



ANNO VICESIMO TERTIO

# ELIZABETHAE II REGINAE

A.D. 1974

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## No. 35 of 1974

An Act to amend the Licensing Act, 1967-1973.

[Assented to 11th April, 1974]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Licensing Act Amendment Act, 1974". Short titles.
- (2) The Licensing Act, 1967-1973, is hereinafter referred to as "the principal Act".
- (3) The principal Act, as amended by this Act, may be cited as the "Licensing Act, 1967-1974".
2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.
3. Section 4 of the principal Act is amended by striking out from subsection (1) the definitions of "previously unlicensed premises" and "premises previously unlicensed". Amendment of principal Act, s. 4—  
Interpretation.
4. Section 12 of the principal Act is amended by striking out the passage "under this Act" and inserting in lieu thereof the passage "under this Part or Part IV of this Act". Amendment of principal Act, s. 12—  
Disqualification for licence.
5. The following sections are enacted and inserted in the principal Act immediately after section 16b thereof:— Enactment of ss. 16c, 16d, 16e and 16f of principal Act—
  - 16c. (1) Notwithstanding any other provisions of this Act, but subject to this section, a licence may be granted by the court to any person nominated for the purpose by the Adelaide Festival Centre Trust, authorizing him, subject to such conditions as the court thinks fit and specifies in the licence, to sell or supply liquor for consumption on the premises of the Adelaide Festival Centre. Licence for Adelaide Festival Centre Trust.
  - (2) A licence granted under this section shall be in the form prescribed by the rules of court and shall set forth the times during which liquor may be sold or supplied and the conditions upon which the licence is granted.

(3) A fee determined in accordance with the rules of court shall be payable for any licence granted under this section.

Licence for  
British Sailors'  
Society (at  
home and  
abroad)  
Incorporated.

16d. (1) Notwithstanding any other provisions of this Act, but subject to this section, a licence may be granted by the court to any person nominated for the purpose by the British Sailors' Society (at home and abroad) Incorporated authorizing him, subject to such conditions as the court thinks fit and specifies in the licence, to sell or supply liquor for consumption on premises specified in the licence.

(2) A licence granted under this section shall be in the form prescribed by the rules of court and shall set forth—

- (a) the times during which liquor may be sold or supplied in pursuance of the licence;
  - (b) the class of persons to whom liquor may be sold or supplied in pursuance of the licence;
- and
- (c) the other conditions upon which the licence is granted.

(3) A fee determined in accordance with the rules of court shall be payable for any licence granted under this section.

Licence for  
Wine and  
Brandy  
Producers'  
Association of  
South Australia  
Incorporated  
relating to the  
Royal Show.

16e. (1) Notwithstanding any other provisions of this Act, but subject to this section, a licence may be granted by the court once in every calendar year to the Wine and Brandy Producers' Association of South Australia Incorporated authorizing it, subject to such conditions as the court thinks fit and specifies in the licence—

- (a) to sell or supply wine produced by members of that Association for consumption by members of the public with meals in a dining room specified by the court;

or

- (b) to sell or supply wine and brandy produced by members of that Association, unaccompanied by food, at a wine and brandy tasting conducted in a place specified by the court,

upon the grounds on which the Annual Royal Show of the Royal Agricultural and Horticultural Society of South Australia Incorporated is held, at any time during which that Annual Royal Show is open to the public.

(2) A licence granted under this section shall be in the form prescribed by the rules of court.

(3) A fee of fifty dollars shall be payable for any licence granted under this section.

Licence for  
Adelaide  
Festival of  
Arts.

16f. (1) Notwithstanding any other provisions of this Act, but subject to this section, a licence may be granted by the court to any body or authority administering the Adelaide Festival of Arts authorizing it, subject to such conditions as the court thinks fit and specifies in the licence, to sell or supply liquor of any kind and in any quantities to the public at such times during the continuance of the Adelaide Festival of Arts and at such places as the court thinks fit and specifies in the licence.

(2) A licence granted under this section shall be in the form prescribed by the rules of court.

(3) A fee of fifty dollars shall be payable for any licence granted under this section.

6. Section 18 of the principal Act is amended—

Amendment of  
principal Act,  
s. 18—  
Special licences  
for festivals.

(a) by striking out subsections (1), (2), (2a), (2b), (2c), (2d), (2e) and (2f) inserting in lieu thereof the following subsections:—

(1) Notwithstanding any other provision of this Act, but subject to this section, where the court is of the opinion that a festival or proposed festival is of substantial historic, traditional or cultural significance and that there are substantial grounds warranting the grant of a licence under this section, the court may grant to the body or authority responsible for the administration of the festival a licence authorizing it, subject to such conditions as the court thinks fit and specifies in the licence, to sell or supply liquor of any kind and in any quantities to the public during the continuance of the festival at such times over such a period not exceeding three days (which may include a Sunday) and at such places as the court thinks fit and specifies in the licence.

