



ANNO TERTIO

ELIZABETHAE II REGINAE

A.D. 1954

No. 55 of 1954

An Act to amend the Licensing Act, 1932-1953.

[Assented to 23rd December, 1954.]

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

Short titles.

1. (1) This Act may be cited as the "Licensing Act Amendment Act, 1954".

(2) The Licensing Act, 1932-1953, as amended by this Act, may be cited as the "Licensing Act, 1932-1954".

(3) The Licensing Act, 1932-1953, is hereinafter referred to as "the principal Act".

Incorporation.

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.

Amendment of
s. 3 of
principal Act—
Repeal and
savings.

3. Section 3 of the principal Act is amended—

(a) by striking out the words "and local option district" in the first line of subsection (2); and

(b) by striking out "local option resolution" in the third and fourth lines of subsection (4).

Amendment of
s. 16 of
principal Act—
Storekeeper's
licence.

4. Section 16 of the principal Act is amended by striking out the words "one kind of" in the fourth line of subsection (1).

Amendment of
s. 22 of
principal Act—
Brewer's
Australian ale
licence.

5. Section 22 of the principal Act is amended by striking out the words "one kind of" in the fourth line of subsection (1).

Amendment of
s. 23 of
principal Act—
Distiller's
storekeeper's
licence.

6. Section 23 of the principal Act is amended by striking out the words "one kind of" in the fourth line of subsection (1).

7. The amendments made by sections 4, 5, and 6, of this Act shall apply in relation to licences in force at the time of the passing of this Act as well as to licences granted after that time.

Application of sections of this Act.

8. Section 61 of the principal Act is amended by adding at the end thereof the following proviso :—

Amendment of s. 61 of principal Act—

Provided that the foregoing provisions of this section shall not apply to a storekeeper's licence, a distiller's storekeeper's licence, or a brewer's Australian ale licence.

Removal of licence from one local option district to another.

9. Section 182 of the principal Act is amended by inserting at the end thereof the following subsection :—

Amendment of s. 182 of principal Act—

(5) A female shall not be deemed to sell supply or serve liquor at, in or about a bar-room within the meaning of this section or section 186 or 187 by reason only of the fact that she takes orders from and serves liquor to persons who are not in a bar-room.

Restriction of women to serve liquor.

10. (1) Section 197a of the principal Act is amended by striking out the word " eight " in paragraph (b) of subsection (5) and inserting in lieu thereof the word " nine ".

Amendment of principal Act, s. 197a—

(2) Every permit in force under section 197a of the principal Act at the time of the passing of this Act shall be read as if every reference therein to eight o'clock in the evening were a reference to nine o'clock in the evening.

Permits to sell liquor in restaurants.

11. (1) Section 198 of the principal Act is amended—

Amendment of s. 198 of principal Act—

- (a) by striking out the word " eight " in the eighth line of subsection (1), and in the second and sixth lines of paragraph (a) of subsection (3), and in the first line of paragraph (d) of subsection (3) and inserting in lieu thereof in each case the word " nine "; and
- (b) by inserting the word " or " after the word " Sunday " in the seventh line of paragraph (a) of subsection (3) ;
- (c) by striking out the word " or " in the seventh line of paragraph (a) of subsection (3) and inserting in lieu thereof the words " and between the hours of one o'clock in the afternoon and half past three o'clock in the afternoon and between the hours of six o'clock in the evening and nine o'clock in the evening on any " ;
- (d) by striking out the words " one shilling and sixpence " at the end of subsection (8) and inserting in lieu thereof the words " five shillings ".

Permit to supply liquor with meals on licensed premises.

(2) Every permit in force under section 198 of the principal Act at the time of the passing of this Act shall be read as if every reference therein to eight o'clock in the evening were a reference to nine o'clock in the evening.

Enactment of
s. 198a of
principal Act—

12. The following section is inserted in the principal Act after section 198 :—

Supply of
liquor at
expense of
guests.

198a. (1) It shall be lawful for the holder of a publican's licence who holds a permit under section 198 of this Act to supply liquor on his licensed premises to a non-excepted person : Provided that—

- (a) the liquor is supplied at the expense of a bona fide lodger whose ordinary residence is outside the State of South Australia ;
- (b) the liquor is consumed on the premises in the presence of such lodger ;
- (c) a written order for the liquor is given by such lodger and it is not paid for in cash but the cost thereof is entered on the account of the lodger with the holder of a licence ;
- (d) not more than six non-excepted persons are so supplied at any one time ;
- (e) the liquor is not supplied to any person in contravention of any provision of sections 172 to 181 (inclusive) of this Act.

(2) Any person who for the purpose of procuring the supply of liquor under subsection (1) of this section makes any false statement shall be guilty of an offence and liable to a fine not exceeding fifty pounds.

