



ANNO SEXTO

GEORGII V REGIS.

A.D. 1915.

No. 1236.

An Act to further amend the Licensing Acts, 1908 and 1910.

[Assented to, December 23rd, 1915.]

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

PART I.

PART I.

PRELIMINARY.

1. (1) This Act may be cited alone as the "Licensing Acts Further Amendment Act (No. 2), 1915." Short titles.

(2) Subsection (2) of the Licensing Act Further Amendment Act, 1915 (being the Act No. 1195 of 1915) is repealed.

(3) The Licensing Acts, 1908 and 1910, the said Licensing Act Further Amendment Act, 1915, and this Act, may be cited together as the "Licensing Acts, 1908 to 1915."

(4) The Licensing Act, 1908, is referred to in this Act as "the principal Act." No. 970 of 1908.

2. This Act shall come into force on a day to be fixed by the Governor by proclamation published in the *Gazette*. Commencement of Act.

3. This Act is incorporated with the other Acts mentioned in section 1 of this Act, and those Acts and this Act shall be read as one Act. Incorporation with other Acts.

4. The

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PART I.

Arrangement of Act.

4. The provisions of this Act are arranged as follows:—

PART I.—Preliminary.

PART II.—The Licensing Court.

PART III.—Fees for Publican's Licences.

PART IV.—Miscellaneous Amendments.

PART V.—Additional and General Provisions.

PART VI.—Adjustment of Rents consequent on Earlier Closing of Licensed Premises.

PART II.

PART II.

THE LICENSING COURT.

Abolition of Licensing Benches.

5. (1) The Licensing Benches in existence under the principal Act at the commencement of this Act are hereby abolished, and no further Licensing Benches or members of Licensing Benches shall be appointed under that Act.

(2) The abolition by this Act of such Licensing Benches shall not affect any application, action, prosecution, or other proceeding made or commenced before and pending at the time of the commencement of this Act; and any such application, action, prosecution, or proceeding may be continued and determined as if this Act had not been passed.

The Licensing Court.

6. (1) In place of the Licensing Benches hereby abolished, there is hereby constituted a Court, to be called the Licensing Court, which shall be a court of record and shall have a seal, which shall be judicially noticed.

(2) The Licensing Court shall have jurisdiction throughout the State.

(3) The Licensing Court shall consist of three members to be appointed by the Governor.

(4) Of such members—

(a) two shall be appointed to be "State" members of the said Court, that is to say—to be members thereof in whatever Licensing District the said Court may exercise its jurisdiction—and

(b) the person for the time being constituting the third member shall be the District member appointed, as hereinafter mentioned, for the particular Licensing District in which, or in respect of premises within which, the said Court is at the time exercising its jurisdiction.

(5) Of

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(5) Of the two State members of the said Court, one, who at the time of his appointment shall be a Special Magistrate or a practitioner of the Supreme Court who has been admitted as such practitioner for at least seven years, shall be appointed by the Governor to be the President of the said Court.

(6) The Governor shall, for each Licensing District, appoint a Special Magistrate to be the "District" member of the said Court: Provided that a Special Magistrate may be appointed to be the District member for two or more Districts.

(7) The provisions of sections 9 and 108 of the principal Act shall apply to the members of the said Court and to the qualification for membership thereof.

(8) Each State member of the said Court shall be appointed for a term of five years, and may, from time to time, be reappointed for a further term of five years.

(9) Subject to subsection (8) of this section, a State member of the said Court shall not be removed from office except in the same manner and upon such grounds as a Judge of the Supreme Court is by law liable to be removed from office; but any such member may resign at any time.

(10) In case of the illness or absence from the State of any member of the said Court the Governor may appoint a person qualified to fill the seat of such member, to be the deputy of such member during such illness or absence; and whilst acting in that capacity, such deputy shall have all the jurisdiction, functions, powers, privileges, and duties of such member.

(11) In case of a difference of opinion between the members of the said Court, the decision of the majority shall be deemed to be the decision of the Court. Vic. 2683, 1915, s. 61.

(12) In case a vacancy occurs in the membership of the said Court, or a deputy member is appointed, during the pendency of any matter, such matter may nevertheless continue and be determined as if the member appointed to fill the vacancy, or the deputy member (as the case may be), had been a member of the Court throughout such matter.

(13) The members of the said Court shall be paid such salaries as are fixed by the Governor, and shall be entitled to such travelling and other allowances and expenses as are prescribed.

7. (1) All the jurisdiction, functions, powers, privileges, and duties by the principal Act conferred and imposed upon Licensing Benches and the chairmen and members thereof respectively are hereby conferred and imposed upon, and may and shall hereafter be exercised and discharged by, the Licensing Court and the President and members thereof respectively. Jurisdiction and functions of the Licensing Court.