(2) Where the court is satisfied that there is proper cause for it to do so, the court may extend the period for which a licence under this section is effective to a period not exceeding fourteen consecutive days.;

and

(b) by striking out the second sentence of subsection (3).

7. Section 27 of the principal Act is amended—

Amendment of  
principal Act,  
s. 27—  
Club licence.

(a) by striking out from subsection (1) the passage “No offence shall be deemed to be committed by any person by reason of the consumption by him during the hours specified in paragraphs (a) or (b) of this subsection or within fifteen minutes thereafter, between hours fixed by the court under subsection (1a) of this section or within fifteen minutes thereafter, or during the hours specified in paragraphs (c), (d) or (e) of this subsection or within thirty minutes thereafter of any liquor sold or supplied during the hours specified in such paragraphs respectively”;

and

(b) by inserting after subsection (1c) the following subsection:—

(1d) No offence is committed by any person by reason only of the fact that—

(a) he consumes liquor lawfully supplied in pursuance of the licence on the licensed premises within the hours—

(i) specified in paragraph (a) or (b) of subsection (1) of this section;

or

(ii) fixed by the court under subsection (1a) of this section,

or within fifteen minutes thereafter;

(b) he takes liquor lawfully supplied for consumption outside the licensed premises, from the licensed premises within the hours—

(i) specified in paragraph (a) or (b) of subsection (1) of this section;

or

(ii) fixed by the court under subsection (1a) of this section,

or within thirty minutes thereafter;

or

(c) he consumes liquor lawfully supplied in pursuance of the licence on the licensed premises within the hours specified in paragraph (c), (d) or (e) of subsection (1) of this section or within thirty minutes thereafter.

Amendment of  
principal Act,  
s. 35—  
Special licence.

8. Section 35 of the principal Act is amended by striking out from subsection (2) the passage “not exceeding three months”.

Amendment of  
principal Act,  
s. 41—  
Conditions of  
application  
where no  
licence of the  
class sought  
has previously  
been granted  
in relation to  
the premises.

9. Section 41 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “in respect of previously unlicensed premises” and inserting in lieu thereof the passage “where a licence of the class sought has not previously been granted in respect of the premises to which the application relates”;

(b) by striking out from paragraph (c) of subsection (1) the passage “and in any case so as to be easily legible from the nearest public footpath”;

and

(c) by inserting after subsection (1) the following subsection:—

(1a) Where a notice posted under paragraph (c) of subsection (1) of this section on or near the main entrance to premises is not conspicuous to, and easily legible by, members of the public who may pass the site of the premises on foot, a further notice must be posted so as to be conspicuous to, and easily legible by, such members of the public.

**10. Section 43 of the principal Act is amended—**

(a) by striking out the passage “in respect of previously licensed premises” and inserting in lieu thereof the passage “where a licence of the class sought has previously been granted in respect of the premises to which the application relates”;

(b) by striking out from paragraph (a) the passage “and so as to be easily legible from the nearest public footpath”;

and

(c) by inserting after the present contents thereof, as amended by this section (which are hereby designated subsection (1) thereof) the following subsection:—

(2) Where a notice posted under paragraph (a) of subsection (1) of this section on or near the main entrance to premises is not conspicuous to, and easily legible by, members of the public who may pass the premises on foot, a further notice must be posted so as to be conspicuous to, and easily legible by, such members of the public.

Amendment of principal Act, s. 43—

Application for licence where a licence of the class sought has previously been granted in relation to the premises.

**11. Section 44 of the principal Act is amended—**

(a) by striking out the passage “Any licensed person” and inserting in lieu thereof the passage “Subject to subsection (2) of this section, any licensed person”;

and

(b) by inserting after the present contents thereof, as amended by this section (which are hereby designated subsection (1) thereof) the following subsection:—

(2) The court may, if it considers that circumstances justify it in so doing, hear and determine an application for the renewal of a licence notwithstanding that notice has not been given in accordance with subsection (1) of this section.

Amendment of principal Act, s. 44—

Application for renewal of licence.

**12. Section 47 of the principal Act is amended by striking out the passage “previously unlicensed premises” and inserting in lieu thereof the passage “premises in respect of which a licence of the class sought has not previously been granted”.**

Amendment of principal Act, s. 47—

Matters to be established.

**13. Section 48 of the principal Act is amended—**

(a) by striking out from paragraph (2) the passage “not previously licensed” and inserting in lieu thereof the passage “in respect of which a licence of the class sought has not previously been granted”;

and

(b) by striking out from paragraph (3) the passage “previously licensed premises” and inserting in lieu thereof the passage “premises to which a licence of the class sought has previously been granted”.

Amendment of principal Act, s. 48—

Objections to licences and renewals.

Amendment of  
principal Act,  
s. 51—  
Application to  
transfer licence.

