is kept or habitually used for an unlawful purpose or mainly for the supply of liquor;
- (iv) that there are frequent instances of drunkenness on the club premises or that the club is conducted in a disorderly manner;
- (v) that illegal sales of liquor have taken place on the club premises or that persons who are not members of the club habitually resort there for the purpose of obtaining liquor;

- (vi) that, having regard to the objects of the club and the existing facilities and amenities in the affected area, the club is not required to meet a genuine and substantial need;
- (vii) that the licensing of the club will result in undue competition with other licensees and in economic waste;
- (viii) that the club occupies premises in respect of which, during a period of twelve months immediately preceding the lodging of the application, the licence or registration was forfeited or cancelled or the renewal of the licence or registration was refused;
- (ix) such as are mentioned in subparagraphs (ii), (iii) and (iv) of paragraph (a) of this subsection; or
- (x) that any provision of this Act has not been complied with.

**Application
for permits.**

58. (1) Except where the application is for the renewal of a permit or is made concurrently with an application for a licence or for the transfer or removal of a licence, an application for a permit of any kind shall be made by informal notice in writing lodged, within the time limited by this Act or by the rules, both with the clerk, and with the senior member of the Police Force, nearest to the place where the permit is to operate.

(2) The clerk shall, forthwith after the lodging of an application for a permit, inform the senior supervisor or the supervisor for the area, as the case may require, of the application, giving particulars of the permit sought.

(3) An objection to the issue of a permit may be made by a supervisor or a member of the Police

Force on any of the grounds of objection to the granting of a licence mentioned in subsection (1) of section 57 or on any other ground that may appear to the Court applicable; and it is not necessary that notice be given to the applicant of the objection.

59. Except in the case of an application for a provisional certificate for a licence the Court shall not proceed to hear an application for a licence unless and until the applicant produces to the Court a certificate of the local health authority for the district in which the premises to which the application relates are situated, certifying that those premises conform, or, if not conforming, whether and the manner in which they can be made to conform, to the Health Act, 1911, to the relevant Act relating to sewerage and drainage and to any by-laws or regulations made under those Acts or the Local Government Act, 1960.

Certificate
of local
health
authority.

59A. (1) The Court shall not proceed to hear an application for a licence, the removal of a licence, or for a provisional certificate for a licence, where that application relates to the proposed use of premises as an hotel, tavern, or winehouse, unless and until the applicant produces to the Court a certificate of the local authority responsible for town planning matters for the district in which the premises to which the application relates are situated certifying—

Certificate
of local
planning
authority.
Added by
No. 74 of
1977, s. 5.

- (a) that the proposed use of the premises does not contravene the provisions of any Town Planning Scheme or interim development order made pursuant to the Town Planning and Development Act, 1928, or the provisions of any zoning by-laws made pursuant to the Local Government Act, 1960; and
- (b) where the proposed use will conform with such provisions only if the special consent of the local authority is given, whether or

not that consent will be given and as to any conditions or restrictions relating to that consent.

(2) Before issuing a certificate of the kind referred to in subsection (1) of this section the local authority concerned shall have regard to the views of any other local authority which may have responsibility for town planning matters in the immediate vicinity of the locality in which the premises in question are situated.

(3) It shall be the duty of the local authority responsible for town planning matters for the district in which the premises are situate to furnish a certificate to an applicant for the purposes of this section as soon as is reasonably practicable after being so requested, and where the Court is satisfied that such a certificate has been requested but has not been so furnished the Court may proceed to hear the application notwithstanding the provisions of subsection (1) of this section.

(4) Notwithstanding the issue of a certificate by the local authority pursuant to subsection (1) of this section, the discretion of the Court to determine the application pursuant to the provisions of this Act is not thereby affected.

Consideration of
reports and
certificates.
Amended by
No. 74 of
1977, s. 6.

60. (1) In considering the character or reputation of an applicant for a licence or for a provisional certificate for a licence or of a person nominated to be responsible as licensee and in considering the suitability of a person to be the holder of the type of licence sought, the Court shall have regard to the report made pursuant to subsection (1) of section 53 and may take into account the number or nature of convictions of any such person for offences against this Act or against any Act repealed by this Act and for indictable offences.

(2) In considering the suitability of premises to which an application relates, the Court shall take into account any requisitions or reservations made

Ss. 60, 61, 62. Part IV,
Div. 1.

by, or appearing in, a certificate of the kind referred to in section 59 or section 59A and shall have regard to the report made pursuant to subsection (2) of section 53.

61. (1) The burden of establishing the validity of any objection lies on the objector. Establishment and effect of objections.

(2) Where the validity of an objection is established to the satisfaction of the Court, it shall refuse the application to which the objection relates.

(3) The Court may, in its discretion order payment of an amount sufficient to meet the reasonable costs and expenses—

- (a) of an objector, by the applicant, whether the application is granted or refused;
- (b) of an applicant, by the objector, where it finds the objection to be malicious, vexatious or frivolous.

62. (1) Where an application is made for the grant of a provisional certificate and the Court approves of the plans and specifications submitted by the applicant, with or without modification, and is otherwise satisfied, as provided by this Act, that the certificate should be granted, the Court may grant the applicant a provisional certificate, imposing such terms and conditions as to the effecting of the erection, completion, extension or alteration of the subject premises as it thinks fit. Provisional Certificates. (Ss. 61 and 190A.) Amended by No. 128 of 1976, s. 20.

(2) Where an application is made for the grant of a licence and the Court is satisfied, as provided by this Act, that the licence should be granted but subject only to the extension or alteration of the premises to which the application relates, the Court may, instead of granting the licence sought grant the applicant a provisional certificate, imposing such terms and conditions as to the effecting of the extensions or alterations as it thinks fit.

(3) The Court may, from time to time, on the application of the holder of a provisional certificate, after giving the senior supervisor an opportunity of

being heard, approve of altered plans or specifications instead of those already approved or approve of changes to any proposed extensions or alterations already approved and may, in like manner, extend any time fixed for, or vary any other term or condition imposed as to, the effecting of the erection, completion, extension or alteration of premises, under the certificate.

(4) The Court may, before granting a provisional certificate, require the applicant to enter into a bond, with or without sureties approved by the Court, in an amount to be fixed by the Court, conditioned on the applicant duly effecting the erection, completion, extension or alteration of the subject premises, to the satisfaction of the Court, within the time specified in the bond or within such extended time as the Court may allow and is by this subsection authorised to allow.

(5) On the application by or on behalf of the holder of a provisional certificate, within the time specified, or within any extension of the time specified, in the certificate and on proof of the applicant having duly effected the erection, completion, extension or alteration of the subject premises and having performed or complied with such conditions, if any, as were imposed by the certificate, the Court may grant to the applicant the licence in respect of which the provisional certificate was granted.

(6) [*Repealed by No. 128 of 1976, s. 20.*]

(7) A reference in the succeeding sections of this Division to the granting of a licence shall be read and construed as including a reference to the granting of a provisional certificate.

Grant of
hotel
licences.
(S. 47 (2).)
Amended by
No. 128 of
1976, s. 21.

63. (1) Subject to any valid objection, the Court may grant an hotel licence, if it is satisfied that—

(a) the population of the affected area or the number of persons resorting to or passing

through the affected area is sufficient to warrant the granting of the licence; and

- (b) there are insufficient hotel licences in the area to meet the requirements of the public.

(2) In determining whether or not there are sufficient hotel licences in the affected area to meet the requirements of the public there, the Court shall take into account the services provided by—

- (a) other licensed residential premises;
- (b) unlicensed residential premises; and
- (c) tavern licences.

if any, existing in the affected area.

(3) Without limiting any other power conferred on it by this Act to impose conditions or require variations in licensed premises, the Court may, having regard to the requirements of the public in the affected area and after taking into account the extent to which residential accommodation is provided by other premises in the area, grant an hotel licence subject to such terms and conditions as to the provision on the licensed premises of residential and other accommodation, other services and amenities as it thinks fit to impose, including a term or condition that any of those services or amenities, or more or improved services or amenities, be provided on the licensed premises on any future occasion, if and when the Court may so require.

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

the licence is issued, but should vary during different parts of the period, the conditions imposed pursuant to subsection (3) of this section in relation to the provision of residential accommodation may provide accordingly.

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

- (a) it is satisfied that notice of the making of the application has been given to the Department of Tourism referred to in the Tourist Act, 1973, the council of the municipality in which the hotel is situated, and such other persons as the Court considers have a sufficient interest in the provision of accommodation in the area in which the hotel is situated;
- (b) not less than twenty-eight days have elapsed since the service of all of the notices referred to in paragraph (a) of this subsection; and
- (c) it has afforded each person on whom such a notice has been served a reasonable opportunity to appear and be heard on the application.

Certain
formalities
may be
dispensed
with in
respect
of the
granting of
licences
when
another
licence
is to be
surrendered.
Added by
No. 128 of
1976, s. 22

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

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

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

64. (1) Subject to any valid objection, the Court may grant a tavern licence, if it is satisfied that—

**Grant of
tavern
licences.
Amended by
No. 128 of
1976, s. 23.**

- (a) the population of the affected area or the number of persons resorting to or passing through the affected area is sufficient to warrant the granting of the licence; and
- (b) the granting of the licence would substantially convenience the public or would be likely to result in a rationalization of licences, in the affected area or elsewhere.

(2) In determining whether or not the granting of a tavern licence would substantially convenience the public, the Court shall take into account the number of existing hotel licences and tavern licences, if any, in the affected area, the condition, in each case, of the premises to which those licences relate and the manner in which, and the extent to which, those premises are distributed throughout the area.

(3) In determining whether or not the granting of a tavern licence would be likely to result in a rationalization of licences, in the affected area or elsewhere, the Court shall take into account the number of existing hotel licences and tavern licences in the affected area and shall in each case, take into account—

- (a) the condition of the premises to which the licence relates;
- (b) the extent and quality of the services provided on those premises; and
- (c) the extent to which the services provided on the premises are used or redundant.

Part IV.
Div. 1.

Ss. 65, 66.

Grant of
limited
hotel
licences.
S. 47 (2).

65. (1) Subject to any valid objection, the Court may grant a limited hotel licence, if it is satisfied that—

- (a) the population of the affected area, or the number of persons resorting to, or passing through, the affected area is sufficient to warrant the granting of the licence; and
- (b) there are insufficient limited hotel licences in the area to meet the requirements of the public there.

(2) In determining whether or not there are sufficient limited hotel licences in the affected area to meet the requirements of the public there, the Court shall take into account the residential accommodation provided by other licensed premises and by unlicensed premises, if any, existing in the affected area.

(3) Without limiting any other power conferred on it by this Act to impose conditions or require variations in licensed premises, the Court may, having regard to any possible future demand for accommodation or amenities in the affected area, grant a limited hotel licence subject to the term or condition that more or improved accommodation and amenities be provided on the licensed premises on any future occasion, if and when the Court may so require.

Grant of
works
canteen
licences.
Ss. 44D and
44E.

66. (1) Subject to any valid objection, the Court may, on the application made by, or on behalf of, a body corporate, or a person nominated by a body corporate, that is operating, for the purposes of its business, in an isolated area, grant a canteen licence, not being in respect of a seafarers' canteen, if the Court is satisfied that—

- (a) the number of persons engaged in work being carried on by the body corporate, and the number of persons who may, from time to time, be present for the purpose of carrying on business, in the neighbourhood of the premises to which the application relates is sufficient to warrant the granting of the licence; and

Ss. 66, 67, 68.

Part IV,
Div. 1.

- (b) there is no hotel licence or tavern licence operating within such proximity to the premises to which the application relates as to be reasonably capable of meeting the requirements of the persons engaged in work and from time to time present, in the neighbourhood.

(2) Every licence granted under this section is granted subject to the term that the licence will not be renewed after the coming into operation of an hotel or tavern licence that, in the opinion of the Court, is reasonably capable of meeting the requirements of the persons engaged in work, and from time to time present, in the neighbourhood of the licensed premises.

67. Subject to any valid objection, the Court may, on the application of a body or association of persons approved by the Minister, grant a canteen licence in respect of a seafarers' canteen, if it is satisfied that—

Grant of
seafarers'
canteen
licences.

- (a) the number of persons who would be eligible to use the canteen is sufficient to warrant the granting of the licence;
- (b) the canteen will be situated at a seaport and will provide such services, other than the sale and supply of liquor, and such amenities as the Court may require; and
- (c) the rules of the canteen or of the body or association operating the canteen are such as will restrict admission to, and the use of the canteen to, seafarers and their guests and persons employed on the licensed premises.

68. (1) Subject to any valid objection, the Court may grant a winehouse licence, if it is satisfied that—

Grant of
winehouse
licences.
S. 47 (2).

Part IV.
Div. 1.

Ss. 68, 69.

- (a) the population of the affected area is sufficient to warrant the granting of the licence and is likely to be permanent; and
- (b) there are insufficient winehouse licences in the area to meet the requirements of the public there.

(2) Where an application for a winehouse licence relates to premises in respect of which an Australian wine licence is then current, the Court may, by reason of that fact, be satisfied as to the matters mentioned in subsection (1) of this section; but nothing in this subsection relieves an applicant of the obligation of producing a certificate such as is mentioned in section 59 or of establishing the suitability of the premises for the granting of a winehouse licence.

Grant of club licences. (Ss. 183 and 189). Amended by No. 112 of 1970, s. 9; No. 94 of 1972, s. 4 (as amended by No. 19 of 1973); No. 128 of 1976, s. 24.

69. (1) Subject to any valid objection, the Court may grant a club licence, if it is satisfied that—

- (a) the club is a body of persons associated together, in good faith, for a political, social, literary, sporting or other lawful purpose, comprising—
 - (i) where the club premises are within a radius of forty-eight kilometres of the General Post Office, Perth, at least one hundred ordinary members; and;
 - (ii) where the club premises are situated outside that radius, at least fifty ordinary members;
- (b) the club is established for the purpose of accommodating and providing amenities for the members and their guests, upon premises lawfully occupied by the club, in good faith, and is not established for the purpose of making profits divisible among the members or any of them or for the support of any object, other than—

-
- (i) accommodating and providing amenities for members and their guests;
 - (ii) gifts for purposes that are, in accordance with the law of the State, charitable or for any other purposes approved by the Court; or
 - (iii) the provision of funds for the burial of deceased members or for the relief of sick, aged or necessitous members or their dependants;
- (c) the accommodation and amenities of the club are provided and maintained from its joint funds and a person is not, except as provided by paragraph (b) of this subsection, entitled to derive any benefit or advantage from the club that is not shared equally by every member;
- (d) no payment or part payment of any officer or servant of the club is made by way of commission or allowance upon, or out of, money received for the sale of liquor;
- (e) the business and affairs of the club are under the management of a committee elected by the general body of members, for a period of not less than twelve months, meeting periodically and recording all resolutions and proceedings of its meetings in a book provided for that purpose;
- (f) all members of the club, other than honorary members or provisional members, are elected by the general body of members or by a general or an election committee, in accordance with the rules of the club;
- (g) there is a defined subscription of not less than two dollars per annum, payable by the members quarterly, half-yearly or annually, in advance;

Part IV.
Div. 1.**S. 69.**

- (h) correct accounts and books are kept showing the financial affairs of the club, with particulars usually shown in books of account of a like nature; and
- (i) the rules of the club conform to the requirements of this Act and are, in the opinion of the Court, adequate to give effect to those requirements.