(2) For

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(2) For the purposes of this section, and subject to any provisions of this Act necessitating a different construction, every reference in the principal Act—

- (a) to a Licensing Bench, shall be read as a reference to the Licensing Court:
- (b) to the chairman of the Licensing Bench, shall be read as a reference to the President of the said Court: Provided that such President shall be appointed by the Governor:
- (c) to a member of a Licensing Bench, shall be read as a reference to a member of the said Court;

and all the provisions of the principal Act shall be read as altered in such manner as may be necessary to give effect to the substitution of the Licensing Court for Licensing Benches: Provided that where the nature of the thing referred to is such that it may have taken place before the commencement of this Act, the reference shall be read as including also a reference to a Licensing Bench, or the chairman or the members or the clerk thereof, as the case may require.

Clerk and officers of
the Court.

8. (1) The Governor may appoint a clerk, and such (if any) other officers as he deems necessary, of the Licensing Court, and may also, if he deems it necessary, appoint a clerk, and such (if any) other officers as he deems necessary, of the said Court for each or any district or districts.

(2) Every reference in the principal Act to the clerk of a Licensing Bench shall be read as a reference to the Clerk of the Licensing Court, or to the clerk of the said Court for the particular district, as the case may require. Provided that where the reference is to the Clerk of the Licensing Bench for the Adelaide Licensing District, such reference shall be read as a reference to the Clerk of the Licensing Court.

Meetings of the
Court.

9. (1) The Licensing Court shall hold annual and quarterly meetings within each Licensing District; and the meetings in any district shall be held on such days as are fixed by the Governor for such district: Provided that it shall not be obligatory for the Court to hold a quarterly meeting in any case unless notice of some application to be made at such meeting has been given to the clerk, or the Court has been made aware, at least seven days before the date fixed for the meeting, of some other business to be dealt with thereat.

(2) Whenever, by reason of the absence of the Court, a meeting is not held on the day fixed therefor, the clerk shall, except in the case of a meeting which, pursuant to this section, the Court is not obliged to hold, and may, in such a case also, if he is made aware of any business to be dealt with at the meeting, adjourn the meeting to a day and time within a period of twenty-eight days. The clerk

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clerk shall enter in the minute book of the Court a memorandum of the adjournment, and forward a copy of such memorandum forthwith to the Attorney-General.

(3) When a meeting of the Court is not held, any plans required to be deposited with the clerk at such meeting may be deposited with him on the day fixed for such meeting, and the deposit thereof in such case shall have the same effect as if the Court had met.

10. (1) In case the annual meeting for a district is fixed for a date later than the second Tuesday in March, licences granted in respect of premises situate within that district, whether before or after the commencement of this Act, shall, if not previously forfeited, continue in force until and including a date fixed by the Governor for that district, being not earlier than fourteen days after the date so fixed for such annual meeting.

Date of expiration of licences.

(2) Section 28 of the principal Act shall be read subject to this section, and the forms of licences in respect of such premises as referred to in this section shall be altered so as to give effect to this section.

11. Any determination, order, or decision of the Licensing Court shall be final, and shall not be removable to any other Court by *certiorari* or otherwise; and no determination, order, decision, or proceeding of any kind whatever of the Court shall be challenged, appealed against, reviewed, quashed, or called in question in any other Court or tribunal on any account whatever other than excess or want of jurisdiction.

Decisions of the Court to be final.

PART III.

PART III.

FEES FOR PUBLICAN'S LICENCES.

12. The provisions of the principal Act fixing the fees to be paid for licences (including section 26 and Schedule C) shall not, from the commencement of this Act, apply in respect of publican's licences.

Provisions of principal Act as to licence fees not to apply to publican's licences.

13. (1) During the year nineteen hundred and sixteen and as soon as practicable after the passing of this Act, and during the year nineteen hundred and twenty, and also during each fifth year after the year nineteen hundred and twenty, the Commissioner of Taxes shall make an assessment determining the licence values of all the premises in the said State in respect of which publican's licences have been granted during the year in which the assessment is made and are in force at the time when the assessment is completed.

Assessment of licence values for fixing fees for publican's licences.

(2) The assessment so made during the year nineteen hundred and sixteen shall apply for the purposes of determining the fees to be

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be paid for publican's licences granted during that year (whether before or after the commencement of this Act) and during the period of four years next after that year.

(3) The assessment so made during the year nineteen hundred and twenty or any later year shall apply for the purpose of determining the fees to be paid for publican's licences granted during the period of five years next after the year in which such assessment is made.