(3) It shall be a defence to a charge under paragraph (a) or (b) of section 202 of this Act if it is proved that the liquor to which that charge applies was supplied to the defendant in accordance with this section.

Amendment
of s. 203 of
principal Act—
Persons
unlawfully on
licensed
premises.

13. Section 203 of the principal Act is amended by adding at the end of subsection (1) and subsection (2) thereof the words " otherwise than as allowed by this Act ".

Amendment of
s. 203 of
principal Act—
Persons
unlawfully on
licensed
premises.

14. Section 203 of the principal Act is amended by striking out the word " eight " in the fifth and tenth lines of subsection (2) and inserting in lieu thereof the word " nine ".

15. Section 209 of the principal Act is amended by striking out the word " eight " in the sixth and tenth lines and inserting in lieu thereof the word " nine ".

Amendment of s. 209 of principal Act—
Liability of licensee for persons on premises.

16. Sections 223 and 224 of the principal Act are repealed and the following sections are enacted and inserted in lieu thereof :—

Repeal of ss. 223 and 224 of principal Act and enactment of other provisions—
Local option districts.

223. (1) Subject to subsections (2), (3), and (4) of this section, every subdivision of an electoral district shall be a local option district.

(2) Where in any year in which local option polls are held any electoral subdivisions are altered after the last day of January in that year, the local option districts as constituted before that alteration shall be deemed to remain in force without alteration for the purpose of holding polls pursuant to petitions presented in that year.

(3) A local option resolution carried in any local option district shall be carried into effect in the area which at the time of the passing of the resolution constitutes that district, notwithstanding any alteration made in the electoral subdivision after the carrying of the resolution.

(4) In this section " alteration " includes abolition and " alter " has a corresponding meaning.

224. The number of licences of each class in force for the time being in each local option district shall not be increased or decreased except as follows :—

Restriction on alteration of number of licences.

- (a) the number of licences of any class in force at the time of the passing of the Licensing Act Amendment Act, 1954, may be increased for the purpose of giving effect to any local option resolution in favour of an increase carried before the passing of that Act as if the local option districts had not been altered ;
- (b) the number of licences of any class shall, subject to the provisions of Part IV of this Act, be increased for the purpose of giving effect to a local option resolution carried after the passing of the Licensing Act Amendment Act, 1954 ;
- (c) the number of licences of any class shall be reduced for the purpose of giving effect to a local option resolution carried after the passing of the Licensing Act Amendment Act, 1954. Provided that the number of licences of any one class shall not be reduced to less than one.

Amendment of
s. 225 of
principal Act—
Right to
petition for
poll.

17. Section 225 of the principal Act is amended by striking out subsection (1) thereof and inserting in lieu thereof the following subsections :—

(1) A quorum of electors in any local option district may at any time in the month of February or March in the year nineteen hundred and fifty-five or in the same months in any third year thereafter, cause to be presented to the Governor a local option petition praying that a local option poll be taken within that local option district.

The petition shall set out the resolution on which the petitioners desire the poll to be taken, and every such resolution shall be one of the resolutions authorized by this Division to be submitted to the electors.

(1a) At the time of presenting the petition to the Governor the petitioners shall pay to the Treasurer in aid of the general revenue of the State a fee of fifty pounds.

(1b) The persons who have paid the fee on a petition may at any time before the first day of April next after the presentation of the petition withdraw the petition by notice to the Minister and shall upon such withdrawal be entitled to a refund of the fee paid by them.

(1c) If the Minister certifies in writing that the effect of any resolution, if carried, would be to reduce the number of licences of any one class in the local option district to less than one, the persons who have paid the fee on the petition shall be entitled on application by them to a refund of the fee.

Amendment of
s. 226 of
principal Act—
Validity of
petition.

18. Section 226 of the principal Act is amended by striking out the words " the petition " in the first and second lines and inserting in lieu thereof the words " a petition complying with and presented in accordance with section 225 of this Act ".

Repeal of
s. 227 of
principal Act
and enactment
of other
provisions—
Duty to take
poll.

19. Section 227 of the principal Act is repealed and the following section is enacted in lieu thereof :—

227. The Minister shall, upon publication in the *Gazette* of the certificate mentioned in the next preceding section, by order direct the returning officer for the electoral district in which the local option district is situated to take a poll of the electors in that local option district on the last Saturday in June next after the presentation of the petition, and at the House of Assembly polling places in that district.

20. Section 228 of the principal Act is repealed and the following section is enacted and inserted in lieu thereof :—

Repeal of s. 228 of principal Act and enactment of other provisions—
Persons entitled to vote at polls.

228. (1) The following persons only shall be entitled to vote at a local option poll, namely, every person who on the closing day was registered as an elector in respect of an address within the local option district in which the poll is taken.

(2) The Minister may by notice in the *Gazette* fix the closing day for any local option district for purposes of this section.