(2) Notwithstanding the provisions of subsection (2) of section 61, where the Court finds, whether upon objection or otherwise, that the rules of an applicant club do not conform to, or are not adequate to give effect to, the requirements of this Act, the Court may adjourn the hearing of the application for such reasonable period as will enable the rules to be varied in such manner as may be necessary.

S. 104.

(3) It is a requirement of this Act that, in order that a club may be licensed, its rules shall provide—

- (a) for the election of persons to membership of the club as—
 - (i) ordinary members;
 - (ii) country members;
 - (iii) life members;
 - (iv) associate members;
 - (v) honorary members;
 - (vi) provisional members; or
 - (vii) such other class of member as the Court may, in each case, approve,and not otherwise.
- (b) that the names and addresses of persons proposed as members of the club, other than honorary members, be displayed in a conspicuous place on the club premises for

a period of at least seven days prior to their election and that an interval of not less than fourteen days elapse between the nomination and the election of an ordinary member;

- (c) the manner in which persons are to be elected as members of the club in the various classes of membership, including honorary members and provisional members;
- (d) that only persons possessing the qualifications set out in the rules be elected honorary members or provisional members or be relieved of the payment of the regular subscription;
- (e) that all persons appointed to any committee or sub-committee formed for any particular purpose be members of the club and report to, and be responsible to, the management committee; and
- (f) that a guest be not supplied with liquor to be consumed other than in the club premises.

(4) It is a term of every club licence that—

S. 183.

- (a) a person be not elected an honorary member if—
 - (i) his usual place of abode is less than twenty-four kilometres from the club premises, by the shortest route;
 - (ii) he has been afforded honorary membership of the club during the period of three months immediately preceding the date of his nomination;
or
 - (iii) he is a juvenile,
- unless the Court otherwise approves;

- (b) liquor be not removed from the club except by or on the instructions of, the member to whom it is sold;
- (c) a juvenile be not employed by the club, except in the clerical or administrative work of the club;
- (d) an up to date register of members, each in his class, be continually available for inspection, and a guest book be continually available for the entry of the names of guests, on the licensed premises; and
- (e) within fourteen days after the making of any amendment or alteration to the rules of the club, the committee of management of the club send or deliver to the principal clerk a certified copy of the amendment or alteration.

(4a) Notwithstanding any other provision of this section, where a club has as its object, or one of its principal objects, the conduct of a prescribed competitive sport a person who is on any day visiting the club—

- (a) as a member or an official of, or a person assisting, a team that is to contest a pre-arranged event in that sport on that day; or
- (b) as an invitee of a member of that club to engage in that sport on that day,

is deemed to be an honorary member of that club during its authorised trading hours for that day if a proposal in writing, by a member, setting out that the person is, or will be, so visiting on that day, has been posted on the club premises, by the secretary, with the date and time of posting endorsed on it.

(5) In this section—

“associate member” means a female member who is entitled to exercise such of the privileges of the club as may be provided by its rules;

"country member" means a member whose ordinary place of abode is not less than twenty-four kilometres from the club premises, by the shortest route;

"ordinary member" means a member, other than an associate, provisional or honorary member, who is entitled to exercise every privilege open to a member of the club;

"provisional member" means a member who is entitled, subject to such restrictions as the rules of the club provide, to exercise the privileges of the club.

70. (1) Notwithstanding anything to the contrary contained in section 69, while and so long as the Anzac Club continues to be licensed under this Act and to have its premises and to conduct its business in the Headquarters building of the League—

Special
provisions
for Anzac
Club.
Cr. Act
No. 14 of
1938.

- (a) the management, conduct and control of the assets and property of the club and of its business and transactions are vested in the State Executive of the League as from time to time constituted under, and elected or appointed in accordance with, the rules of the League for the time being in force and that State Executive is authorised to exercise and have that management, conduct and control subject to the other provisions of this Act, insofar as they are not inconsistent with, or repugnant to, the provisions of this section;
- (b) the net income from all sources arising from the carrying on, and from the business, of the club, as ascertained from time to time, remains the property of the League and may be used, applied or disposed of by the State Executive of the League not only for the purposes of the Club but for any other purpose for which

the ordinary funds of the League may be used, applied or disposed of in accordance with its rules;

- (c) every subscribing member of the League is, by virtue of the payment of his subscription as a member of the League and without the payment of any subscription to the club, a subscribing member of the club for that period during which his subscription to the League entitles him to be a member of the League and is, during that period, entitled, subject to the rules of the club, to enjoy all the privileges of the club; but—

(i) nothing in this paragraph shall be read as preventing a person who is not a subscribing member of the League being or becoming a member of the club in accordance with its rules;

(ii) a member of the League who is unfinancial under its rules is not entitled, and shall not be permitted or suffered, to enjoy the privileges of the club while he continues to be an unfinancial member of the League; and

- (d) the rules of the club shall, to the extent that they may be inconsistent with the foregoing provisions of this subsection, be read subject to those provisions.

(2) If the club ceases to hold a club licence under this Act or is dissolved while the club premises are situated in the Headquarters building of the League, all the assets and property of the club shall thereupon, without conveyance, transfer, assignment or other assurance, become and remain the property of the League, absolutely.

(3) The club shall not be removed from the Headquarters building of the League and its business and transactions shall not be carried on

other than in that building, except by authority of a resolution duly carried by a three-fifths majority of the delegates present and voting at an Annual Congress of the League or at a special Congress of the League duly convened for the purpose and held in accordance with the rules of the League.

(4) In this section—

“Headquarters building of the League” means the premises known as Anzac House and situated at 30A Saint George’s Terrace, Perth;

“the club” means the club known as the Anzac Club and registered as such under the Licensing Act, 1911;

“the League” means the body known and incorporated under the Associations Incorporation Act, 1895, as the Returned Services League of Australia, W.A. Branch (Incorporated).

71. (1) Subject to any valid objection, the Court may grant a store licence, if it is satisfied that—

Grant of
store
licences.
(S. 47 (2).)
Amended by
No. 128 of
1976, s. 25.

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

(b) there are insufficient store licences or other licences in the area to meet the requirements of the public.

(2) Where the application for a store licence relates to premises in respect of which an Australian wine licence is then current, the Court may, by reason of that fact, be satisfied as to the matters mentioned in subsection (1) of this section; but nothing in this subsection relieves an applicant of the obligation of producing a certificate such as is mentioned in section 59 or of establishing the suitability of the premises for the granting of a store licence.

**Part IV,
Divs. 1
and 2.****Grant of
other
licences.
(S. 47 (2).)
Amended by
No. 112 of
1970, s. 10.****Ss. 72, 73, 74, 75:**

72. The Court may grant any licence other than those mentioned in sections 63 to 71, inclusive, if no objection is made to the granting of the licence or, if made, the validity of the objection is not established to the satisfaction of the Court but any restaurant licence in respect of premises that relate to another licence which is a winehouse, or an Australian wine, licence shall not authorise the sale or supply of any liquor that is not authorised by that other licence.

**Grant of
licences,
generally.**

73. Without mitigating the requirements of any law relating to public health or hygiene, the Court, in considering the sufficiency or the standard of any service or amenity provided, or to be provided, by an applicant for a licence, on premises to which the application relates, shall have regard to—

- (a) the kind of licence sought; and
- (b) the customary requirements of those persons from whom the applicant would ordinarily be expected to derive his patronage.

**Grant of
permits.**

74. (1) The Court may grant any permit under this Act where no objection is made to the granting of the permit, or, if made, the objection is not established to the satisfaction of the Court.

(2) Upon the issue of a permit, the clerk at the place where it is issued shall notify the senior member of the Police Force, nearest to the place where the permit is to have effect, of that fact.

*Division 2.—Renewal of Licences and Permits.***Currency of
licences.
S. 45.**

75. Except where the Court otherwise orders, a licence that relates to—

- (a) premises situated north of the twenty-sixth parallel of south latitude expires on the thirtieth day of June; and

(b) premises situated elsewhere in the State expires on the thirty-first day of December, next following the grant or effective date of renewal of the licence.

76. (1) Subject to the succeeding provisions of this Division, a licensee may, by application in writing in the prescribed form, apply for the renewal of his licence.

Applications
for renewal
of licences.
S. 54.

(2) Where an application for the renewal of a licence relates to licensed premises situated north of the twenty-sixth parallel of south latitude, it shall be lodged, as provided by this section, on or before the thirty-first day of May, otherwise it shall be lodged on or before the thirty-first day of October, in each year.

(3) An application for the renewal of a licence shall be lodged by posting two copies of the application, by prepaid post, to the principal clerk who shall forward one copy to the clerk at the place nearest to the licensed premises to which the application relates.

(4) Where an application for the renewal of a licence is not lodged in conformity with or within the time limited, by this section or in such manner or extended period as the Court may see fit to allow, the licence lapses at the conclusion of the period for which it is current.

77. (1) The Court may renew a licence for any period not exceeding twelve months from the date of expiry and the renewal of a licence operates as the issue of a new licence.

Period of
and
operation
of renewal.
S. 45.

(2) Where a licence is renewed, the licensee shall pay the specified fee within the period of one month after the date on which the former licence expires.

Part IV.
Div. 2.

Ss. 78, 79, 80.

**Renewals
of permits.**

78. (1) Applications for the renewals of permits that are of a continuing nature and that enure during the currency of a licence may be made, in writing in the prescribed form, contemporaneously with the application for the renewal of the licence, otherwise the application shall be lodged not later than twenty-one days prior to the expiry date of the permit.

(2) The Court shall not grant a renewal of a permit unless and until the specified fee has been paid.

**Who may
object
to renewals.
S. 63 (1).**

79. (1) A person who would be entitled to object, if the application were for the granting of a licence or the issue of a permit, may object to the renewal of a licence or permit.

(2) Subsections (2) and (3) of section 55 apply, with such adaptations as may be necessary, to objections to the renewal of licences and section 56 applies, similarly, to the renewal of licences and permits.

**Objections
to renewals.
S. 63 (2).**

80. (1) The objections that may be made to the renewal of a licence or permit are such of the objections that may be made to the granting of a licence or the issue of a permit as the Court considers applicable, in the circumstances of the case.

S. 194.

(2) In addition to, and without limiting, the provisions of subsection (1) of this section, the objections that may be made to the renewal of a club licence are that—

- (a) the club has ceased to exist;
- (b) persons who are not members are habitually admitted to the club premises, merely for the purpose of obtaining liquor;
- (c) the supply of liquor to the club is not under the control of the members or of the committee appointed by the members:

- (d) the amount of liquor sold and supplied for consumption off the licensed premises indicates that trading in liquor is excessive, having regard to the objects of the club, and is such as is likely unduly to affect the trade of licensed premises in the neighbourhood; and
- (e) the rules, or some of the rules, of the club are habitually broken or have been so changed as not to conform to the requirements of this Act.

81. (1) It is not necessary that the Court hear applications for the renewal of licences or permits or that the applicant attend and be heard, unless—

Procedure
on appli-
cations for,
and on
granting
renewals.
Cf. s. 49.

- (a) an objection is made to the renewal;
- (b) the Court requires the attendance of the applicant before it; or
- (c) the applicant wishes to be heard on his application or on some matter notified to him by the Court under subsection (2) of this section.

(2) The Court may, in granting the renewal of a licence or permit notify the licensee or permit holder of any matter relating to the operation of the licence or permit, the condition of the licensed premises or premises in which the permit operates or such other matter as, in its opinion, requires to be rectified and may by the notice attach conditions to the operation of the licence or permit or grant a renewal for such lesser period than that sought, as it thinks fit.

(3) Where an objection to the renewal of a licence or permit cannot be heard and disposed of prior to the date on which the current licence or permit expires, the Court may extend the operation of the licence or permit for such period as may be necessary for the objection to be heard and be disposed of, finally.

Part IV,
Divs. 2
and 3.

Ss. 82, 83, 84, 85.

Dealing
with
certain
objections.
Cf. s. 50 (3).

82. Where an objection to the renewal of a licence is based on any inadequacy or unsuitability of the licensed premises or of the furniture, fittings, accommodation services or amenities on those premises, the Court may, after giving the applicant for the renewal an opportunity of being heard, exercise any of the powers conferred on it by this Act to require a variation of the licensed premises and may suspend the licence pending compliance with any such requirement or may grant the renewal for such period and subject to such terms and conditions as it thinks fit.

Owners and
others to
have notice
of failure
to renew.

83. Where the holder of a licence fails to apply for its renewal, the principal clerk shall give notice of the failure to the owner or mortgagee of the licensed premises or to any other person who, to the principal clerk's knowledge, may be prejudicially affected by the failure.

Division 3.—Transfer and Transmission of Licences.

Transfer of
licences.
S. 56.

84. (1) Subject to section 50 and the succeeding provisions of this Division, the Court may, with the consent in writing of the holder of the licence and on payment of the specified fee, by endorsement, transfer a licence to any person that is entitled to apply for the granting of a licence.

(2) On the transfer of a licence, all the rights that were conferred, and all the duties and obligations that were imposed, on the holder of the licence are conferred and imposed on the transferee, for the balance of the period during which the licence is current.

Notices of
application.
Ss. 49 and
56 (3).

85. (1) Every person applying for the transfer of a licence shall give notice of his application in the prescribed form.

(2) The notice of application shall—

Ss. 85, 86, 87. Part IV,
Div. 3.

(a) be lodged by the applicant sending or delivering four copies of the notice to the principal clerk, at Perth; and

(b) be advertised once in a daily newspaper circulating in the area in which the premises to which it relates are situated,

not later than seven days before the earliest day on which the application may be heard.

(3) An applicant shall, at the time of lodging the notice of application, send or deliver to the principal clerk two testimonials as to the character or reputation of the applicant and of his suitability to be the holder of the licence sought to be transferred and, as the case may require, of the character and of the suitability of a nominee to be responsible as licensee.

(4) The Court shall not entertain the application of a person who has not complied with the provisions of this section.

86. (1) The principal clerk shall deal with an application lodged, and testimonials sent or delivered, under section 85 in the manner provided by section 52. Disposal of applications, etc.

(2) To the extent that they may be applied, the provisions of subsection (1) of section 53 apply to an applicant for the transfer of a licence.

87. (1) The objections that may be made to the transfer of a licence are such as are mentioned in paragraph (a) of subsection (1) of section 57 and may be made by any person such as is mentioned in subsection (1) of section 55. Objections. S. 63.

(2) In considering the suitability of an applicant to be the holder of the licence sought to be transferred, if the premises to which the licence relates are graded, or are deemed to be graded, under the

provisions of this Act, the Court shall consider whether the applicant has sufficient qualifications and experience to conduct and manage premises so graded and shall grant or refuse the application according to its finding in that regard.

Trans-
mission of
licences.
(S. 57.)
Amended by
No. 128 of
1976, s. 26;
No. 74 of
1977, s. 7.

88. (1) Where, in relation to a licensee, an event mentioned in the first column of the Third Schedule occurs or the licensee does, or suffers or permits the doing of, an act, matter or thing mentioned in that column, the licensee's right to the licence terminates and the licence enures for the benefit of his successor, being the person or one of the persons mentioned in the second column of the Schedule directly opposite to the event, act, matter or thing mentioned in the first column, and the successor is thereupon entitled, personally or by his agent, to enter upon the licensed premises.

(2) Where a successor fails to exercise the entitlement, conferred by subsection (1) of this section, to enter upon the licensed premises within a period of twenty-eight days after his becoming so entitled, the owner of the premises may, within fourteen days after the expiry of that period, personally or by his agent, enter in the successor's stead and the licence shall, subject to the succeeding provisions of this section enure for the benefit of the owner so entering.

(3) Where a successor or, failing him, the owner enters upon licensed premises by virtue of, and in conformity with, this section, the licence shall, notwithstanding its forfeiture, voidance or expiry, be deemed to continue or be extended for the benefit of the successor or owner; but failing any such entry within the time limited by subsection (2) of this section or within such extended period as the Court may, in any particular case, allow, the licence shall become void, absolutely.

(4) A successor or owner for whose benefit a licence enures under this section may carry on the business of the licence but shall, unless the Court

Ss. 88, 89, 90. Part IV,
Divs. 3
and 4.

in the particular case allows an extended period for that purpose,—

- (a) within seven days following the date of his entry upon the licensed premises send or deliver to the principal clerk notice of that event; and
- (b) before the expiry of twenty-eight days following the date of his entry, apply to the Court for a transfer of the licence, in the manner provided by section 85.

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

89. The provisions of this Division relating to the transfer of licenses with the consent of the licensee apply to an application for a transfer under section 88, as if that consent had been given, and the Court may, on payment of the specified fee, grant, or may refuse, the transfer of the licence.

Transfer
of licences
following
entry.
S. 57.

Division 4.—Removal of Licences.

90. (1) A licensee may, by application in writing, in the prescribed form apply for the removal of his licence not being a theatre licence, railway refreshment room licence or packet licence, from the licensed premises to some other premises.

Applications
for removal.
S. 59.
Amended by
No. 74 of
1977, s. 8.

(2) With the exception of the provisions relating to —

- (a) the character or reputation of the applicant or his suitability to be the holder of the kind of licence sought and testimonials as to, and reports on, any of those matters; and

- (b) the number of members, and the rules of a club,

the provisions of sections 51 to 57 inclusive and of sections 59 and 59A apply to applications under subsection (1) of this section, as though the references in those sections to an application for a licence were references to an application for the removal of a licence; and, where the applicant is not the owner of the premises from which he seeks to remove the licence, he shall give notice of his application to the owner of those premises.

- (3) The holder of a packet licence may, by informal application in writing, from time to time apply for the removal of the licence from one vessel to another or from one aircraft to another.

Grant of
removal.
S. 59.

91. The Court may, on payment of the prescribed fee, grant the removal of a licence if it is satisfied as to those matters of which it is required to be satisfied on an application for the granting of a licence of the kind sought to be removed.

Temporary
removal.
S. 60.

92. Where any licensed premises, not being those to which a theatre licence, railway refreshment room licence or packet licence relates, are rendered unfit for occupation by reason of calamitous circumstances or of being repaired or rebuilt the licensee may, by informal application in writing, apply for the suspension of the licence or its temporary removal to some other portion of the premises or to other premises in the immediate vicinity; and the Court may grant the application, notwithstanding that the premises to which the licence is to be temporarily removed would not, ordinarily, conform to its requirements, and direct that the removal of the licence have effect for such period as it thinks necessary in the circumstances.

Ss. 93, 94. **Part V,
Div. 1.****PART V.—IMPROVEMENT AND RATIONALIZATION OF
LICENSED PREMISES.***Division 1.—Improvement and Maintenance of Premises.*

93. (1) The plans of licensed premises held by Licensing Courts, under the Licensing Act, 1911, immediately prior to the coming into operation of this Act, are, subject to the succeeding provisions of this section, deemed to be approved by the Court.

**Plans
lodged with
Court.**

(2) Where, in the opinion of the Court, the plans of any licensed premises lodged with the Court are inadequate or incomplete or do not conform to the rules, the Court may require the licensee or owner of the premises to submit further plans for its consideration.

(3) The Court may approve or reject any plans submitted pursuant to subsection (2) of this section or may require the submission of further plans.

94. (1) The owner or licensee of licensed premises shall not rebuild or make any alteration, whether structural or otherwise, or any change in use of part or parts of the licensed premises (which alteration or change in use is, in this Act, called a variation) unless the rebuilding or variation is authorised or required by the Court.

**Variation of
licensed
premises.
S. 117.
Amended by
No. 128 of
1976, s. 39.**

Penalty: One hundred dollars.

(2) For the purposes of subsection (1) of this section, an alteration does not include any that does not materially affect, or that is a renovation of, the premises or the accommodation provided by the premises.

(3) Where an owner or licensee commits an offence against subsection (1) of this section, the Court may suspend the licence until such time as the owner or licensee complies with such directions as the Court may think fit to give.

(4) This section does not apply to the holder of a railway refreshment room licence, a packet licence, a wholesale licence or a brewer's licence, or to the owner of the premises to which any such licence relates.

Owners or
licensees
may submit
proposals
for varia-
tions.
S. 117.

95. The owner of licensed premises or, with the consent of the owner, the licensee may, from time to time, submit a proposal for a variation, or for the extension or reduction in area, of the licensed premises; and the Court may authorise the owner or licensee to give effect to the proposal or, with the consent of the proposer, to any modification of the proposal, if the Court is of the opinion that the proposal or any modification of it is in the public interest.

Court may
require
variations.
S. 51A.

96. (1) Where the Court is of the opinion that it is in the public interest that there should be a variation of any licensed premises or that the furniture, fittings, accommodation, services or amenities in, or provided by, any licensed premises are inadequate or unsuitable, the Court may call on the owner, the licensee or both of them to show cause why either or both of them should not be required to effect the variation or remedy the inadequacies or unsuitability in such manner as it considers warranted; and may require the submission of proposals by the owner, the licensee or both of them, supported by plans in the form prescribed by the rules, for that purpose.

(2) The Court may, after giving the owner or the licensee or the owner and the licensee, as the case may require, an opportunity of being heard or at any time with the consent of one or other or both of them, as the case may require, issue a direction for the giving of effect to its requirements with or without modification of that or any of those proposed under subsection (1) of this section.

(3) Where the Court requires an owner or licensee to submit a proposal, it may authorise him to give effect to the proposal or may require one or other or both of them to submit further proposals and plans.

(4) The issue of a direction for the giving of effect to a requirement under this section does not, whether the direction has been complied with or not, affect or prevent the further exercise by the Court of any power conferred on it by this section.

97. (1) Where the Court authorises an owner or licensee to give effect to a proposal or directs him to give effect to a requirement, under this Division, it shall specify a time within which he is to give effect to the proposal or requirement and may, during the time so specified, permit the licensee—

Court may
fix times
for giving
effect to
directions.
S. 51A.

- (a) to carry on his business with less accommodation than that of the premises as licensed or without accommodation or on neighbouring premises;
- (b) to close any bar on the licensed premises and to sell and supply liquor from a temporary bar on the licensed premises or on neighbouring premises; or
- (c) to suspend his business wholly or in part.

(2) Where an owner or licensee, as the case may be—

- (a) fails to give effect to a requirement;
- (b) in the case of a requirement to submit a proposal, fails to submit a proposal or a reasonable proposal; or
- (c) fails to show cause why the direction of the Court should not be enforced,

within the time limited by the direction, the Court may impose a penalty not exceeding twenty dollars for each day during which the failure continues after the expiration of the time so limited.

Part V,
Div. 1.

Ss. 98, 99.

Court may
renew
licences and
modify
require-
ments.
S. 51A.

98. (1) The Court may, pending the completion of any work being carried out pursuant to this Division, renew the licence relating to the premises notwithstanding that any required accommodation is, during that time, not being provided or that the business is being carried on on neighbouring premises and, on completion of the work, may renew the licence for the premises as altered.

(2) The Court may upon application, made at any time before the commencement, or during the progress, of the work, approve an alteration or modification to the proposal and plans submitted or to a requirement, in respect of which the Court has directed effect to be given.

(3) Where the Court has specified a time for giving effect to any proposal or requirement and the work is not carried out in the time so specified, it may, upon application made for that purpose, extend the time so specified; and, upon failure of completion of the work within the time so extended or, where no application is made for extension, within the time originally specified, may suspend the licence.

(4) Where the Court is satisfied that a variation has been completed in accordance with a proposal or requirement, the approved plans held by the Court shall be amended so as to reflect the variation and shall, as so varied, be the approved plans.

Licensed
premises to
be kept
clean and
in repair.
S. 116.

99. (1) Every licensee shall keep the licensed premises and all fittings and fixtures in the premises thoroughly cleansed, in a hygienic condition and in good repair and shall, at the direction of a supervisor or of a health surveyor of a local health authority or of the Department of Public Health, carry out such minor repairs, not exceeding, in any period of three months, two hundred dollars, as may, in the opinion of the supervisor or health surveyor, be necessary or required.

(2) The powers conferred on a health surveyor by this section are in addition to, and not in derogation of, his powers under any other Act.

(3) A licensee who is aggrieved by the direction of a supervisor or health surveyor given under subsection (1) of this section may, within fourteen days after the direction is given, submit his objections to the direction to the Court; and the Court may uphold, vary or set aside the direction and its decision in that regard is final and conclusive.

(4) A direction given pursuant to subsection (1) of this section shall be in writing of which a copy shall be sent to the principal clerk, at Perth, and, where a licensee fails to comply with any such direction that has not been set aside by the Court or with any such objection as varied by the Court, within such period as the Court considers reasonable in the circumstances, the Court may impose a penalty of five dollars for every day that the failure continues after the time when it considers the licensee might reasonably have complied with the direction or may, after giving notice to the owner of the premises, where he is not the licensee, suspend the licence pending compliance with the direction.

(5) Nothing in subsection (4) of this section limits the powers conferred on the Court by the succeeding provisions of this Division.

100. Where a licensee fails to comply with a direction given under this Division, the owner of the licensed premises may, notwithstanding any express or implied covenant or agreement to the contrary, enter the premises and, by himself, his agent or workmen, do all such things as are required of the licensee by the direction.

Owner may
comply with
directions
to licensee.
S. 51A.

Part V.
Div. 1.

S. 101.

Provisions
applicable
where
licensee is
not the
owner.
S. 51A (6).

101. (1) Where the licensee is not the owner of the licensed premises and is not under covenant or agreement with the owner to comply with any or all of the things required by, or that may be required under, this Division—

- (a) the owner shall pay to the licensee any moneys expended by him in complying with any thing that he has not covenanted or agreed with the owner to do; and the licensee may retain out of any moneys payable by him to the owner any amount due by the owner in respect of moneys so expended;
- (b) so long as any moneys are owed by the owner to the licensee by virtue of paragraph (a) of this subsection, the licensee is, in addition to any other remedy that he has, entitled to retain possession of the licensed premises at the same rental that was payable at the time the expenditure was incurred, until the rent accruing is sufficient to repay the moneys so owing, notwithstanding the provisions of any lease or agreement to the contrary; and
- (c) the licensee may retain the rent accruing by virtue of paragraph (b) of this subsection and the authority of this section is a sufficient answer to any action by the owner for the recovery of that rent.

(2) The licensee shall, during the remainder of his tenancy, pay to the owner, by way of an increased rental an amount at the rate of eight per centum per annum of the aggregate amount expended by the owner, or by the licensee on the owners's behalf, in complying with a direction under this Division.

(3) The licensee may reduce the aggregate amount mentioned in subsection (2) of this section by any amount due and owing by the owner to the licensee.

Ss. 102, 103, 104. Part V,
Div. 1.

102. Where a direction is given under this Division in respect of licensed premises that are under contract of sale, if the vendor is not in possession pursuant to any right of re-entry under the contract and carries out the requirements of the direction or repays moneys expended in that regard, the sale price of the premises under the contract is, by operation of this section, increased by the aggregate amount expended in, or repaid for, the carrying out of the requirements of the direction and the contract is deemed to be varied accordingly.

Contract of
sale varied
in certain
cases.
S. 51A. (2a).

103. (1) Where a licensee fails to give effect to a direction given under this Division, the Court may, by notice in the prescribed form, setting out the grounds, call on the licensee to show cause why the licence should not be cancelled.

Power to
cancel
licences.
S. 51A. (4).

(2) Where a licensee to whom a notice is given under subsection (1) of this section is not the owner, the Court shall cause a copy of the notice to be given to the owner who shall have liberty to intervene in the proceedings.

(3) Where a licensee fails to appear or fails to show cause or the owner, not being the licensee, does not intervene and show cause, the Court may cancel the licence or may suspend the licence, from a date to be fixed, until such time as the Court is satisfied that the ground or grounds upon which the licence might have been cancelled no longer exists or exist.

104. (1) Where a direction is given under this Division to the owner or licensee of premises to which an hotel licence or a limited hotel licence relates or where the Court makes its requirement for the provision of accommodation or further accommodation known, under section 63 or 65, and the owner or licensee satisfies the Court that he is unable to provide or, at an economic rate, to borrow sufficient

Power of
Treasurer to
guarantee
expense of
carrying
out work.
S. 51B.

Part V,
Divs. 1
and 2.

Ss. 104, 105.

moneys to meet the estimated costs of the Court's requirements, the Court may give its certificate to that effect to the Treasurer.

(2) A certificate given by the Court under subsection (1) of this section is sufficient authority for the Treasurer to render financial assistance to the owner or licensee to whom the certificate relates, by guaranteeing, under, and in accordance with, the provisions of the Industry (Advances) Act, 1947, any advance made to the owner or licensee for the purposes of this section.

(3) The aggregate amount of the contingent liability of the Treasurer for advances guaranteed by him under subsection (2) of this section shall not, at any one time, exceed five hundred thousand dollars.

Division 2.—Grading of Hotels.

Court may
determine
standards
for grading.
S. 510.

105. (1) Without limiting the powers of the Court under this Act but subject to this Division, the Court may—

- (a) determine a minimum standard of service, in relation to the management, accommodation, structure, furnishings, cuisine and amenities to be provided and maintained for the comfort and convenience of those members of the public accommodated in hotels; and
- (b) determine a system of grading hotels, by classes, according to the standard of service provided and maintained by them and the part of the State in which they are located and may grade hotels into such different classes as, in the opinion of the Court, are applicable to them.

(2) Subject to section 106, the court may, on the application of a licensee or of its own motion, amend any determination or grading made under this section or may substitute a new determination or grading for any so made.

Ss. 106, 107. Part V,
Div. 2.

106. (1) Where the Court proposes to determine or amend a system of grading under this Division, it shall refer its proposals to the Tourist Advisory Council which shall consider the proposals and make and submit its recommendations on them to the Court.

Reference
of system
of grading
to Tourist
Authority.
S. 51D.
Amended by
No. 74 of
1977, s. 8.

(2) Upon receipt of the recommendations of the Tourist Advisory Council submitted pursuant to subsection (1) of this section the Court may, having regard to those recommendations, make or amend a system of grading as provided by section 105.

107. (1) Where the Court proposes to grade an hotel pursuant to a system of grading determined under this Division, it shall give notice in writing of the proposal to the owner and to the licensee of the hotel, specifying in the notice a period, being not less than fourteen days, within which the owner, the licensee or both of them may make written representations or objections to the Court in relation to the proposal.