(4) For the purposes of subsections (2) and (3) hereof, whenever, as the result of an appeal against any assessment made by the said Commissioner under this Act, such assessment is increased or reduced, such assessment as so altered shall be deemed to have been made during the year in which the said Commissioner made his assessment.

Adjustment of fees
paid during the year
1916.

14. If the fee paid for any publican's licence granted during the year nineteen hundred and sixteen is more than the fee determined pursuant to this Act by reference to the Commissioner's assessment made during that year, the licensee shall be entitled to be refunded the amount of the excess; if the fee so paid is less than the fee so determined, the licensee shall pay the amount of the deficiency to the Treasurer, and if such amount is not so paid within fourteen days after notice in writing, signed by the Under Treasurer, is delivered to him (in manner provided by section 214 of the principal Act), demanding payment thereof, the licence shall thereupon become forfeited, and shall cease to have effect.

Assessments in respect
of previously
unlicensed premises.

15. (1) When, at any time after the commencement of this Act, a publican's licence is granted in respect of premises not immediately theretofore so licensed, the said Commissioner shall, as soon as practicable, make an assessment determining the licence value of such premises, and such assessment shall apply for the purpose of determining the fee to be paid for such licence and for every renewal thereof up to the end of the then current quinquennial period referred to in section 13 of this Act.

(2) If, on the date when such licence is to come into force, such assessment has not been made, the licence may be issued upon payment of such sum as is fixed in respect thereof by the Treasurer or by the officer appointed by him to issue licences; and when such assessment has been made and the fee has been determined pursuant to this Act, the licensee shall pay to the Treasurer any deficiency in the amount already paid by him, or shall be entitled to be refunded any excess in the amount so paid; and in case a deficiency so payable by him is not paid within fourteen days after notice in writing, signed by the Under Treasurer, is delivered to him (in manner provided by section 214 of the principal Act), demanding payment thereof, the licence shall thereupon become forfeited and shall cease to have effect.

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16. The licence value of any premises in respect of which a publican's licence is granted shall be assessed in the following manner:—

Method of assessing licence values.

- i. The following values shall be ascertained—
 - (a) the capital freehold value of the premises ;
 - (b) the capital freehold unimproved value of the premises ; and
 - (c) the capital freehold value of the improvements on the premises.
- ii. From the capital freehold value of the premises shall be deducted—
 - (a) the capital freehold unimproved value thereof ; and
 - (b) the capital freehold value of the improvements thereon.
- iii. The resultant remainder shall be the licence value of the premises, and is in this Act referred to as the "licence value."

17. The fee to be paid for a publican's licence shall in each case be determined by reference to the licence value of the premises, in accordance with the following rules:—

Method of determining publican's licence fees.

- i. When the licence values of all premises in the State in respect of which publican's licences are in force at the commencement of this Act have been assessed in accordance with section 16 of this Act, all the said licence values shall be added together :
- ii. The number twelve thousand shall be divided by the total number of Pounds (disregarding Shillings and Pence), ascertained under paragraph i. hereof, the division being worked out to three places of decimals :
- iii. The result of such division will be a fraction, which shall be called, and is hereinafter referred to as the "licence fee fraction" :
- iv. The licence fee fraction shall be used for the purpose of determining the fees payable for all publican's licences in force at the commencement of this Act and all publican's licences thereafter granted :
- v. The fee so payable in any case shall be the licence value (as determined by the assessment under this Act which, pursuant to section 13 of this Act, applies for the time being for the purpose of determining the fees to be paid) multiplied by the licence fee fraction.

18. Notwithstanding anything in this Part, in no case shall the fee to be paid for a publican's licence be less than Five Pounds.

Publican's licence fee.

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Appeal against
assessment.

19. (1) The holder of a publican's licence shall be entitled to appeal against any assessment of the licence value of his licensed premises.

(2) Such appeal shall be made in the manner and within the time prescribed by regulations made under this Act, and shall be subject to anything so prescribed.

(3) Subject to anything prescribed as aforesaid, all the provisions of the Taxation Act, 1915, with regard to appeals against assessments for the purposes of land tax, shall apply to appeals under this section as if the assessments were assessments for the purposes of land tax.

(4) If any appeal under this section is not determined before the time for the issue of a licence, such licence shall not be issued unless the fee, as determined by reference to the assessment appealed against, has been paid. If the result of the appeal shows that the fee so paid should be reduced the licensee shall be entitled to be refunded the amount of the excess; and if it shows that the fee so paid should be increased he shall pay the amount of the deficiency to the Treasurer, and if such amount is not paid within fourteen days after notice in writing, signed by the Under-Treasurer, is delivered to him (in manner provided by section 214 of the principal Act) demanding payment thereof, the licence shall thereupon become forfeited, and shall cease to have effect.

Entry and examina-
tion for purposes of
assessments and
appeals.

20. (1) For the purposes of making any assessment under this Act, and also for the purposes of any appeal against such an assessment, the said Commissioner, and any person appointed by him, and any person appointed by any Court hearing the appeal, or any case stated therein, may, at any time, enter the licensed premises and any premises used in connection therewith.

(2) Any person who in any way interferes with, obstructs, or hinders any person in the exercise of any power conferred by this section shall be liable to a penalty not exceeding Fifty Pounds.

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MISCELLANEOUS AMENDMENTS.

Meaning of
"section" in this
Part.

21. Wherever in this Part a section of an Act is referred to by number, the reference is, unless a contrary intention appears, to the section of that number of the principal Act.

Amendments of
section 4 of
principal Act—
Interpretation.

22. Section 4 is amended—

(a) by inserting the following definitions after the definition of the term "Justice":—

"Licence" means licence granted under this Act.

"Licensed

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“Licensed person” or “licensee” means a person holding a licence of any class granted under this Act, which is for the time being in force and authorises the act or matter referred to:

“Licensed premises” means premises in respect of which a licensed person is licensed:

(b) by adding the following words at the end of the definition of the term “liquor,” “but does not include any liquor which does not contain more than two per centum of proof spirit”.

(c) by inserting the following definition before the definition of the term “sale” :—

“Proof spirit” means spirit of a strength equal to that of pure ethyl alcohol compound with distilled water so that the resultant mixture, at a temperature of sixty degrees Fahrenheit, has a specific gravity of 0·9198 as compared with that of distilled water at the same temperature.

(d) by adding the following definition at the end of the section:

“Unlicensed person” means a person other than a licensed person (as hereinbefore defined).

(e) by adding the following paragraph after the definition added by subdivision (d) hereof :—

In this Act the expression “sale of liquor is prohibited by law” means sale of liquor in licensed premises is prohibited by the principal Act or any Act amending that Act.

23. Section 13 is amended—

Amendment of section 13—

(a) by striking out the words “of ginger beer, or of spruce beer; nor to the sale” in the second and third lines thereof, and

Exceptions to application of the Act.

(b) by substituting the words “Commonwealth of Australia” for the words “said State” in the thirteenth and fourteenth lines thereof.

24. (1) Section 14 is amended—

Amendment of section 14—

1. by inserting the following new paragraph before paragraph (a) thereof :—

Railway refreshment-room licences.

(aa) Section 7 of the said Act shall be read as if after the word “licence” in the fourth line thereof the following words were inserted, namely :—“or during any day or time during which the sale of liquor is prohibited by law”;

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- II. by striking out the number "144" in paragraph (a) thereof: and
- III. by substituting the following paragraph for paragraph (c) thereof:—

(c) Section 12 of the said Act is amended so as to read as follows:—

12. (1) No licence issued pursuant to this Act shall authorise the sale or supply of any liquor except during the times specified in the licence.

(2) The times so specified shall have reference to certain trains specified in the licence, and each of such times shall commence on the actual arrival of the train and shall continue for not more than fifteen minutes after such arrival of such train at the station; and none of such times shall include any day or time during which the sale of liquor is prohibited by law, or any part of any such day or time.

(2) Nothing in this section shall affect the times specified in a licence granted pursuant to the Railway Refreshment Rooms Act, 1887, before the commencement of this Act, until the first renewal of such licence after such commencement.

Amendment of section 15—
Name of brewer's colonial ale licence changed.

25. (1) Section 15 is amended by substituting the word "Australian" for the word "Colonial" in the thirteenth line thereof; and wherever in the principal Act the expression "brewer's colonial ale licence" is used the expression "brewer's Australian ale licence" shall be read instead thereof.

(2) Nothing in this section shall be construed as affecting the operation of any brewer's colonial ale licence granted before the commencement of this Act, but such licences may, from such commencement, be referred to as "brewer's Australian ale licences."

Amendment of section 19—
Australian wine licences.

26. (1) Section 19 is amended by inserting after the word "perry," in the third line thereof, the words "produced and manufactured in the Commonwealth of Australia."

Form 4, Schedule B, amended.

(2) Form 4 in Schedule B of the principal Act is amended by substituting the words "the Commonwealth of Australia" for the words "South Australia" in the sixth line thereof.

Amendment of section 21—
Packet licence.

27. Section 21 is amended by adding at the end of subsection (1) thereof the words:—

and not—

(a) in the case of a steamer or vessel not on a voyage extending, or to extend, for a greater distance, from start to finish, than forty miles, or

(b) in

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(b) in the case of a steamer or vessel on the River Murray or the lakes connected therewith,

during any day or time during which the sale of liquor is prohibited by law.

28. Section 23 of the Licensing Act, 1908, is hereby amended by striking out the word "brewer" in the second line of subsection (1) and inserting in lieu thereof the word "person," and by adding after the word "liquor" at the end of the said subsection (1) the words "or to any manufacturer of cordials containing spirits who at any time prior to the passing of the Licensing Act Further Amendment Act, 1915, has held a brewer's colonial ale licence.

Amendment of section 23—

Brewer's Australian ale licence.

29. Section 55 is amended—

- I. by inserting the words "or holding a certificate under section 54" after the word "licence" in the second line thereof;
- II. by inserting the words "annual or" before the word "quarterly" in the fourth line thereof, and
- III. by striking out of the sixth and seventh lines thereof, the words "and of the premises to which it is proposed to remove the licence, a notice in the form," and inserting in lieu thereof the following words:—"and also on the outer door of the premises to which it is proposed to remove the licence, or, in case the last-mentioned premises have not been erected or completed, upon a notice board placed on a conspicuous part of the land upon which it is intended to erect or complete such premises, a notice in the Form No. 1."

Amendment of section 55—

Application for removal of licence.

30. (1) Subsection (1) of section 57 is hereby repealed, and the following subsection is hereby enacted and substituted in lieu thereof:—

Amendment of section 55 and of Schedule N—

(1) (a) Any person having complied with the provisions of section 55 may, at the meeting of the Licensing Court held next after the delivery of the notice required by that section, apply for the removal of his licence or his certificate under section 54 in accordance with such notice, and the provisions of section 33, *mutatis mutandis*, shall apply to such application: Provided that in case the premises to which it is proposed to remove the licence have not at the time of the application been erected or completed, then, if the Court decides that the application will be granted when such premises have been erected or completed as mentioned in section 33, the application shall be adjourned to be finally dealt with at a subsequent meeting of the Court held after such premises have been so erected or completed.

Procedure on application for removal.

(b) When

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Effect of removal.

(b) When an application for removal is granted a certificate shall be issued in the form in Schedule N hereto, and thereupon and on payment of the sum of Twenty Shillings for such certificate, the holder of the licence or of the certificate under section 54 shall be authorised to carry on business thereunder in the premises to which the licence or certificate is removed, instead of in his former house, in the same manner as if the licence had been originally granted in respect of the premises to which the licence or certificate is so removed, according to the tenor and effect of the licence; and the premises in respect of which the licence was originally granted shall thereupon cease to be licensed.

(2) Schedule N to the principal Act is amended so as to read as set out in the First Schedule to this Act.

Further amendment
of section 57—
Removal of licence.

31. (1) Subsection (2) of section 57 is amended by adding at the end thereof the following paragraph:—

If not later than seven days before the meeting to consider the application, a petition is presented to the Minister signed by at least twenty or one-fifth (whichever is the lesser number) of the electors residing in the immediate neighborhood of the premises to which it is proposed to remove the licence, praying that a poll of electors be taken on the question whether the licence shall or shall not be removed to such premises, the application shall be adjourned to be finally dealt with at a meeting of the Bench held after a poll has been taken as provided by subsection (3) hereof, and shall not be granted unless such poll results in a majority in favor of the removal.

(2) The following subsection is added at the end of section 57:—

(3) If a petition is presented as mentioned in subsection (2) hereof the Minister shall, by notice published in the *Gazette*—

- (a) define an area within which the poll shall be taken,
- (b) fix the date for taking the poll and the hours when it shall open and close,
- (c) prescribe the place at which such poll shall be taken, and
- (d) appoint a returning officer and such other officers as may be necessary for the purposes of the poll.

The poll shall be taken, in accordance with such notice and in manner prescribed, of the electors residing within the area defined by such notice; and the result shall be published in the *Gazette*, which shall be conclusive evidence that the poll was duly held and of the result thereof.

Amendment of
section 67—
Provision for carry-
ing on business during
licensee's absence.

32. Section 67 is amended by adding thereto the following paragraph:—

The power by this section conferred on a Special Magistrate may also be exercised by any two Justices.

33. (1) Section

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33. (1) Section 76 is amended by adding thereto the following paragraph:—

Amendment of
section 76—
Licences to women.

In this section the term “single female” includes a widow.

(2) Notwithstanding the amendment made by subsection (1) of this section, section 76 shall not apply to any widow who—

(a) at the commencement of this Act is the holder of a publican's or wine licence or is the owner or lessee of premises in respect of which such a licence is then current; or

(b) is the widow of any person who at the time of his death is the holder of such a licence or is the owner or lessee of premises in respect of which such a licence is current at the time of his death.

34. Section 84 is amended by inserting after paragraph (h) thereof the following paragraph:—

Amendment of
section 84—
Qualification
of clubs for
registration.

(hh) The books of account, minute books, and other records of the club and of all committees thereof, the register of members, and all other books relating to the transactions, business, rules, and management of the club, shall be written in the English language.

35. Section 110 is amended by adding thereto the following subsection:—

Amendment of
section 110—
Additional bar-room.

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

36. Section 115 is amended so as to read as follows:—

Amendment of
section 115—
Unlawful gaming,
etc., and presence
of certain persons
on licensed premises.

115. (1) If on any licensed premises, or the appurtenances thereof, any person—

- (a) exercises or plays any unlawful game or sport, or
- (b) bets by way of wagering or gaming, or
- (c) gets up or takes part in any sweepstake, or
- (d) exercises, exposes, opens, or shows to be played, thrown, or drawn at, any lottery, or
- (e) plays any game on a Sunday,

the licensee shall be guilty of an offence.

(2) If on any licensed premises, or the appurtenances thereof, any reputed prostitute or thief, or any drunken or disorderly person, or any person in a state of intoxication, is found, the licensee shall be guilty of an offence.

(3) Any

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(3) Any person guilty of an offence under this section shall be liable to a penalty, for the first offence, of not more than Twenty Five Pounds and not less than Five Pounds, and for any subsequent offence, of not more than Fifty Pounds and not less than Ten Pounds.

(4) It shall be a defence to any charge of an offence under this section to show—

(a) that the licensee, or, if at the time of the offence the licensee was not on the premises, the person then in charge thereof, did not know, and could not by the exercise of all practical diligence have known, that (according to the nature of the charge) the act alleged was taking place, or the person referred to was of the description or in the state alleged, or

(b) that (according to the nature of the charge) the act alleged took place, or the person referred to was on the premises, contrary to the will of the licensee, or, if the licensee was not at the time on the premises, contrary to the will of the person who was then in charge thereof, and that (according to the nature of the charge) the licensee or the person so in charge (as the case may be) took all reasonable steps to prevent such act from taking place, or to prevent the person referred to from being on the premises and to remove her or him therefrom.

Amendment of section 119—

37. Section 119 is amended by adding the following proviso at the end thereof:—

Use of premises adjoining licensed premises, as theatre, etc.

Provided further that when the permission is in respect of premises adjoining (as distinguished from premises within) licensed premises or the appurtenances thereof, the permission may extend over a period longer than one month, but not longer than twelve months, upon payment of a fee of One Pound.

Amendment of section 133—

Master of ship retailing without a licence.

38. Section 133 is amended by substituting for the passage “a penalty of not less than Two Pounds nor more than Twenty Pounds” in the eighth and ninth lines thereof, the following passage:—“the penalty or imprisonment provided by section 134 for an offence against that section.”

Amendments of sections 134 and 135—

Retailing liquor without a licence.

39. (1) Section 134 is amended so as to read as follows:—

134. If any unlicensed person, except as allowed by this Act, directly or indirectly sells or supplies for profit, or permits to be sold or supplied for profit, any liquor, in any quantity, he shall be guilty of an offence, and shall be liable, for the first such offence, to a penalty of not less than Ten Pounds and not more than One Hundred Pounds, or to be imprisoned

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imprisoned for a term not exceeding six months, and for any subsequent offence to be imprisoned for a term not exceeding one year: Provided that this section shall not apply to a sale, in a quantity not less than five imperial gallons, of liquor to a person licensed to sell liquor of the kind which is the subject matter of such sale.

(2) Section 135 is amended—

(a) by inserting the word “licensed” before the word “person” in the first line of subdivision (2) thereof, and

(b) by substituting for the last four lines thereof the passage:—

“Such unlicensed person shall be guilty of an offence under section 134 of this Act.”

(3) Section 222 is amended—

(a) by inserting after the word “licensed” wherever the same appears in subsection (2) thereof the words “or unlicensed”, and by inserting after the word “licence” in the fifth line of the said subsection the words “or by the person delivering the liquor”

(b) by adding the following new subsection:—

(3) Where in any information or complaint it is alleged that liquor has been sold, or supplied, or consumed, on the premises specified in the information or complaint, the presence thereon of two or more persons shall be evidence of such sale, supply, or consumption (according to the nature of the charge), unless evidence to the contrary to the satisfaction of the Special Magistrate or Justices is given.