21. Sections 230, 231 and 232 of the principal Act are repealed and the following sections are enacted in lieu thereof :—

Repeal of ss. 230, 231 and 232 of principal Act, and enactment of other provisions—
Resolutions which may be submitted.

230. (1) A petition under this Division may set out any one of the following resolutions :—

(a) That the number of licences of any specified class in the local option district be reduced by any specified number ;

(b) That the number of licences of any specified class in the local option district be increased by any specified number.

Provided that no petition shall set out a resolution the effect of which would be if carried to reduce the number of licences of the class in the local option district to less than one.

(2) All the resolutions in respect of which valid petitions are presented in the same local option district shall be included in the same ballot paper : Provided that where two or more petitions set out the same resolution, that resolution shall only be set out once in the ballot paper.

(3) Every resolution shall be stated in the ballot paper in the following form :—

Are you in favour of a reduction (or increase) in the number of (here state the type of licence) licences by (here state the number by which it is proposed to reduce or increase the number of licences) ?

231. Each elector may vote on all or any of the resolutions included in the ballot paper ; and his vote on any resolution shall be recorded by writing the word " Yes " or " No " in a space to be provided opposite that resolution.

Mode of voting.

232. The following provisions shall apply in regard to the votes recorded at the local option poll :—

Effect of votes.

- (a) The votes on each resolution shall be counted separately ;
- (b) If the votes in favour of any resolution are greater in number than the votes against that resolution that resolution shall be carried ;
- (c) If two or more resolutions in favour of an increase of licences of any particular class or two or more resolutions in favour of a reduction of licences of any particular class are carried, the resolution which provides for the greatest increase or reduction (as the case may be) shall be binding on the Court.

Amendment of heading to Division II of Part VIII.

22. The heading to Division II of Part VIII occurring after section 237 of the principal Act is amended by striking out the words "THE FIRST RESOLUTION" and inserting "A RESOLUTION IN FAVOUR OF REDUCING LICENCES."

Amendment of s. 238 of principal Act— Court for giving effect to resolutions.

23. Section 238 of the principal Act is amended—

(a) by striking out the words "the first resolution" in the first line and inserting in lieu thereof "a resolution in favour of reducing licences (hereinafter called a 'reduction resolution')",

(b) by striking out the words "the first resolution" in the second line of subsection (2) and inserting in lieu thereof "a reduction resolution".

Consequential amendment of s. 241 of principal Act— How reduction to be effective.

24. Section 241 of the principal Act is amended by striking out the words "as explained by subsection (2) of section 230" in the second line and inserting in their place the words "subject to section 224 of this Act".

Amendment of s. 244 of principal Act— Effect of reduction of licences after poll.

25. Section 244 of the principal Act is amended by striking out the words "one third of the number of those licences current at the date of the poll" in the last two lines and inserting in lieu thereof the words "the number indicated in the resolution: Provided that the court shall not provide for the reduction of the number of any one class of licence to less than one".

Consequential amendment of s. 246 of principal Act— Licensing Court to give effect to the determination.

26. Section 246 of the principal Act is amended by striking out the words "as explained by subsection (2) of section 230" in the fifth line of subsection (2) and inserting in their place the words "subject to section 224 of this Act".

- 27.** Section 247 of the principal Act is repealed. Repeal of s. 247 of principal Act.
- 28.** Section 248 of the principal Act is repealed and the following section is enacted and inserted in lieu thereof:—
248. If a resolution is adopted at a local option poll for a local option district for an increase of licences of any class, additional licences of that class, not exceeding the number authorized by the resolution, may be granted in the discretion of the Licensing Court in respect of premises situated within that district which were not licensed at the time of the poll. Repeal of s. 248 of principal Act, and enactment of other provisions—
Effect of resolution for increase.
- 29.** Section 249 of the principal Act is amended by striking out the words “constituting or” in the third line. Consequential amendment of s. 249 of principal Act.
- 30.** Sections 250 and 251 of the principal Act are repealed. Repeal of ss. 250 and 251 of principal Act.
- 31.** Section 275 of the principal Act is amended by adding at the end of subsection (2) thereof the following words “except so far as an alteration is rendered necessary by any amendment of this Act or any other law”. Amendment of s. 275 of principal Act—
Forms.
- 32.** (1) The Schedule B to the principal Act is amended by striking out in the sixth line of the Form 2 (Storekeeper's Licence), the sixth line of the Form 7 (Brewer's Australian Ale Licence) and the sixth line of Form 8 (Distiller's Storekeeper's Licence) the words “one kind of”. Amendment of schedule B of principal Act—
Forms of licences.
- (2) Every Storekeeper's Licence, Brewer's Australian Ale Licence, and Distiller's Storekeeper's Licence in force at the time of the passing of this Act shall be read as if they were amended in accordance with this section.

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

R. A. GEORGE, Governor.