14. Section 51 of the principal Act is amended—

- (a) by striking out from subsection (2) the passage “so as to be easily legible from the nearest public footpath”;  
and  
(b) by inserting after subsection (2) the following subsection:—

(2a) Where a notice posted under subsection (2) of this section on or near the main entrance to premises is not conspicuous to, and easily legible by, members of the public who may pass the premises on foot, a further notice must be posted so as to be conspicuous to, and easily legible by, such members of the public.

Amendment of  
principal Act,  
s. 52—  
Transfer on  
sale of  
licensed  
premises.

15. Section 52 of the principal Act is amended—

- (a) by inserting after the passage “an application may be made” in subsection (1) the passage “to the court”;  
and  
(b) by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) The notice—

(a) shall identify the licensed premises the subject of the application, shall set forth the names of the transferor and proposed transferee and shall be signed by them;

and

(b) shall be accompanied by—

- (i) a copy of the contract of sale certified by the applicants;  
(ii) a certificate by any person who has agreed to advance any moneys in connection with the sale setting forth details of that agreement;  
(iii) a copy of an advertisement which has previously been published in at least one daily newspaper not more than fourteen days before the day on which the notice of the intention of the applicants to make the application is given to the clerk;

and

(iv) where the licensed premises are held under a lease, a copy of the lessor's terms of consent to the proposed transfer certified by the applicants.

Amendment of  
principal Act,  
s. 56—  
Removal of  
business to  
other premises.

16. Section 56 of the principal Act is amended—

- (a) by striking out from paragraph (c) of subsection (2) the passage “Every such notice shall be so posted so as to be easily legible from the nearest public footpath”;  
and

(b) by inserting after subsection (2) the following subsection:—

(2a) Where a notice posted under paragraph (c) of subsection (2) of this section on or near the main entrance to premises is not conspicuous to, and easily legible by, members of the public who may pass the site of the premises on foot, a further notice must be posted so as to be conspicuous to, and easily legible by, such members of the public.

17. Section 59 of the principal Act is amended by striking out from paragraph (c) of subsection (2) the passage “any application” and inserting in lieu thereof the passage “any such application”.

Amendment of principal Act, s. 59—  
Proceedings on consideration of application.

18. The following section is enacted and inserted in the principal Act immediately after section 59 thereof:—

Enactment of s. 59a of principal Act—  
Transfer of licence.

59a. (1) Upon the hearing of any application for the transfer of a licence the court may order that any permit held by the transferor under this Act be transferred to the transferee.

(2) Any order under subsection (1) of this section shall have effect according to its terms.

19. Section 60 of the principal Act is amended—

Amendment of principal Act, s. 60—  
Duties of clerk, etc.

(a) by striking out paragraphs (a) and (b) of subsection (1) and inserting in lieu thereof the following paragraph:—

(a) cause minutes to be taken of all the proceedings of the court;;

and

(b) by striking out from paragraph (a) of subsection (3) the passage “or, except in the case of a packet licence, the first quarterly” and inserting in lieu thereof the passage “or the first”.

20. The following section is enacted and inserted in the principal Act immediately after section 86b thereof:—

Enactment of s. 86c of principal Act—

86c. (1) The court may, on the application of the holder of a licence in respect of premises situated west of 133° of longitude, vary the hours during which liquor may be sold and disposed of in pursuance of the licence in such manner as it considers just.

Licensed premises situated west of 133° longitude.

(2) Where a variation is made pursuant to subsection (1) of this section, the provisions of this Act shall apply in relation to the licence and the licensed premises with such modifications as the court may direct.

21. Section 137 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of s. 137 of principal Act and enactment of section in its place—  
Duty to state evidence of age.

137. (1) A person who is on licensed premises, or on any premises in respect of which a permit granted under this Act is in force shall, upon the request of—

(a) a member of the police force;

- (b) the holder of the licence or permit, or his servant or agent;  
or  
(c) an inspector,

truly state whether he is, or is not, under the age of eighteen years.

(2) Where a person by whom a request is made under subsection (1) of this section has reasonable cause to suspect that a statement made in response to a request is false, he may require that person to furnish satisfactory evidence of his age.

(3) A person who fails to comply with a request or a requirement made in pursuance of this section shall be guilty of an offence.

Amendment of  
principal Act,  
s. 167—  
Permits for  
liquor tasting.

22. Section 167 of the principal Act is amended by striking out from paragraph (a) the passage "the day on which the application is to be made" and inserting in lieu thereof the passage "the day, or the first of the days, for which the permit is sought".

Amendment of  
principal Act,  
s. 171—  
Offences for  
unlawful  
carrying away  
of liquor.

23. Section 171 of the principal Act is amended by inserting after subsection (1) the following subsection:—

(1a) Where a licence does not authorize the licensee to sell or supply liquor for consumption outside the licensed premises, a person who carries away liquor purchased on the licensed premises from those premises shall be guilty of an offence.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor