

# LIQUOR LICENSING (MORATORIUM).

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No. 27 of 1983.

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AN ACT to ratify and continue a moratorium in respect of applications for certain licences or permits relating to the sale, supply or consumption of liquor, and for incidental purposes.

[Assented to 1 December 1983.]

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

1. This Act may be cited as the *Liquor Licensing* Short title.  
*(Moratorium) Act 1983.*

Interpreta-  
tion.

2. (1) In this Act, unless a contrary or other intention appears, expressions used shall have the respective meanings assigned to them by and for the purposes of the Liquor Act 1970 but—

“section” means a section of this Act; and

“subsection” means a subsection of the section wherein the term is used.

(2) The provisions of the Liquor Act 1970 shall be read as one with, but subject to, the provisions of this Act.

Application.

3. (1) Subject to subsection (1) of section 5, the jurisdiction conferred upon the Licensing Court of Western Australia to receive, hear and determine applications under the Liquor Act 1970—

(a) shall, in respect of the period commencing on 10 April 1983 and ending immediately before the coming into operation of this Act, be deemed to have been; and

(b) on and after the coming into operation of this Act, unless varied in accordance with an Order made pursuant to subsection (3) of section 5, shall be,

limited and exercisable only in accordance with this section.

(2) For so long as this Act has effect but subject to subsection (3) of section 5, a notice of application (not being a notice relating to the renewal of any licence or permit) lodged on or after 10 April 1983 for—

(a) a licence;

(b) a provisional certificate for a licence; or

(c) a permit,

being a licence or permit of a prescribed kind, shall not be listed for hearing and the application to which it relates shall not be heard or determined by the Court otherwise than pursuant to subsection

(3), and on and after the coming into operation of this Act no such notice of application shall be capable of being lodged unless the application to which it relates is an application to which subsection (3) applies.

(3) Notwithstanding that the notice of application or the application is of a kind to which subsection (2) applies, a notice of application may be lodged, and an application may be listed for hearing, heard and determined and a licence, certificate or permit granted if—

- (a) the Minister referred or refers the matter to which the notice or application relates to the Court;
- (b) the application is made by a person who—
  - (i) holds a provisional certificate granted before 10 April 1983;
  - (ii) lodged a notice of application for a provisional certificate before 10 April 1983; or
  - (iii) holds a provisional certificate for the removal of a licence,

and the application is in respect of a licence of the kind referred to in that certificate; or

- (c) the application is for—
  - (i) a provisional certificate for the removal of a licence;
  - (ii) the removal of a licence; or
  - (iii) the transfer of a licence under section 84 of the Liquor Act 1970.

(4) An application shall not be referred to the Court by the Minister unless in the opinion of the Minister the circumstances are extraordinary, but the Minister may seek from the Court, the Commissioner of Police or any other person or body whom

or which the Minister considers appropriate advice in relation to any proposed application and that person or body shall render all such assistance to the Minister as may be necessary.

(5) For the purposes of this Act—

(a) each of the following kinds of licence—

- (i) Hotel;
- (ii) Tavern;
- (iii) Limited Hotel;
- (iv) Winehouse;
- (v) Cabaret;
- (vi) Restaurant;
- (vii) Club;
- (viii) Store;
- (ix) Wholesale,

is a licence of a prescribed kind; and

(b) each of the following kinds of permit—

- (i) Late Delivery;
- (ii) Lodgers;
- (iii) Unlicensed Club,

is a permit of a prescribed kind.

(6) In relation to any notice of application lodged before 10 April 1983, and to any licence, certificate or permit granted by the Court in respect of a notice of application lodged on or after that date not being a licence, certificate or permit to which section 4 applies, effect shall be given to the determination of the Court.

4. (1) If, during the period commencing on 10 April 1983 and expiring immediately before the coming into operation of this Act, a determination was made by the Court in relation to a notice of application or an application to which subsection (2) of section 3 applies and that determination was made pursuant to the order of any other court, effect shall not be given to the determination and any licence, certificate or permit granted pursuant to the determination is void.

Certain  
determin-  
ations to  
be void.

(2) In relation to any determination to which subsection (1) applies, no action, claim or demand shall lie or be made or allowed by or in favour of any person against the Crown in right of the State, the Minister, the Court or any person who is or was a member or officer of the Court with respect to any loss occasioned by or arising out of the grant of the application to which that determination applied.

5. (1) This Act shall have effect until—

Duration  
of this  
Act, etc.

- (a) 10 April 1984; or
- (b) such later day as is specified in an Order in Council made pursuant to and for the purposes of this section and not disallowed; or
- (c) where such an Order is disallowed by either House of Parliament after 10 April 1984, 28 days have elapsed after the day on which that Order was disallowed,

whichever is the later.

(2) An Order in Council made under subsection (1)—

- (a) may be amended or revoked by a subsequent Order;

- (b) shall be published in the *Government Gazette* and take effect and have the force of law from the date of such publication;
  - (c) shall be laid before each House of Parliament within the 6 sitting days of such House next following such publication; and
  - (d) is subject to disallowance, if either House of Parliament passes a resolution to that effect, in all respects as if the Order were a regulation to which section 36 of the Interpretation Act 1918 applies.
- (3) An Order in Council made under subsection (1) may be made so as to vary the jurisdiction of the Court in relation to licences and permits of a prescribed kind generally, or specifically in relation only to the licences or permits of the kind prescribed by the Order, and the provisions of this Act shall thereupon have effect in accordance with the tenor of the Order.
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