Notice of
grading to
owners and
licensees.
S. 51D (3)
and (4).

(2) Upon the expiration of the period specified in the notice given pursuant to subsection (1) of this section, the Court shall consider any representations or objection made by the owner, the licensee or both of them and may thereupon grade the hotel, in accordance with the system of grading, in such class as it thinks appropriate and the decision of the Court in that regard is final and conclusive.

(3) The Court shall send notice in writing of a decision made pursuant to subsection (2) of this section to the owner and to the licensee of the hotel and shall, from time to time, cause a list of hotels graded pursuant to this section and the respective classes in which they are graded to be published in the *Government Gazette*.

(4) Notwithstanding anything in this Division, the Court may withhold the making of a grading, or

may from time to time vary or rescind a grading made, in respect of an hotel.

Misrepresentation
of grading.
S. 51D (6).

108. A person who,—

- (a) being the owner or licensee of an hotel, falsely represents, whether by word, sign or other means, that the hotel has been graded, or, having been graded, is graded as of a higher class than that in which it was graded, by the Court; or
- (b) being the owner or occupier of unlicensed premises in which lodging or accommodation is offered or given for reward, falsely represents, whether by word, sign or other means, that the lodging or accommodation has been graded under, or that it conforms to, a system of grading determined by the Court,

commits an offence.

Penalty: One hundred dollars.

Financial
assistance
for improve-
ments.
(S. 51E.)
Amended by
No. 76 of
1973, s. 3.

109. (1) Where the owner or licensee of an hotel desires, or is ordered by the Court under the provisions of this Act, to effect improvements, including improvements to furniture, furnishings and equipment, in the accommodation provided and maintained in the hotel and is unable to provide or, at an economic rate, to borrow sufficient moneys to meet the estimated cost of the improvements, the owner or licensee may apply to the Court for a certificate under this section.

(2) If, upon the consideration of an application under this section, the Court is satisfied that—

- (a) the improvements desired or required to be effected are necessary to provide and maintain the standard of service applicable to the class in which, or a higher class to that in which, the hotel is graded under

Ss. 109, 110, 111, 112. *Part V,*
Divs. 2
and 3.

this Division or, if not so graded, to provide and maintain a standard of service that will qualify the hotel to be so graded; and

- (b) the applicant is unable to provide or, at an economic rate, to borrow sufficient moneys to meet the estimated cost of the improvements,

the Court may give its certificate to that effect to the Treasurer.

(3) A certificate given by the Court under subsection (2) of this section is sufficient authority for the Treasurer to render financial assistance to the owner or licensee to whom the certificate relates, by guaranteeing, under, and in accordance with, the provisions of the Industry (Advances) Act, 1947, any advance made to the owner or licensee for the purposes of this section.

110. In Divisions 1 and 2 of this Part—

Interpre-
tations.
Amended by
No. 74 of
1977, s. 10.

“hotel” means licensed premises to which an hotel licence or a limited hotel licence relates;

“Tourist Advisory Council” means the body known by that name as established under the Tourist Act, 1973.

Division 3.—Rationalization of Licences.

111. The Court is charged with the duty of effecting rationalization of licences and shall so order the granting of licences as to ensure that the rationalization persists.

Court to
effect
rationaliza-
tion.

112. (1) The Court may investigate any area, the locality and extent of which shall be in its sole discretion, for the purpose of determining whether, and, if so, how, the licences existing in that area should be rationalized.

Court to
review hotel
licences.

(2) In investigating an area for the purpose mentioned in subsection (1) of this section, the Court may—

- (a) consider the report of a supervisor, member of the Police Force or person authorised to report by the council of a municipality in the district of which the area is wholly or partly contained;
- (b) inspect the area and the accommodation and amenities provided by licensed and unlicensed premises in the area;
- (c) inform itself from records, statistics or otherwise on any matter that, in its opinion, is relevant to the investigation;
- (d) require the holder of a licence in the area to produce any books or documents relating to the business of his licence;
- (e) consider—
 - (i) the nature and extent of the accommodation, services and amenities provided by the licensed premises in the area and the extent to which any of those things are redundant;
 - (ii) the manner in which the business of his licence has been conducted by the holder of any license in the area;
 - (iii) the capacity of the holder of any hotel licence in the area to improve the accommodation, services and amenities provided by the licensed premises; and
 - (iv) any other matter that the Court believes relevant.

(3) Where the holder of a licence fails, within a reasonable period, to produce any books or documents required to be produced under paragraph (d) of subsection (2) of this section, the

Court may suspend the operation of the licence until such time as the books or documents are produced.

113. (1) Where, as a result of an investigation made pursuant to section 112, the Court is of the opinion that—

Licensees to be required to show cause why premises should continue to be licensed.

- (a) having regard to the population of the area and the requirements of the public, there are too many licences in the area; and
- (b) as regards any licence in the area,—
 - (i) the buildings of the licensed premises are so run down or in disrepair or of such poor standard as to be incapable of being reasonably improved without rebuilding or substantial rebuilding; or
 - (ii) the services and amenities provided by or on the licensed premises are unsatisfactory or of poor standard or are unused, rarely used or redundant,

the Court may, by notice in the prescribed form, call upon the licensee and, where the licensee is not the owner of the licensed premises, the owner to show cause why the licence should continue in force with respect to those premises.

(2) A notice given under subsection (1) of this section shall be served on a licensee and, where the case requires, on an owner at least thirty days prior to the date upon which he is required to be heard.

(3) The Court may cause any two or more notices to be given under subsection (1), contemporaneously, and, where it is of the opinion that the several licensees and owners to whom the notices are given can advantageously be heard at the one time, may consolidate the proceedings and determine which of the parties to the proceedings is to begin.

Part V.
Div. 3.

S. 114.

Parties may
show cause
for con-
tinuance
of licence.

114. (1) A party to a proceeding commenced by notice under section 113 may show cause why the licence relating to the subject premises should remain in force by satisfying the Court that—

- (a) the circumstances warrant, or changed circumstances will warrant, the licence being continued in force in respect of the subject premises;
- (b) he has the means or the means will be forthcoming, and he proposes to apply for leave, to rebuild or substantially rebuild the subject premises;
- (c) where the proceeding relates to an hotel licence, some other holder of an hotel licence in the area or the owner of other premises in the area to which an hotel licence relates proposes to apply to the Court for leave to surrender or remove the licence or to apply for a tavern licence for his premises; or
- (d) he has taken, or will take, all necessary steps to provide such services and amenities on the subject premises as will conform to the necessary standard and cause them to be used and no longer redundant,

and the Court may, thereupon, adjourn the proceedings for such period as it thinks fit, upon terms, or may discharge the notice, subject to such conditions, if any, that it may think fit to impose.

(2) A party to a proceeding mentioned in subsection (1) of this section may, if unable to show cause why the licence relating to the subject premises should continue in force, apply for an adjournment of the proceedings for such period as may be reasonably necessary to enable—

- (a) him, if the holder of an hotel licence or the owner of premises licensed as an hotel, to apply for—
 - (i) the removal of the licence, either as an hotel licence or a tavern licence; or

- (ii) the granting of a tavern licence in respect of the subject premises; or
- (b) some other person who has the means to—
 - (i) rebuild or substantially rebuild the subject premises;
 - (ii) provide such services and amenities as will conform to the necessary standard and cause them to be used and no longer redundant; or
 - (iii) remove the licence where the proceeding relates to an hotel licence, either as an hotel licence or a tavern licence,

to apply for the transfer of the licence;

and the Court, if satisfied that an adjournment ought to be granted, may grant an adjournment of the proceeding for such period as may, in its opinion, be necessary for any proposed application to be made.

(3) Where cause is not shown, under this section, to the satisfaction of the Court, why a licence should continue in force with respect to the subject premises or where, following an adjournment, any application, matter or thing by reason of which the adjournment was ordered or granted has not been made, carried out or taken place and no cause is then shown why the licence should continue in force, the Court shall order that the licence be not renewed and the licence shall, at the conclusion of the period of its currency, lapse.

(4) Nothing in this section precludes the Court giving a second or subsequent notice under section 113 in respect of the same licence and premises.

Part V,
Div. 4
and
Part VI.

Ss. 115, 116, 117, 118.

Division 4.—Surrender of Licences.

Surrender
by licensees,
generally.
S. 246.

115. Except in the case of a club licence and subject to section 117, a licensee, being the owner, or having the consent of the owner, of the premises to which the licence relates may, by leave of the Court, surrender his licence, with effect from such date as may be approved by the Court.

Surrender
of club
licences.
S. 200A.

116. Subject to section 117, a club may, by resolution duly passed at a general meeting of members convened in accordance with its rules or, where there are no members, at the requirement of a majority of the trustees of the club, in either case, by leave of the Court, surrender its licence, with effect from such date as may be approved by the Court.

Consents of
interested
persons to
be obtained.
S. 246.

117. The Court shall not grant leave for the surrender of a licence unless the consent in writing of every person entitled to any freehold or leasehold interest in the premises to which the licence relates, whether in possession, reversion or remainder, or entitled under any mortgage, charge or security affecting those premises, is produced to the Court.

PART VI.—OBLIGATIONS OF LICENSEES.

Name of
licensee to
be displayed.
(Ss. 112 and
113.)
Amended by
No. 128 of
1976, s. 27.

118. (1) Every holder of a licence, other than the holder of a club licence, shall cause his name, followed by the word, "Licensee", to be painted or fixed on the front of the premises to which the licence relates, in a conspicuous position; and shall maintain the name and word in a readily legible condition.

(2) The name of licensed premises shall not be changed without the leave of the Court.

Penalty—Twenty dollars.

119. (1) A licensee shall not, without the leave of the Court, sell or supply liquor from more than one bar; but a room divided into compartments by walls or partitions does not constitute an additional bar if there is direct access by a door or doors from one compartment to another.

One bar only, except by leave.
S. 145.

(2) A licensee requiring leave for an additional bar shall submit a proposal for the variation of the licensed premises as provided by Part V of this Act.

(3) A licensee who contravenes the provisions of subsection (1) of this section commits a separate offence in respect of every day on which the additional bar exists or on which liquor is sold or supplied from the bar.

(4) A licensee shall not let or sublet a bar or dining room or the right to sell liquor on the licensed premises.

S. 144.

Penalty—Fifty dollars.

120. (1) Subject to the succeeding provisions of this section, the holder of a licence under which he is authorised to sell and supply liquor from a bar shall—

Bars to be kept closed during prohibited hours.
(S. 124).
Amended by No. 112 of 1970, S. 11.

- (a) close every bar and keep it closed during those hours when the sale and supply of liquor is not authorised by the licence or is authorised to be sold and supplied with or ancillary to some other service, only;
- (b) not permit any person, other than his servant or agent, to enter or remain in a bar at any time when the sale and supply of liquor in the bar is not authorised by the licence or a permit;
- (c) at the request of a member of the Police Force, open, and, for such period as the member of the Police Force considers necessary, keep open, any door by which access is gained to a bar from within the licensed premises;

- (d) not, without the leave of the Court, close any bar on the licensed premises, except by reason of some pressing emergency or other just cause.

Penalty—One hundred dollars.

(2) Notwithstanding the foregoing provisions of this section or any other provision of this Act, during the period of fifteen minutes immediately following the latest time (in this subsection called "closing time") at which liquor may be sold or supplied pursuant to a licence, whether of the kind mentioned in subsection (1) of this section or not, or under a permit, and no longer—

- (a) a bar (if any) may be kept open for the purpose of clearing it of the persons who were in the bar before closing time;
- (b) liquor supplied to persons on the licensed premises, before closing time, may be consumed by them on the licensed premises; and
- (c) liquor that was lawfully sold and supplied in sealed containers, before closing time, may be removed from the licensed premises by the persons to whom it was so sold.

(3) Where the sale and supply of liquor from any bar is authorised by a permit issued under this Act, that particular bar may be kept open in conformity with the permit.

Closing of premises in case of riot, civil disorder, etc.
Added by No. 128 of 1976, s. 28.

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

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

licensed premises at or in the vicinity of that place to be closed,

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

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

Penalty: Five hundred dollars.

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

121. (1) The holder of an hotel licence or a limited hotel licence shall keep a register of lodgers in a form acceptable to the Court.

Register of
lodgers.
(S. 123.)
Amended by
No. 128 of
1976, s. 29.

(2) Except where the Court has authorised the licensee to maintain the register in some other manner, either generally or in a particular case or class of cases, the licensee shall cause the name and address of every lodger for the time being resident on the premises, and such further particulars as may be prescribed, to be entered in the register of lodgers, showing against the name of each lodger the distinguishing number or description of the room or other residential accommodation provided for him; and the register shall be signed by the lodger.

(3) Where, in any premises to which this section applies, the bedroom accommodation available to lodgers is insufficient for those requiring residential

accommodation and further residential accommodation is provided elsewhere than in bedrooms on the licensed premises, the licensee shall cause particulars of the nature, and location in or upon the licensed premises, of that further accommodation to be entered in the register of lodgers, against the name of the lodger for whom it is provided.

(4) A register of lodgers kept under this section shall be kept on the licensed premises and shall be open to inspection, on demand, by a member of the Court, a member of the Police Force or a supervisor; and on no account shall a page be removed from, or be substituted in, the register.

(5) Where a person is found on premises to which this section relates, at a time when the sale and supply of liquor is not authorised to persons other than lodgers, the fact that his name does not appear in the register or that a distinguishing number or description of the room or other accommodation provided for him does not appear against his name is *prima facie* evidence against that person and against the licensee, in any proceedings in which the question is relevant, that the person was not at that time a lodger.

(6) The holder of an hotel licence or a limited hotel licence who—

- (a) fails to keep a register of lodgers as provided by this section;
- (b) fails to cause the particulars required by, or prescribed under, this section to be entered in the register of lodgers;
- (c) makes or causes to be made, or retains, in a register of lodgers any false or misleading entry relating to particulars required to be entered in the register;
- (d) removes a page from, or substitutes a page in, a register of lodgers; or

- (e) refuses or fails to produce a register of lodgers for inspection when so required under this section,

commits an offence.

Penalty—One hundred dollars.

122. (1) This section applies to the holder of an hotel licence and a limited hotel licence and applies,—

Services
to be
provided
by certain
licensees.
S. 118.

- (a) except to the extent that it relates to the provision of lodging, to the holder of a tavern licence and a winehouse licence; and
- (b) except to the extent that it applies to the provision of food and lodging, to the holder of a store licence, unless the Court, having regard to the nature of the licensee's business and the requirements of the neighbourhood, on the application of the licensee, otherwise orders.

(2) The holder of a licence to whom this section applies shall not, without reasonable cause of which the proof lies on him, refuse to receive a person on his licensed premises or to supply him with liquor or provide him food or lodging.

Penalty—One hundred dollars.

(3) Except where the Court may, in any particular case, otherwise direct, the holder of an hotel licence or a limited hotel licence shall, daily, between the hours of twelve noon and two in the afternoon and between the hours of six and eight in the evening, provide the service necessary for any person requiring a meal.

(4) Where the Court is satisfied, in any particular case, that any holder of a licence to whom this section applies is not providing the service for

S. 118 (2)
and (3).

a person requiring a meal or is discouraging any such requirement, the Court may, by order in writing to the licensee, specify the nature of, and the charges to be made for, meals to be provided by a licensee, as a term or condition of the licence.

Cf. S. 118 (1). (5) A licensee to whom this section applies has reasonable cause to refuse a person any service such as is mentioned in subsection (2) of this section, if among other things, the person—

- (a) is, at the time of requesting the service, unclean as to his behaviour or person;
- (b) is, or is known to be, quarrelsome, or disorderly, or is seeking to obtain liquor by begging;
- (c) is a person whose presence on the licensed premises will occasion the licensee to commit an offence under this Act,

S. 130. and, in any event, nothing in this section compels any licensee to sell and supply liquor outside his lawful trading hours.

(6) A licensee who has elected, or who is deemed, under this Act, to have elected, to sell and supply liquor on a Sunday is not relieved of his obligation to sell and supply liquor by reason only of the fact that that service is required of him on a Sunday.

(7) A licensee who, not being the holder of a store licence, sells and supplies liquor to a person, for consumption off the premises where the person requires it for consumption on the premises or, conversely, for consumption on the premises where the person requires it for consumption off the premises, is deemed, for the purposes of subsection (2) of this section, to have refused to supply liquor to that person.

123. (1) The holder of a licence of any kind shall—

- (a) maintain his licensed premises at a standard that is reasonable, having regard to the kind of licence that relates to them, the part of the State in which the premises are situated and the reasonable requirements of the public in that part;
- (b) not suffer the premises to become ruinous or dilapidated;
- (c) not knowingly allow the premises to be used for any immoral purpose.

Duties of licensees as regards premises. (S. 177.) Amended by No. 76 of 1972, s. 26; No. 128 of 1976, s. 39.

(2) A licensee who is required, under the terms of his licence, to provide food, whether in the form of meals, light meals or light refreshment, shall maintain the facilities for the preparation and service of food in a hygienic and serviceable condition.

(3) Except in the case of the holder of a store licence, wholesale licence, vigneron's licence or brewer's licence or where a person is nominated and approved to be responsible as licensee, a licensee shall not permit a person to manage, superintend or conduct the business on the licensed premises for any period exceeding forty-two days, unless that person is nominated and approved to be responsible as licensee.

(4) A licensee shall not, whether present or not, suffer or permit a person to be, in fact or in effect, the keeper of the premises to the exclusion of the licensee.

Penalty—One hundred dollars.

123A. The holder of a restaurant licence shall cause to be exhibited at each table provided for the use of customers in the licensed premises a printed list showing the charges made for meals and for the various types of liquor supplied therein.

Restaurant licensee to display prices. Added by No. 76 of 1972, s. 27.

Penalty: Forty dollars.

Part VI.

Ss. 124, 125.

Licence to be
in custody
of licensee
and
produced
following
demand.
Ss. 120
and 158.

124. (1) A licence shall remain in the custody of the licensee to whom it was granted and is not subject to detention by reason of any lien, charge or interest had or claimed by any other person.

(2) A licensee or the holder of a permit shall, not later than forty-eight hours after its production is required by a supervisor or a member of the Police Force, produce the licence or permit to him who required its production.

Penalty—Ten dollars.

Forfeiture
of licences
in certain
cases.
Ss. 174
and 175.

125. (1) Where a licensee or a person nominated and approved to be responsible as licensee—

- (a) is convicted of an offence of a criminal nature that, in the opinion of the Court, renders him unfit to be the holder of a licence;
- (b) is twice convicted of an offence against sections 119, 120, 121, 123 or 126 or is convicted of an offence against any two of those sections and both offences were committed during the period intervening between the granting, transfer or renewal of his licence and its expiry;
- (c) employs, or at the material time employed, a person who was twice convicted of an offence against section 126, while in his employ, and both or two of the offences were committed during the period mentioned in paragraph (b) of this subsection; or
- (d) is found by the Court, upon the complaint of a supervisor or member of the Police Force, to be of drunken or dissolute habits,

the Court may, in the case of a licensee, order any licence held by him to be forfeited and shall, in the case of a person nominated and approved to be responsible as licensee, withdraw its approval of that person.

Ss. 125, 126. Part VI,
and
Part VII,
Div. 1.

(2) The forfeiture of a licence pursuant to an order made under this section does not affect the right of entry upon the licensed premises by a successor, under Part IV of this Act.

(3) The clerk of petty sessions of the court, or the clerk of a children's court, in which a licensee is convicted of an offence of a criminal nature or of an offence against this Act shall notify the principal clerk of that event.

PART VII.—OFFENCES AND LEGAL PROCEEDINGS.

Division 1.—Offences relating to Sale and Supply of Liquor.

126. (1) Subject to the succeeding provisions of this section, a licensee and the servant or agent of a licensee who—

- (a) sells or supplies liquor or causes or permits liquor to be sold, supplied or consumed by any person, on or from the licensed premises, otherwise than at a time, in a place, or in a quantity or manner, authorised by or under this Act, or by the licence or a permit;
- (b) conducts, or permits or assists in the conduct of, the business or affairs of the licensee in a manner that is contrary to any condition or term to which the licence, or a permit attached to the licence, is subject under this Act or any condition or term that was imposed by the Court on the granting, issuing or renewal of the licence or permit;
- (c) sells or supplies liquor or causes it to be sold or supplied under a fictitious trade name, brand or description or keeps liquor on the licensed premises under a fictitious trade name, brand or description;
- (d) supplies liquor, or causes or permits the supply of liquor, to a person who is, at the time, in a state of intoxication or is visibly

Offences relating to sale and supply of liquor on licensed premises.
(Ss. 133, 135, 141, 143, 147, 163 and 165.)
Amended by No. 76 of 1972, s. 28.

affected by liquor to the extent that any further consumption of liquor by him is liable to induce a state of intoxication;

- (e) takes or receives from any person, in payment or in pledge for liquor, any article or thing other than money, in the form of legal tender or a bill of exchange;
- (f) bets with any person, or suffers betting, gaming or the playing of unlawful games or the conduct of lotteries, on the licensed premises;
- (g) permits indecent or disorderly conduct to take place, or any reputed thief or prostitute to remain, on any part of the licensed premises;
- (h) sells or supplies, or permits the sale or supply, of liquor to a juvenile,

commits an offence.

Penalty—Two hundred dollars.

(2) It is a defence to a complaint of an offence against paragraph (a) of subsection (1) to show that the liquor was gratuitously supplied, by the licensee, in a private room reserved for his personal use, on the licensed premises, to a guest for his consumption there.

(2a) It is a defence to a complaint of an offence against paragraph (a) of subsection (1) of this section to show that—

- (a) the liquor was sold or supplied by a licensee who reasonably believed that the person to whom the liquor was sold or supplied was to be supplied by the licensee with, and would take, a meal; and
- (b) the liquor was not sold or supplied to the person after the expiration of one hour after liquor was first sold or supplied to the person by the licensee; and

- (c) if the person had been supplied with a meal not later than one hour after liquor was first sold or supplied to him by the licensee, all liquor sold and supplied to him by the licensee would have been lawfully sold and supplied.

(2b) It is a defence to a complaint of an offence against paragraph (f) of subsection (1) of this section relating to the conduct of a lottery on premises licensed under section 35, to show that the lottery was one for which a permit had been granted by the Lotteries Commission pursuant to the Lotteries (Control) Act, 1954.

(3) It is a defence to a complaint of an offence against paragraph (g) of subsection (1), relating to a reputed thief or prostitute, to show that the thief or prostitute remained on the licensed premises only as long as was necessary to obtain reasonable refreshment.

(4) It is a defence to a complaint of an offence against paragraph (h) of subsection (1) to show that the licensee or person supplying the liquor believed, on reasonable grounds, that the person to whom he supplied it was not a juvenile.

(5) Paragraph (h) of subsection (1) does not apply to—

- (a) the supply of liquor with or ancillary to a meal supplied on the licensed premises, if the person to whom the liquor was supplied was accompanied by a person in authority over him;
- (b) the sale or supply of liquor to the spouse of, or any member of the family of, the licensee or to the spouse of a lodger of the licensed premises; or
- (c) the supply of liquor, in sealed containers, to any person employed as a messenger to deliver liquor off the licensed premises.

(6) In this Part, a reference to a person in authority over a juvenile is a reference to a person over the age of eighteen years who is the spouse or parent of, or a person *in loco parentis* to, the juvenile or who is the guardian of the juvenile.

Offences on
licensed
premises.
(Ss. 140,
142, 146,
148 and 164.)
Amended by
No. 76 of
1972, s. 29.

127. Every person who—

(a) being a licensee is drunk on his licensed premises;

(aa) being the holder of an unlicensed club permit, or a function permit, or the servant or agent of the holder of such a permit, supplies liquor, or causes or permits the supply of liquor, to a person who is, at the time, in a state of intoxication or is visibly affected by liquor to the extent that any further consumption of liquor by the person is likely to induce a state of intoxication;

(b) being a licensee or the servant or agent of a licensee knowingly or carelessly permits—

(i) an intoxicated person; or

(ii) a juvenile unaccompanied by a person in authority over him or who is not on the premises for the purpose of obtaining a meal,

to be or remain on any part of the licensed premises where liquor is sold or supplied;

(c) being a licensee, employs a juvenile as a barman, barmaid, steward or stewardess; or

(d) being a licensee, exhibits, or permits any person to exhibit, any notice or information relating to betting or horseracing, or permits any such notice or information to remain exhibited, on or about his licensed premises,

commits an offence.

Penalty—One hundred dollars.

128. (1) A licensee who, being authorised to sell and supply liquor for consumption off his licensed premises, and not otherwise, permits, suffers or is privy to the consumption of liquor by a person to whom he has sold and supplied it, in a place near or adjoining his licensed premises, commits an offence.

Offence of permitting unlawful consumption of liquor off licensed premises.
(Ss. 134 and 204.)
Amended by
No. 112 of
1970, s. 12;
No. 128 of
1976, s. 30.

(2) Where liquor is sold and supplied pursuant to a club licence, for consumption off the licensed premises, then, unless the liquor is sold and supplied to a member on the premises, for consumption by the member and his guests, and taken off the licensed premises by him or at his request, or is sold and supplied to the holder of a function permit or an unlicensed club permit in a case where, pursuant to subsection (2) of section 42 or subsection (3) of section 43, the holder of the permit is not required to purchase the liquor to be sold and supplied pursuant to the permit from the holder of an hotel licence, a tavern licence, a winehouse licence, a store licence or an Australian wine licence, the person selling or supplying the liquor, and the person obtaining the liquor, commits an offence.

(3) A person who, not being the holder of a licence, sells or supplies, or permits the consumption of liquor, contrary to the terms or conditions of any permit issued to him, commits an offence.

(4) A person who, not being the holder of a permit for that purpose, supplies liquor, for or on behalf of an unlicensed club, to members or guests of the club, on club premises, commits an offence.

(5) For the purposes of this section, the term "club premises" means any premises that are, for the time being, used for the purposes of the club.

Penalty—One hundred dollars.

Division 2.—Offences Generally.

Offences
on or
relating to
licensed or
specified
premises.
(Ss. 126, 128,
129, 149,
149A and
170).
Amended by
No. 112 of
1970, s. 13.
No. 76 of
1972, s. 30;
No. 128 of
1976, s. 31.

129. (1) Subject to the succeeding provisions of this section, every person who—

- (a) obtains or attempts to obtain liquor from any licensee or the servant or agent of a licensee otherwise than at a time, in a place, or in a quantity or manner authorised by or under this Act or by the licence or a permit;
- (b) being on licensed premises procures or attempts to procure liquor for a person who is, at the time, in a state of intoxication or is visibly affected by liquor to the extent that any further consumption of liquor by him is liable to induce a state of intoxication, or aids or abets any such person in obtaining liquor;
- (c) obtains or attempts to obtain liquor from a licensee or the servant or agent of a licensee by falsely pretending, or representing himself, to be a lodger of the premises;
- (d) [*Repealed by No. 128 of 1976, s. 31.*]
- (e) supplies liquor on any specified premises to a juvenile;
- (f) sends a person, knowing or believing him to be a juvenile, to any specified premises, for the purpose of obtaining liquor;
- (g) being a juvenile—
 - (i) purchases or obtains or attempts to purchase or obtain liquor, from any other person, on specified premises; or
 - (ii) brings liquor on to specified premises;
- (h) being a juvenile, and not being the servant or agent of the licensee or a person acting under, or employed in connection with, a

S. 129. Part VII,
Div. 2.

contract with the licensee, enters or remains in any part of licensed premises where liquor is served, except for the purpose of obtaining a meal;

(ha) being a person in authority over a juvenile who is not the servant or agent of the licensee or a person acting under, or employed in connection with, a contract with the licensee, causes or permits the juvenile to enter or remain in any part of licensed premises where liquor is served, except for the purpose of permitting the juvenile to obtain a meal;

(i) obtains, or attempts to obtain, liquor in a reception area by falsely representing that he is there for the purpose of taking a meal or that he has taken a meal on the premises,

commits an offence.

Penalty—Fifty dollars.

(1a) Every person who, being or being known to be drunken, violent, quarrelsome or disorderly, refuses or fails to leave licensed premises, having been requested by the licensee or a servant or agent of the licensee or a member of the Police Force to leave the premises, or, having left the premises, re-enters them within twelve hours after being requested to leave, commits an offence.

Penalty—One hundred dollars or imprisonment for six months.

(2) It is a defence to a complaint of an offence against paragraph (a) of subsection (1) to show that the liquor was gratuitously supplied to the defendant by a lodger for consumption in a room or rooms reserved for the lodger's use or from which all persons, other than lodgers and their guests, are excluded.

(3) It is a defence to a complaint of an offence against paragraph (e) of subsection (1) to show that the defendant believed, on reasonable grounds, that the person to whom he supplied liquor was not a juvenile.

(4) Paragraphs (e), (f) and (g) of subsection (1) do not apply to—

- (a) the sale or supply of liquor with or ancillary to a meal supplied on the licensed premises, if the person to whom the liquor is sold or supplied is accompanied by a person in authority over him;
- (b) the sale or supply of liquor to, or to its purchase or being obtained by, the spouse of, or any member of the family of, the licensee or to or by the spouse of a lodger of the licensed premises; or
- (c) the supply of liquor, in sealed containers, to any person employed as a messenger to deliver liquor off the licensed premises.

(5) *Paragraphs (h) and (ha) of subsection (1) of this section do not apply to or in relation to a juvenile who is a lodger of the licensed premises or who, accompanied by a person in authority over him, enters any part of the licensed premises which, on application which shall be made by the licensee in accordance with the rules, has been approved by the Court for the purposes of this subsection, and

* Subsection (2) of section 30 of Act No. 76 of 1972 read as follows:—

(2) Without limiting the application of the Interpretation Act, 1918 to and in relation to this Act, it is hereby provided that—

- (a) rules may be made by the Court for the purposes of subsection (5) of section 129 of the Liquor Act, 1970 as repealed and re-enacted by section 30 of the Liquor Act Amendment Act, 1972 so as to have effect on and from a date prior to the date on which paragraph (b) of subsection (1) of section 30 of the Liquor Act Amendment Act, 1972 is proclaimed to come into operation; and
- (b) applications may be made, heard and dealt with and all other matters and things incidental thereto may be done for the purposes of subsection (5) of section 129 of the Liquor Act, 1970 as repealed and re-enacted by section 30 of the Liquor Act Amendment Act, 1972 prior to the date on which paragraph (b) of subsection (1) of section 30 of the Liquor Act Amendment Act, 1972 is proclaimed to come into operation.

who remains there, in the company of that person, only as long as is reasonably necessary for him or the person in authority over him to obtain and consume reasonable refreshment.

(6) In this section, "specified premises" means any licensed premises or other premises in which liquor is lawfully sold and supplied or a public hall or an unlicensed restaurant, within the meaning of section 48.

(7) Where a licensee or his servant or agent suspects that a person who is on his licensed premises is, or may be, a juvenile, the licensee or his servant or agent may require that person to furnish him with a certificate, in the prescribed form, specifying the age of the person so suspected and signed by that person; and a person who, being required to furnish a certificate under this subsection,—

(a) fails, without lawful excuse, to furnish the certificate; or

(b) furnishes a certificate that is false or misleading in any material particular,

commits an offence.

Penalty—Fifty dollars.

129AA. (1) Where a person has been convicted of an offence against subsection (1a) of section 129 or of any other offence against any law of the State which was committed in or in the vicinity of licensed premises and of which an assault or violent or disorderly conduct is an element, the court convicting the person may, in addition to any other penalty which it imposes in respect of the commission of the offence, order, provided that it is satisfied, where the person has been convicted of an offence other than against subsection (1a) of section 129, that the consumption of alcohol by that person has been a contributing factor to the commission of the assault or the violent or disorderly conduct, that

Court may order persons not to resort to licensed premises. Added by No. 128 of 1976, s. 32.

the person be prohibited from entering licensed premises for such period, not exceeding twelve months from the date of the conviction, as it specifies.

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

Penalty—Two hundred dollars or imprisonment for twelve months.

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

Restriction
on supply of
liquor on
vineyards.
Added by
No. 76 of
1972, s. 31.

129A. (1) In this section, "vineyard" means any land on which wine is manufactured from the produce of vines or any orchard situated on the land, whether or not that land is the subject of a vigneron's licence, but does not include any land the subject of a winehouse licence.

(2) Subject to subsection (3) of this section—

(a) a person shall not consume on a vineyard any liquor other than wine manufactured on that vineyard; and

(b) an occupier of a vineyard shall not permit any person to consume on the vineyard any liquor other than wine manufactured on that vineyard.

(3) Nothing in subsection (2) of this section applies to or in relation to the consumption of liquor of any kind on a vineyard by—

- (a) the occupier of the vineyard, his spouse, any member of his family or any of his employees; or
- (b) any guest of the occupier, his spouse or any member of his family, where the liquor is supplied to the guest without any charge being made therefor.

130. [*Repealed by No. 76 of 1972, s. 32.*]

131. Any person who, not being a lodger of the premises, carries away liquor from licensed premises, except in accordance with this Act or a permit, at any time when the sale and supply of liquor is prohibited, commits an offence.

Carrying
away liquor
during
prohibited
hours.
S. 128.

Penalty—Twenty dollars.

132. A person who, not being the holder of a licence, keeps up any sign, writing, painting or mark, on or near his house or premises, implying or giving reasonable cause to believe that the house or premises is or are licensed for the sale and supply of liquor or that liquor is sold or supplied there, commits an offence.

Unlicensed
persons
keeping up
signs.
S. 154.

Penalty—Forty dollars.

132A. Any person who in any written application, notice or document made to or produced before the Court for any purpose connected with the grant or issue of a licence, provisional certificate or permit, or an application for the grant or issue of a licence, provisional certificate or permit, or any renewal thereof, makes any statement which is false or misleading in any material particular commits an offence.

False or
misleading
statements.
Added by
No. 76 of
1972, s. 33.

Part VII,
Divs. 2
and 3.

Tearing
down or
defacing
notices.
S. 173.

Ss. 133, 134, 135.

133. A person who tears down, or wilfully defaces or renders illegible, any notice required by this Act to be affixed on any house or premises or otherwise exhibited commits an offence.

Penalty—Twenty dollars.

Division 3.—Unlawful Dealing in Liquor.

Unlawful
dealing
in liquor.
Act No. 36
of 1913, s. 3.

134. (1) A person who—

(a) sells liquor or offers or exposes liquor for sale;

(b) has liquor for sale in, on or about any premises,

is deemed unlawfully to deal in liquor, within the meaning of this Division, unless he is the holder of a licence or an appropriate permit or is the servant or agent of such a licence holder or permit holder and is lawfully acting, for the time being, in that capacity.

(2) A person who unlawfully deals in liquor commits an offence.

Penalty—For a first offence, two hundred dollars or imprisonment for three months or both and, for a subsequent offence, eight hundred dollars or imprisonment for twelve months or both.

(3) Upon any conviction under this section, all liquor in the possession of the offender and the vessels within which it is contained shall be forfeited.

Seizure of
liquor
unlawfully
dealt in.
Act No. 36
of 1913, s. 4.

135. (1) Upon complaint on oath by any person that he believes that liquor is kept on any premises for unlawful dealing in liquor, a justice may grant a warrant to any member of the Police Force to enter, and, if necessary, to break into, and search the premises and to seize all liquor found

there and any vessels in which it is contained and to detain it and them until the proceedings provided by this section are heard and determined.

(2) A member of the Police Force may, without warrant, exercise the powers conferred by a warrant issued under subsection (1) of this section, in respect of the premises of a person who, within the period of twelve months immediately preceding the exercise of those powers, has been convicted of an offence under section 134.

(3) A justice shall, upon being informed of a seizure under this section, by summons under his hand, require any person in whose possession the liquor was found to appear before a court of petty sessions, at a time and place specified in the summons, to show how and for what purpose he became possessed of the liquor seized.

(4) If upon the return of the summons it appears to the court that the liquor seized was kept for the purpose of being unlawfully dealt in, the liquor and the vessels in which it is contained shall be forfeited and may be sold or destroyed and the proceeds of the sale (if any) shall, after payment of the expenses of sale, be paid to the Public Account.

136. (1) Where liquor has been seized and forfeited pursuant to section 135, a person in whose possession the liquor was found at the time of its seizure is, in the absence of proof to the contrary, deemed to have unlawfully dealt in liquor and the matter may be heard and determined in the course of proceedings under section 135; and the person, if convicted, is liable to the penalty provided by section 134.

Persons in possession of seized liquor deemed guilty of unlawful dealing.
Act No. 36 of 1913, S. 4
(4) *et seq.*

(2) Any person found on the premises at the time of entry and seizure of liquor pursuant to section 135, is deemed, in the absence of proof to the contrary, to have been on the premises for the purpose of obtaining liquor and is liable, on conviction, to a penalty not exceeding forty dollars.

(3) A person charged under subsection (1) of this section with the offence of unlawful dealing in liquor and acquitted of that offence may, in the same proceedings, be convicted of an offence under subsection (2) of this section.

(4) A member of the Police Force may demand the name and address of any person found on premises on which he seizes and removes, liquor pursuant to section 135; and, where he has reasonable grounds for believing that a name and address given is false, may examine the person further as to the correctness of his name and address and may, if the person fails to give his name and address or answer satisfactorily any question put to him, arrest the person without warrant and bring him as soon as may be practicable before a court of petty sessions.

(5) Every person who, after it is demanded of him by a member of the Police Force, under this section, fails to give his name and address or gives a false name or address or false information in that regard commits an offence.

Penalty—Twenty dollars.

Arrests
where
persons
found
drinking on
unlicensed
premises.
Act No. 36
of 1913, s. 5.

137. (1) Where a member of the Police Force finds any person drinking liquor on unlicensed premises where liquor is sold and a licence or permit authorising the sale is not produced on demand by the person appearing to have the management and control of the premises, the member of the Police Force may arrest that person and may arrest every person found drinking on the premises.

(2) The person having the management and control of the premises mentioned in subsection (1) of this section may be convicted of the offence of unlawfully dealing in liquor and a person found drinking on the premises may be convicted of being on the premises for the purpose of obtaining liquor.

S. 138. Part VII,
Div. 3.

138. (1) A person shall not, except on licensed premises hawk or carry liquor about, from place to place, for sale or employ any other person to do so.

Hawking
liquor.
Act No. 38
of 1913, S. 6.

Penalty—For a first offence, one hundred dollars or imprisonment for three months or both and, for a subsequent offence, four hundred dollars or imprisonment for twelve months or both.

(2) Whenever liquor is carried from one place to another, the burden of proving that liquor was not hawked or so carried for sale lies upon the person carrying it, unless the vessel, bottle, case or package in which the liquor is contained is labelled, on the outside, with the name and address, in writing, of the vendor, of the purchaser and of any other person to whom the liquor is to be delivered or those particulars and a description of, and the quantity of, the liquor is set out in an invoice or other document in the possession of the carrier and the invoice or other document is produced to a member of the Police Force, on demand.

(3) It is no defence to a complaint under this section that the defendant or his employer is the holder of a licence or permit.

(4) A member of the Police Force may seize and deposit in a police station any liquor that he reasonably believes to be hawked or carried about from place to place for sale and may seize and detain the vessels in which the liquor is contained and any vehicle, boat or animal used for carrying the liquor.

(5) Upon the conviction of a person of an offence under this section the liquor and vessels and the vehicle, boat or animal seized and detained under subsection (4) of this section shall be forfeited and may be sold and the proceeds of the sale (if any) shall be dealt with as provided for proceeds of a sale under section 135.

Part VII, Ss. 139, 140.
Div. 3.

Sale of
liquor
under
pretence.
Act No. 36
of 1913, S. 8.

139. A person who, being a dealer in goods other than liquor, gives away or delivers any liquor to a customer for other goods, or under pretence of a person being a customer for other goods, or under any pretence whatever, is deemed to have sold the liquor given away or delivered.

Liquor not
to be
supplied to
persons
convicted
of unlawful
dealing.
Act No. 36
of 1913, S. 9.

140. (1) A person shall not supply or deliver liquor to another person who has, to his knowledge, been convicted, during the last preceding six months, of unlawfully dealing in liquor.

(2) On the hearing of a complaint of an offence against subsection (1) of this section, proof of the service on the defendant or, where he is the holder of a licence, on his servant or agent on the licensed premises, before the alleged offence, of a notice in writing, signed by a member of the Police Force, that the person named in the notice was, on the date stated therein, convicted of unlawful dealing in liquor, is *prima facie* evidence of the knowledge of the defendant that the person named in the notice had been convicted, on the date stated, of unlawfully dealing in liquor.

(3) A copy of a notice mentioned in subsection (2) of this section, with an endorsement setting forth the date, place and mode of service, is *prima facie* evidence of that service and the signature to that endorsement is *prima facie* evidence that the endorsement was signed by the person whose signature it purports to be.

(4) A person who makes a false statement in an endorsement of service referred to in subsection (3) of this section commits an offence and is liable, on summary conviction, to imprisonment for six months.

Ss. 141, 142, 143.

Part VII,
Divs. 3
and 4.
Offences
generally,
and
general
penalty.
Repealed
and
re-enacted
by No. 76 of
1972, s. 34.

141. (1) Any person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.

(2) Any person who commits an offence against this Act is liable, where a penalty is not expressly provided for the offence, to a penalty not exceeding two hundred dollars.

142. All proceedings upon a summons or arrest under this Division shall be heard and determined by a stipendiary magistrate.

Complaints
to be heard
by S.M.
Act No. 36
of 1913,
s. 20.

Division 4.—Miscellaneous Powers of Police and Others.

143. (1) A supervisor or a member of the Police Force may demand entrance into any licensed premises, or appurtenances of licensed premises, at any time, by day or night or into any premises in respect of which a permit has been issued, at a time when a person is, or purports to be, selling and supplying liquor pursuant to the permit.

Admission
to premises.
(Ss. 134C,
172 and
216.)
Amended by
No. 112 of
1970, s. 14.

(2) A member of the Police Force may demand entry into any premises that are a public hall or an unlicensed restaurant, within the meaning of section 48, or are the premises of an unlicensed club, at any time when the premises are open to the public or to members, as the case may be, or while persons are present upon the premises.

(3) Where admittance to any premises mentioned in this section is refused or delayed for such time as reasonably to lead to the inference that wilful delay was intended, the person refusing admittance or occasioning the delay commits an offence.

(4) Every person who prevents or attempts to prevent a supervisor or member of the Police Force from entering and examining any premises mentioned in this section, or obstructs either of them in the discharge of his duties, commits an offence.

Penalty—One hundred dollars.

Part VII.
Div. 4.

Ss. 144, 145, 146.

Power to
seize liquor.
Amended by
No. 112 of
1970, s. 15.

144. (1) A member of the Police Force may seize and detain any liquor sold, supplied or offered for sale contrary to the provisions of this Act or contrary to the terms or conditions of any licence or the conditions of a permit.

(2) A member of the Police Force may sell any unclaimed liquor that was seized or detained under this section in the same manner as lost or unclaimed property may be sold, under the Police Act, 1892.

Powers with
respect to
persons
unlawfully
on licensed
premises.
S. 157.

145. (1) A member of the Police Force may demand the name and address of any person found on, or seen leaving, any licensed premises at a time when the premises should not be open to the sale or supply of liquor and where he has reasonable grounds for believing that the name and address given is false, may examine the person further as to the correctness of his name and address and may, if the person fails to give his name and address or answer satisfactorily any question put to him, arrest the person without warrant and bring him as soon as may be practicable before a court of petty sessions.

(2) Every person who, after it is demanded of him by a member of the Police Force, under this section, fails to give his name and address or gives a false name or address or false information in that regard commits an offence.

Penalty—Twenty dollars.

(3) The powers conferred on a member of the Police Force by this Division are in addition to, and not in derogation of, any conferred by Division 3 of this Part.

Prohibition
of supply
of liquor to
inebriates
S. 160 and
161.

146. (1) Upon proof being given to the satisfaction of justices that a person, by reason of excessive drinking, is likely to impoverish himself to such an

extent as to expose himself or his family to want, or seriously to impair his health, the justices may order that a licensee or other person is not to sell or supply liquor to that person, for any period not exceeding one year from making of the order.

(2) Justices may, for cause shown, extend or revoke an order made under subsection (1) of this section.

(3) All proceedings commenced under this section shall be heard and determined in camera.

(4) Where justices have, in exercise of the powers conferred on them by this section, prohibited the sale or supply of liquor to a person, a person having knowledge of the prohibition shall not sell, supply, give, purchase or procure liquor for, or on behalf of, the person to whom the prohibition relates.

Penalty—Forty dollars.

147. (1) The holder of a licence may refuse admission to, and may turn out of, his licensed premises any person who is a reputed thief or prostitute, any person who is drunk or who is, or is known to be, violent, quarrelsome or disorderly and any person whose presence on the premises might subject the licensee to a penalty under this Act.

Power to
exclude or
expel
certain
persons
from
licensed
premises.
S. 170.

(2) All members of the Police Force are required, on demand by a licensee or his servant or agent, to expel, or assist in expelling, a person such as is mentioned in subsection (1) of this section from the licensed premises, using such force as may be required for the purpose; and may arrest without warrant a person who refuses to leave the premises or resists or, having been expelled from the premises, returns to them contrary to section 129.

Part VII, - Ss. 148, 149, 150.
Divs. 4
and 5.

No action
for price of
liquor in
certain
cases.
(Ss. 138 and
139).
Amended by
No. 94 of
1972, s. 4
(as amended
by No. 19 of
1973).

148. (1) A person shall not maintain any action for, or recover any debt or demand on account of, liquor sold or supplied in contravention of this Act, whether sold or supplied without a licence or permit or in excess of any authority conferred by, or in contravention of any term or condition of, a licence or permit.

(2) Except where the charge for liquor is included with that for the provision of some other service or the liquor is sold in sealed containers, for consumption off the premises, a person, however licensed, shall not maintain an action for, or recover any debt or demand on account of, liquor sold or supplied in any quantity of less than 4.5 litres, delivered and taken away at the one time.

(3) A person who, on a demand being made for the payment of the amount of a reasonable charge for liquor included with that for some other service, refuses to pay the amount, commits an offence.

Penalty—Twenty dollars.

Division 5.—Proceedings and Evidence.

Recovery of
penalties
and costs.
Cf. S. 51A.
(9).

149. Where, under the provisions of this Act, the Court imposes a monetary penalty or makes an order for the payment of costs, the amount of the penalty or the costs may be recovered by execution under section 155 of the Justices Act, 1902, as though the penalty were imposed, or the order for the payment of costs were made, by justices.

Certain
justices not
to hear
complaints.
S. 235.

150. Where a complaint for an offence against this Act is heard and determined by justices, the court shall not comprise any justice who holds a licence or who is the owner of, or interested in, any licensed premises.

ss. 151, 152. Part VII,
Div. 5.

151. (1) In any proceedings under this Act against a person in his capacity as the holder of a licence, that person is, in the absence of proof to the contrary, deemed to be the holder of that licence.

Allegations
as to
licences
and permits.
(S. 239).
Amended by
No. 112 of
1970, S. 16.

(2) In any proceedings under this Act, an averment in a complaint that—

- (a) a person is licensed or licensed in respect of any particular premises or not the holder of a licence;
- (b) any premises are or are not licensed premises;
- (c) a person is a person whose name appears on a licence or permit; or
- (d) a person is a person to whom a permit was issued or is a person to whom a permit was not issued,

is deemed to be proved in the absence of evidence to the contrary.

(3) The provisions of subsections (1) and (2) of this section relating to the holder of a licence or to a person being licensed apply, with such adaptations as may be necessary, to a person who is responsible as licensee.

152. (1) For the purposes of a complaint of an offence under this Act, the delivery of liquor is *prima facie* evidence of the sale of the liquor and of money or other consideration having been given for the liquor.

Prima facie
evidence of
sale or
consumption
of liquor.
S. 241.

(2) In proving the sale or supply, gratuitous or otherwise, of liquor or the consumption of liquor, it is not necessary to show that any money actually passed or that any liquor was actually consumed, if the court hearing the complaint is satisfied that—

- (a) a transaction in the nature of a sale or other disposal actually took place; or

Part VII. - Ss. 152, 153, 154, 155.
Div. 5.

(b) consumption of liquor was about to take place.

(3) Proof of consumption or intended consumption of liquor on licensed premises, other than by the licensee or a servant or agent of the licensee, is *prima facie* evidence against the licensee or his servant or agent that the liquor was sold to the person consuming, or intending to consume, it.

Averments
as to liquor,
lodgers and
townsites.
(S. 234.)
Amended by
No. 112 of
1970, s. 17.

153. In any complaint for an offence against this Act, an averment that—

- (a) any liquid is liquor;
- (b) a person who was present on licensed premises is not a lodger of those premises;
- (c) a place, road or any part of a road is within the boundaries of a town or townsite or that any place is a park or reserve,

is deemed to be proved, in the absence of evidence to the contrary.

Separate
offences,
S. 234.

154. In any proceedings for an offence against this Act, every separate sale or supplying of liquor constitutes a separate offence.

Presumption
where
charge is
made for
admission.

155. Where liquor is supplied on any premises to a person who—

- (a) has paid for admission to the premises or for seating in the premises; or
- (b) has made, or been asked to make, a donation of money, by a collection or otherwise,

the liquor is deemed to have been sold to the person to whom it was so supplied.

Ss. 156, 157, 158.

Part VII,
Div. 5 and
Part VIII,
Div. 1.

156. (1) A member of the Police Force who, and any person who, at the request of a member of the Police Force, purchases or obtains liquor is deemed not to be an accomplice and is not guilty of an offence where a complaint, arising out of the purchase or obtaining of the liquor, is made against some other person; and the evidence of the member of the Police Force or person who acted at his request is deemed, on the hearing of the complaint, not to be the evidence of an accomplice.

Certain persons not to be regarded as accomplices. Evidence of accomplices. S. 240.

(2) On the hearing of any complaint, under or by virtue of this Act, the justices may, if, in the circumstances of the case, they think it proper to do so, convict the defendant on the uncorroborated evidence of an accomplice; and the justices shall not acquit the defendant by reason only that the only evidence against him is the uncorroborated evidence of an accomplice, unless they suspect the truth of that evidence.

(3) In any proceedings against a licensee for an offence against this Act, the acts, admissions and statements of a servant or agent of the licensee are admissible as evidence, whether done, made or given in the presence of the licensee or not.

157. Where, under this Act, an element of an offence is an act or omission on the part of a licensee, a complaint may be made for such an offence against a person nominated and approved to be responsible as licensee.

Offences by persons nominated to be responsible as licensee.

PART VIII.—FINANCIAL PROVISIONS.

Division 1.—Fees for Licences, Permits etc.

158. The fees provided by this Division are those payable in respect of—

Fees generally. S. 72.

- (a) licences granted, renewed, transferred and removed;
- (b) permits issued; and
- (c) applications made,

under this Act.

**Part VIII, S. 159.
Div. 1.**

Annual Fees.
(S. 73).
Amended by
No. 76 of
1972, S. 35;
No. 128 of
1976, s.s. 33
and 39;
No. 74 of
1977, s. 11.

159. (1) The annual fee payable in respect of a licence for any year—

- (a) shall, in the case of a licence other than a wholesale licence, a brewer's licence or a vigneron's licence be assessed at a percentage of the gross amount paid or payable in respect of all liquor purchased for the premises to which the licence relates, during the period of twelve months immediately preceding the commencement of that year or an amount fixed by the Court pursuant to subsection (4) of this section;
- (b) shall, in the case of a wholesale licence and a brewer's licence, be the fee specified for each of those licences in the Fourth Schedule and a further fee, assessed at a percentage of the gross amount paid or payable, in each case, for liquor sold by the licensee, during the period of twelve months immediately preceding the commencement of that year, to persons who are not holders of a licence; and;
- (c) shall, in the case of a vigneron's licence, be the fee specified for such a licence in the Fourth Schedule.

(1a) For the purposes of paragraph (a) of subsection (1) of this section, liquor purchased by the holder of an hotel licence or a tavern licence for sale pursuant to a caterer's permit held by the holder of the licence shall be deemed to have been purchased for the premises to which the hotel or tavern licence relates¹.

(2) The percentage mentioned in subsection (1) of this section at which an annual fee, or further annual fee, is to be assessed shall, in each case, be the percentage specified in the Fourth Schedule for the licence named.

¹ Deemed to have operated from 1/7/70, see s. 2 of Act No. 128 of 1976.

(3) For the purposes of this Part, a year commences, as regards licences that relate to—

- (a) premises situated south of the twenty-sixth parallel of south latitude, on the first day of January; and
- (b) premises situated elsewhere in the State on the first day of July,

in each year.

(4) Where a fee is to be assessed, pursuant to paragraph (a) of subsection (1) of this section, at a percentage of the gross amount paid or payable in respect of all liquor purchased for the premises to which a licence relates and—

- (a) no information is produced as to, or the information produced is insufficient to determine, the gross amount of liquor so purchased; or
- (b) there is no preceding period of twelve months as mentioned in that paragraph or information in respect of any such period cannot be produced,

the Court shall fix the fee in such amount as it thinks proper and reasonable in the circumstances; and the amount so fixed shall be final and conclusive.

(5) Every applicant for the grant of a new licence, not being a vigneron's licence, shall, at or before the hearing of the application, furnish the Court with such particulars as are available to him that will assist the Court in estimating the probable gross amount of liquor to be purchased for the premises to which the application relates.

(6) Where a licence is granted or renewed so as to have effect during part of a year, only, such part only of the annual licence fee is payable as is proportionate to the part of the year during which the licence is to have effect.

Part VIII, Ss. 159, 160 161.
Div. 1.

(7) Where a licence is suspended, surrendered, or forfeited, the Treasurer may refund to the holder of the licence such part of the annual licence fee as is proportionate to the part of the year for which the licence was suspended or, by reason of its surrender or forfeiture, ceased to be in force.

160. [*Repealed by No. 128 of 1976, s. 34.*]

Payment of
fees.
(Ss. 73 and
73B.)
Amended by
No. 76 of
1972, s. 36;
No. 128 of
1976, s. 39.

161. (1) If a licensee, not being the holder of a wholesale licence, a brewers licence or a vigneron's licence so elects, he may pay the annual fee in four amounts, as nearly equal as practicable, and, in that event, the first of those amounts shall be paid on the furnishing of a return pursuant to section 163 and the other three of those amounts shall, respectively, be paid, where the premises to which the licence relates—

- (a) are situated south of the twenty-sixth parallel of south latitude, on or before the last day of each of the months of April, July and September;
- (b) are situated elsewhere in the State, on or before the last day of each of the months of October, January and April,

next following the date, in each year, on which the return is required to be furnished.

(2) A licensee who does not elect to pay the annual fee in four amounts shall pay the whole of the fee on the furnishing of his return, and the holder of a wholesale licence and the holder of a brewer's licence shall pay the annual fee, where the premises to which his licence relates are situated south of the twenty-sixth parallel of south latitude, on or before the last day of January, and, where those premises are situated elsewhere in the State, on or before the last day of July, in each year.

(3) All annual fees shall be paid to the Principal Receiver of Revenue.

S. 162. Part VIII,
Div. 1.

Penalty for
late
payment of
fees.
S. 73 (6a).

162. (1) Where a licensee does not pay the amount of the annual licence fee or part of the annual licence fee within the time limited by section 161 or within such extension of that time as the Principal Receiver of Revenue may, in writing, allow and is authorised, in any particular case, to allow, the amount shall not be accepted unless the licensee pays, by way of a fine, a further amount equal to ten per centum of the amount that would otherwise be payable; and, if the sum of those two amounts is not paid within the period of one month after the last day on which the net amount was payable, the licence shall, at the expiration of that period, be void and of no further effect.

(2) The Court may, on the application of a licensee, if it is satisfied that it is proper, in the circumstances of any particular case, to do so, remit the amount, or any part of the amount, of a fine imposed by subsection (1) of this section and may, if the case so requires, on the payment of the fee or part of the fee and the amount of any fine that it finds properly payable, reinstate any licence that has become void by operation of that subsection.

(3) The amount of an annual licence fee or part of an annual licence fee and of any fine imposed pursuant to this section is a debt due to the Crown, in right of the State, and may be sued for and recovered in any court of competent jurisdiction.

(4) The Court shall not grant a transfer of a licence under the provisions of section 88 to an owner or other successor, unless and until any debt such as is mentioned in subsection (3) of this section is paid.

(5) A licence shall not be renewed or transferred unless the amount of any fee and any other amount due and payable under this Division in respect of that licence have, at the date of the application for the renewal or hearing of the application for the transfer, been paid.

Part VIII,* S. 163.
Div. 1.

Returns of
liquor
purchased
and sold.
(S. 173).
Amended by
No. 76 of
1972, s. 37;
No. 128 of
1976, s. 39.

163. (1) Every licensee, other than the holder of a wholesale licence, a brewer's licence, or a vigneron's licence shall—

- (a) where his licensed premises are situated south of the twenty-sixth parallel of south latitude, on or before the thirty-first day of January, in each year, as regards the period of twelve months ending on the thirty-first day of December immediately preceding that day; and
- (b) where his licensed premises are situated elsewhere in the State, on or before the thirty-first day of July, in each year, as regards the period of twelve months ending on the thirtieth day of June immediately preceding that day,

furnish to the Principal Receiver of Revenue a return in writing, signed by the licensee or by some other person authorised by him to do so, setting out—

- (c) the quantities of the various kinds of liquor purchased (excluding liquor purchased but still in bond) for his licensed premises;
- (d) the gross amount paid or payable (including all duties but not any cost of carriage and of packaging) for liquor, wherever purchased, for his licensed premises; and
- (e) the names and addresses of the persons who sold or supplied the various kinds of liquor purchased for his licensed premises,

during that period of twelve months.

(2) Every holder of a wholesale licence and every holder of a brewer's licence shall, on or before the date mentioned, and as regards the period of twelve months mentioned, in paragraph (a) or (b) of subsection (1) of this section, according to whether his licensed premises are situated south of the

twenty-sixth parallel of south latitude or are situated elsewhere in the State, furnish to the Principal Receiver of Revenue a return in writing, signed by the licensee, or by some other person authorised by him to do so, setting out—

- (a) the quantities of the various kinds of liquor sold to any person who is the holder of a licence, other than a wholesale licence or a brewer's licence;
- (b) the gross amount paid or payable (including all duties but not any cost of carriage and of packaging) by each licensee to whom liquor was sold;
- (c) the name and address of each licensee to whom liquor was sold or the name of his licensed premises; and
- (d) the aggregate amount of liquor sold to persons who are not holders of a licence.

(3) Where any licensee makes a false statement in any return furnished pursuant to this section or fails to furnish any return as required by this section, the Principal Receiver of Revenue may, using such information and particulars as are available to him, assess the amount of the fee that should, or (as the case may be) would, have been payable by the licensee by or on whose behalf the return was, or should have been furnished; and an amount so assessed shall be paid by the licensee to the Principal Receiver of Revenue.

(4) Every licensee who knowingly makes a false statement in any return furnished under this section is liable to a penalty of two hundred dollars and every licensee who fails to furnish a return as required by this section is liable to a penalty of one hundred dollars.

(5) Nothing in subsection (3) of this section affects the power conferred on the Court by subsection (4) of section 159.

Part VIII.
Divs. 1
and 2.

Fees for
permits and
applications.
Amended by
No. 128 of
1976, s. 35.

Ss. 164, 165, 166.

164. (1) The several fees payable on the issue of a permit, upon an application for the transfer or removal of a licence and for a provisional certificate are such as are, in each case, specified by the regulations.

(2) Where a permit, not being an unlicensed club permit, is of a continuing nature and is issued so as to have effect during part of a year, only, the fee for the permit may be reduced by one quarter of its amount for every complete period of three months of the year during which it is not to have effect.

Division 2.—Premiums.

Premiums
payable on
the issue of
certain
licences or
provisional
certificates.
(S. 47).
Amended by
No. 76 of
1972, s. 38.

165. The Court shall, before granting a new licence, or a provisional certificate for a licence, not being—

- (a) a packet licence;
- (b) a club licence;
- (c) a railway refreshment room licence; or
- (d) a vigneron's licence,
- (e) [*Deleted by No. 76 of 1972, s. 38.*]

fix a premium for the licence or the provisional certificate; and the licence or provisional certificate shall not have effect until the amount of the premium has been paid to the Principal Receiver of Revenue.

Premiums
on removal
of licences.
S. 59.

166. (1) Subject to subsection (2) of this section, the Court may, before granting an application for the removal of a licence of any kind for which a premium would be payable if it were granted as a new licence, fix a premium to be paid by the applicant and the licence shall not be removed until such time as the premium is paid to the Principal Receiver of Revenue.

Ss. 166, 167, 168. Part VIII,
Divs. 2
and 3.

(2) The Court shall not fix, or require the payment of, a premium on the granting of the removal of an hotel licence, whether as such or as a tavern licence following a proceeding relating to that hotel licence commenced pursuant to a notice given under section 112, unless the licence is sought to be removed to an area then already specified by the Court as an affected area, under section 54, for the purposes of an application for an hotel licence or a tavern licence or for a provisional certificate for either of those licences that has not been heard by the Court.

Division 3.—Moneys for Relief, Education and Rehabilitation.

167. The Treasurer may, out of moneys from time to time appropriated by Parliament, pay to the credit of The Anzac Day Trust Fund established under the Anzac Day Act, 1960, annually, such amount as will, in his opinion, be commensurate with the aggregate of the fees that would, but for the enactment of this Act, have been payable to that Fund, for occasional licences granted under subsection (2) of section 44, and subsection (2a) of section 205, of the Licensing Act, 1911.

Moneys for
Anzac Day
Trust Fund.

168. (1) The Treasurer may, out of moneys from time to time appropriated by Parliament, pay,—

Power of
Treasurer to
make
payments
for certain
purposes.

- (a) to the Minister for Education, such amounts as are, in the Treasurer's opinion, necessary to establish and assist in the conduct of educational programmes to discourage intemperance with regard to liquor; and
- (b) to the Minister for Health, such amounts as are, in the Treasurer's opinion, necessary for the provision of medical and other treatment, in clinics and centres, for the rehabilitation of alcoholics.

Part VIII, Ss. 168, 169, 170.
Div. 3 and
Part IX.

(2) The Minister for Education may apply moneys paid to him for the purposes of this section for instruction, in government schools and other schools, on the effects of over-indulgence in alcohol, in each case, by such persons or association of persons as he may from time to time approve.

(3) The Minister for Health may apply moneys paid to him for the purposes of this section for the provision of treatment for alcoholics in clinics or centres established and conducted by the Department of Public Health or established and conducted by such other persons or association of persons as he may from time to time approve.

PART IX—MISCELLANEOUS.

Clerks to
issue
permits in
certain cases.
S. 52.

169. A clerk may, with the informal, oral consent of the Court or of a member of the Court or a magistrate to whom the necessary power is delegated under section 11, issue any permit that is not of a continuing nature and to which an objection has not been made.

Register of
owners.
Amended by
No. 128 of
1976, s. 36.

170. (1) The principal clerk shall maintain a register of owners of licensed premises, in such form as the Court may require, recording the full name and the last known address of every owner.

(2) The register of owners may be inspected by any person having reasonable grounds for so doing.

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

(3) Every owner of licensed premises shall whenever and as often as he changes his address notify the change to the principal clerk.

Penalty—Forty dollars.

(4) Where any notice is required by this Act to be given to the owner of licensed premises, that requirement is satisfied by the giving of the notice to the owner at his address appearing in the register of owners.

171. A notice of any application made under this Act shall not be insufficient or invalid by reason only of an omission of, or an incorrect or insufficient description or a misdescription in respect of, any matters or particulars required to be contained in the notice, if the Court is satisfied that any of those things was accidental or due to inadvertence and was not of such nature as to be liable to mislead the Court or any person having an interest in the notice.

Notices not
invalid for
errors
unlikely to
mislead.
S. 243.

172. Where, by reason of accidental or unavoidable impediment or omission, anything required by this Act to be done is omitted to be done or is not done within any time limited in that regard, the Governor may take such steps as are necessary to remove the impediment or rectify the omission and may validate anything that has irregularly been done, in matter of form, so as to give effect to the purposes of this Act.

Governor
may rectify
irregulari-
ties.
S. 244.

173. (1) Without affecting the application of any other rule of law, a rule of law that imposes a duty or liability on a person, by reason only of his being an innkeeper, no longer applies in the State.

Duties and
liabilities of
innkeepers.

(2) Nothing in this section relieves an innkeeper of any duty or liability imposed on him by this or any other Act.

174. Civil or criminal proceedings shall not lie against any person for anything done in reliance of any order, direction, warrant or document apparently made, given or issued in accordance

Immunity of
persons
acting in
good faith.

with the requirements of this Act; or for any act, matter or thing done, or commanded to be done, by a person and purporting to be done for the purpose of carrying out the provisions of this Act, or for any act, matter or thing omitted to be done for that purpose, unless that act, matter or thing was done, commanded to be done or omitted to be done maliciously or without reasonable and probable cause.

Rules.

175. (1) The Court may make such rules as may be necessary to regulate the practice and procedure of the Court, to prescribe forms or any other matter relating to the conduct of its business, to regulate the preparation and lodging of plans and specifications and for any other matter for which rules are contemplated or required by this Act.

(2) Until rules have been made pursuant to subsection (1) of this section, the rules made by virtue of section 15 of the Licensing Act, 1911, shall apply, where applicable, with such adaptations as may be necessary.

(3) Rules made, or kept on foot, by this section are subject to any regulations made under section 177.

**Historic
inns.**

176. (1) Upon the application of the owner of premises that are or have been licensed premises under this Act or any prior Act regulating the sale of liquor, the Governor may, by Order published in the *Gazette*, declare those premises to be an historic inn if he is satisfied that the premises or any substantial part of them, are or is of national, special, historic or architectural interest, and should be preserved for the benefit of the public, generally; and upon any such Order being made and notwithstanding anything contained in this Act, the Governor may, subject to such conditions as he sees fit to impose—

-
- (a) sanction and authorise the issue by the Court of a licence for the sale of liquor at an historic inn that is not already licensed under this Act; or
 - (b) exempt an historic inn and the owner and the licensee of the inn from such provisions of this Act as he may determine.
- (2) The Governor may, from time to time, vary, add to or revoke any conditions imposed, or exemptions granted, as provided by this section, and may, in the absence of any such conditions or exemptions, from time to time, impose or grant them.
- (3) Subject to any conditions imposed by the Governor and exemptions granted by him (being conditions or exemptions for the time being in force), the provisions of this Act relating to hotel licences, or tavern licences, the holders of those licences, licensed premises, and persons resorting to them, shall as regards any licence issued in respect of an historic inn apply, to and in respect of those persons or things, with such adaptations as may be necessary.
- (4) The Governor may, before declaring any premises to be an historic inn under this section, refer the matter to the Court for inquiry and report; and each preservation society shall be notified in writing by the clerk, of any such reference and shall be entitled to be heard at the inquiry.
- (5) Where an application is made pursuant to Division 4 of Part IV or Division 1 of Part V of this Act, in respect of an historic inn, the clerk shall cause a copy of the application to be given to each preservation society and each of them is entitled to be heard at the hearing of any such application.

(6) Where the Court authorises the making of any material alteration of or addition to an historic inn, or issues any direction for the renovation or structural alteration of an historic inn, by virtue of Division 1 of Part V, the Court may refer the matter to the Minister for consideration as to whether the Order declaring the premises to be an historic inn should be revoked.

(7) The Governor may, if the Minister so recommends, revoke an Order declaring premises to be an historic inn and those premises shall, thereupon, cease to be regarded as an historic inn under this section.

(8) In this section "preservation society" means The National Trust of Australia (W.A.), the Royal Western Australian Historical Society (Incorporated), the Royal Australian Institute of Architects (Western Australian Chapter), and any other body specified by the Minister in a notice published in the *Gazette*.

Regulations.
Amended by
No. 128 of
1976, s. 37.

177. (1) The Governor may make regulations for any purpose for which regulations are contemplated or required by this Act and may make all such other regulations as may, in his opinion, be necessary or convenient for giving full effect to the provisions of, and for the due administration of, this Act.

(2) Without limiting the generality of subsection (1) of this section, the Governor may make regulations—

- (a) prescribing any fees to be taken by the Court that are not provided by this Act;

- (aa) specifying fees for the purposes of section 164;
- (b) prescribing travelling expenses to be allowed to members of the Court;
- (c) [Deleted by No. 128 of 1976, s. 37.]
- (d) requiring any matter or thing affected by the regulations to be verified by statutory declaration;
- (e) so as to require a matter or thing affected by the regulations to be in accordance with a specified standard or requirement or as approved by a specified person or body and so as to delegate to, and confer upon, a specified person or body a discretionary authority; and
- (f) imposing a penalty of forty dollars for the breach of any regulation made under this section.

SCHEDULES.

FIRST SCHEDULE.

Number of Act	Short Title of Act	S. 4.
32 of 1911	Licensing Act, 1911	
46 of 1911	Licensing Act Amendment Act, 1911	
38 of 1922	Licensing Act Amendment Act, 1922 (No. 2)	
39 of 1922	Licensing Act Amendment Act, 1922	
27 of 1928	Licensing Act Amendment Act, 1928	
41 of 1928	Licensing Act Amendment Act, 1928 (No. 2)	
23 of 1929	Licensing Act Amendment Act, 1929	
30 of 1930	Licensing Act Amendment Act, 1930	

First Schedule.

FIRST SCHEDULE—*continued.*

Number of Act		Short Title of Act
27 of 1931	....	Licensing Act Amendment Act (No. 3), 1931
36 of 1931	....	Licensing Act Amendment Act (No. 2), 1931
49 of 1931	....	Licensing Act Amendment Act, 1931
35 of 1934	....	Licensing Act Amendment Act, 1934
34 of 1939	....	Licensing Act Amendment Act, 1939
35 of 1944	....	Licensing Act Amendment Act, 1944
43 of 1946	....	Licensing Act Amendment Act, 1946
14 of 1948	....	Licensing Act Amendment Act, 1948
30 of 1949	....	Licensing Act Amendment Act, 1949
49 of 1951	....	Licensing Act Amendment Act (No. 2), 1951
59 of 1951	....	Licensing Act Amendment Act, 1951
75 of 1953	....	Licensing Act Amendment Act, 1953
76 of 1953	....	Licensing Act Amendment Act (No. 2), 1953
55 of 1955	....	Licensing Act Amendment Act, 1955
58 of 1955	....	Licensing Act Amendment Act (No. 4), 1955
7 of 1956	....	Licensing Act Amendment Act, 1956
24 of 1956	....	Licensing Act Amendment Act (No. 3), 1956
42 of 1956	....	Licensing Act Amendment Act (No. 4), 1956
39 of 1958	....	Licensing Act Amendment Act, 1958
60 of 1959	....	Licensing Act Amendment Act, 1959
17 of 1960	....	Licensing Act Amendment Act, 1960
53 of 1961	....	Licensing Act Amendment Act, 1961
59 of 1962	....	Licensing Act Amendment Act, 1962
64 of 1962	....	Licensing Act Amendment Act (No. 2), 1962
20 of 1963	....	Licensing Act Amendment Act, 1963
85 of 1963	....	Licensing Act Amendment Act (No. 2), 1963
86 of 1963	....	Licensing Act Amendment Act (No. 3), 1963
87 of 1963	....	Licensing Act Amendment Act (No. 4), 1963
60 of 1964	....	Licensing Act Amendment Act, 1964
80 of 1965	....	Licensing Act Amendment Act (No. 3), 1965
96 of 1965	....	Licensing Act Amendment Act (No. 4), 1965
110 of 1965	....	Licensing Act Amendment Act (No. 2), 1965

First Schedule, Second Schedule.

FIRST SCHEDULE—continued.

Number of Act	Short Title of Act
54 of 1967	Licensing Act Amendment Act, 1967
63 of 1969	Licensing Act Amendment Act, 1969
87 of 1969	Licensing Act Amendment Act (No. 2), 1969
36 of 1913	Illicit Sale of Liquor Act, 1913
15 of 1968	Illicit Sale of Liquor Act Amendment Act, 1968
51 Vict., No. 16	The Innkeepers Act, 1887
19 of 1920	Innkeepers Act, 1920
14 of 1938	Returned Sailors and Soldiers' Imperial League of Australia, W.A. Branch Incorporated (Anzac Club Control) Act, 1938
66 of 1962	Licensing (Rottnest Island) Act, 1962

SECOND SCHEDULE.

S. 5.
Amended by
No. 128 of
1976, s. 39.

Licence under Repealed Act	Corresponding Licence under this Act
Publican's general license	Hotel licence
Wayside-house license	Hotel licence
Australian wine, beer and spirits license	Hotel licence
Limited hotel license	Limited hotel licence
Australian wine license	Australian wine licence
Australian wine bottle license	Store licence
Packet license	Packet licence
Railway refreshment room license	Railway refreshment room licence
Spirit merchant's license	Wholesale licence
Gallon license	Store licence
Brewer's license	Brewer's licence
Occasional license	Occasional permit
Canteen license	Canteen licence
Restaurant license	Restaurant licence

Third Schedule.

THIRD SCHEDULE.

First Column.	Second Column.
1. The licensee dies.	1. The widow, widower, next of kin, legatee or the executor or other person entitled to, or who has obtained, a grant of administration of the estate of the licensee.
2. The licensee becomes bankrupt or makes a statutory assignment or a composition whereby his estate becomes an asset for the benefit of his creditors.	2. The trustee in bankruptcy, assignee or other person in whom the licensee's estate becomes vested or the nominee or assignee of that person.
3. The licensee becomes personally disabled to conduct the business of the licence, by accident, illness or infirmity.	3. The spouse or adult child of the licensee or a person nominated by the licensee.
4. The licensee is suffering from mental disorder or is declared incapable of managing his affairs.	4. The Public Trustee or the person appointed manager of the estate of the licensee.
5. The licensee— (a) ceases to occupy the licensed premises; (b) fails to apply for the renewal of his licence or is refused the renewal of his licence on grounds personal to himself; (c) fails to pay any licence or other fee and his licence has by reason of the failure become void; (d) suffers a forfeiture of his licence by reason of any act or omission by himself, his servant or agent or on any grounds personal to himself, including his conviction of a criminal offence that, in the opinion of the Court, renders him unfit to hold a licence.	5. The owner or mortgagee of the licensed premises or any other person who may be lawfully entitled to possession of the licensed premises or the nominee or agent of any such person.

Fourth Schedule.

FOURTH SCHEDULE.		Percentage under section 159 (2).	Specified fee pursuant to section 159 (1) (b).
1. Annual, or further Annual, Licence fee:			
Tavern Licence and a Store Licence ....	....	8%	
All other Licences (except a Vigneron's Licence) .. .. .	....	7%	
Wholesale licence and Brewer's Licence ....	....		\$60
Vigneron's Licence ....	....		\$20

Ss. 159 and
164.
Amended by
No. 76 of
1972, s. 39;
No. 44 of
1974, s. 2;
No. 128 of
1976; s.s. 38
and 39.

[Items 2-5 deleted by Act No. 128 of 1976, s. 38.]