(4) Except as is allowed by this or the principal Act no person shall directly or indirectly purchase or attempt to purchase any liquor, or directly or indirectly receive or attempt to receive any liquor, supplied for profit, unless the same is sold or supplied by a licensed person and according to the tenor of and as authorised by his licence. Any person offending against this subsection shall for the first offence be liable to a penalty of not less than Five Pounds, and for the second and every subsequent offence not less than Ten Pounds, and for the third and every subsequent offence to be imprisoned for a term of not longer than four weeks.

40. Section 136 is amended by inserting after the word “licence,” in the third line thereof, the words “or otherwise than according to the tenor of and as authorised by the licence of the person charged.”

Amendment of section 136—
Justices may determine what is retailing.

41. Section 142 is amended so as to read as follows:—

142. (1) Any licensed person, or any person in the employ of a licensed person, who sells or supplies, or permits to be sold

Amendment of section 142—

Liquor not to be supplied to person under twenty-one years of age.
OR

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or supplied, any liquor to any person under the age of twenty-one years, shall be liable to a penalty of not less than Five Pounds and not more than Twenty Pounds.

(2) It shall be a defence in any proceedings for an offence under this section to prove that the person charged had reasonable cause to believe that the person to whom the liquor was sold or supplied was not under the age of twenty-one years, provided that he was not under the age of eighteen years.

Amendment of
section 153.

42. Section 153 is amended by inserting the words "or sister" after the word "stepdaughter" in the second line of subsection (2) thereof.

Amendment of
section 154.

43. Section 154 is amended by inserting the word "sister" after the word "wife" in the first line thereof.

Amendments of
section 155—
Presumption in
certain cases.

44. (1) Subsections (4) and (5) of section 155 of the principal Act are hereby repealed, and the following subsection is hereby enacted and substituted in lieu thereof:—

(4) If in any proceedings for an alleged offence against this section it is proved to the satisfaction of the Special Magistrate or Justices hearing the case that, during any day or time during which the sale of liquor is prohibited by law (except during the time for clearing bar-rooms permitted by section 155A)—

(a) any door or other entrance or means of any kind by which admission could be gained, whether from outside or inside the licensed premises, to—

i. any bar-room on the licensed premises, or

ii. any place on such premises where liquor is kept for sale or is stored, or

any aperture or other means of any kind through or by which any liquor could be delivered or obtained from any such bar-room or place, was open or unlocked, or

(b) any person other than the licensee or his servant was in any such bar-room or place, or

(c) any light was in any such bar-room or place,

the licensee shall, unless he proves to the satisfaction of the Magistrate or Justices, that the act or thing proved as aforesaid was done or existed solely for the purpose of supplying liquor to some excepted person, and not for a longer time than was necessary for supplying such liquor to such person, be found guilty of such offence.

(2) Subsection (6) of section 155 is repealed.

45. After

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45. After section 155 the following section, numbered 155A, is inserted:—

155A. (1) During any day or time during which the sale of liquor is prohibited by law—

(a) no door or other entrance or means of any kind by which admission can be gained, whether from outside or inside any licensed premises, to—

- i. any bar-room on such licensed premises, or
- ii. any place in such premises where liquor is kept for sale or is stored, and

(b) no aperture or other means of any kind through or by which any liquor can be delivered or obtained from any bar-room on any licensed premises, or from any place on such premises where liquor is kept for sale or is stored,

shall be open or unlocked, except for the purpose of supplying liquor to some excepted person and for such time only as is necessary for supplying such liquor to such person, the onus of proving which exception shall be upon the defendant.

(2) Any licensed person on whose premises any contravention of this section occurs shall be liable to a penalty for the first offence of not less than Five Pounds and not more than Ten Pounds, and for every subsequent offence of not less than Ten Pounds and not more than Twenty Pounds.

Penalty.

(3) Notwithstanding anything in this Act a licensee is hereby permitted to keep his bar-room open for ten minutes immediately after the closing time on any day solely for the purposes of clearing such bar-rooms of the persons who are therein at such closing time and of adjusting the goods and furniture therein: Provided that if on any day any liquor is sold or supplied or consumed in any such bar-room after such closing time, the permission granted by this subsection shall not apply on that day; and if any licensee is convicted of any offence against section 155 or this section, the convicting Magistrate or Justices may, in addition to any penalty imposed for such offence, declare that this subsection shall, for such time as is declared by such Magistrate or Justices, not apply in favor of such licensee, and thereafter it shall not apply accordingly.

(4) The offence mentioned in subsection (2) hereof is hereby added to the list of offences in section 210 for which a licence may be forfeited.

46. (1) Subsection (1) of section 164 is amended by inserting after the word "law" in the fourth line thereof the following passage:—

or, during any such day or time, is present in any bar-room on any licensed premises, or in any such place as mentioned in subsection (4) of section 155,

Amendment of section 164—

Penalty for being in bar-room during prohibited time.

(2) Section

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(2) Section 164 is amended by inserting the following new subsection after subsection (1) thereof:—

(1a) Any person, other than an excepted person, who during any day or time during which the sale of liquor is prohibited by law is present in any room or other part of any licensed premises, which room or part adjoins any bar-room on such premises or any place therein where liquor is kept for sale or is stored, and has any door or other entrance or means of any kind by which admission can be gained to such bar-room or place, or which has any aperture or other means of any kind through or by which any liquor can be delivered or obtained from such bar-room or place, such door, entrance, means, or aperture being at the time open or unlocked, shall be liable for a first offence to a penalty of not less than Five Pounds, and for every subsequent offence to a penalty of not less than Ten Pounds, unless he satisfies the Special Magistrate or Justices that his presence in such room or part was not for the purpose of purchasing or obtaining, or attempting to purchase or obtain, liquor.

Penalty for being on licensed premises during certain times.

(3) Subsection (2) of section 164 is amended by substituting for the passage “any day or time during which the sale of liquor is prohibited by law shall be liable for every such offence,” the following passage:—

any Sunday or Good Friday, or at any time on any Christmas Day after the hour of two o'clock in the afternoon, or at any time on any other day except between the hours of five o'clock in the morning and eleven o'clock at night, shall be liable.

Repeal of section 4 of Act 1030 of 1910, and amendments of section 168—

47. (1) Section 4 of the Licensing Act Amendment Act, 1910, is repealed, and in lieu of the provisions thereof the following subsections are hereby enacted and inserted in section 168 of the principal Act:—

Liability of licensee when person on premises during certain times.

Cf. 970, 1908, s. 168 (4).

(4) Any licensee on whose licensed premises any person is found, or out of whose licensed premises any person is seen coming, during any Sunday or Good Friday, or at any time on any Christmas Day after the hour of two o'clock in the afternoon, or at any time on any other day except between the hours of five o'clock in the morning and eleven o'clock at night, shall be liable to a penalty of not less than Two Pounds nor more than Ten Pounds, unless he proves, to the satisfaction of the Special Magistrate or Justices hearing the case, that such person—

(a) was not on such premises for any purpose (whether the sole purpose or not) contrary to the provisions of this Act; or

(b) was on such premises contrary to the will of the licensee, or, if the licensee was not at the time on such

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such premises, contrary to the will of the person at such time in charge thereof, and that the licensee or the person in charge (as the case may be) took all reasonable steps to prevent such person from entering such premises and to remove him therefrom ; or

- (c) was on such premises without the knowledge of the licensee, or, if the licensee was not at the time on such premises, without the knowledge of the person at such time in charge thereof, and that the licensee or the person in charge (as the case may be) exercised all practicable diligence to prevent such person from entering or being on such premises.

(4a) Any licensee upon whose licensed premises any person is found, or out of whose licensed premises any person is seen coming, on any other day than Sunday, Good Friday, or Christmas day, between the hours of six o'clock in the evening and eleven o'clock at night, shall be liable to a penalty of not less than Two Pounds and not more than Ten Pounds, if it is proved to the satisfaction of the Special Magistrate or Justices hearing the case, that such person was in such premises for any purpose (whether the sole purpose or not) contrary to the provisions of this Act, and with the knowledge of the licensee or the person in charge of the premises, unless it is proved to the satisfaction of such Magistrate or Justices that he was on the premises against the will of the licensee or person in charge. Cf. 1030, 1910, s. 4.

(2) Subsection (5) of section 168 is amended by substituting for the words "not be deemed a lawful purpose," in the fourth line thereof, the words "be deemed a purpose contrary to the provisions of this Act."

(3) No conviction prior to the passing of the Licensing Act Amendment Act, 1910, under subsection (4) of section 168 shall be deemed to be a conviction within the meaning and for the purposes of section 70 ; and any Special Magistrate shall, on the application of the licensee upon whose licence such a conviction prior to the passing of the said Act has been endorsed, remove the endorsement thereof. Cf. *ibid.*

48. Section 176 is amended so as to read as follows :—

176. (1) Any Inspector or any member of the Police Force who has reason to believe that any liquor is being or has been sold, contrary to the provisions of this Act, in any house or place not being licensed premises, or in any licensed premises otherwise than is authorised by the licence granted in respect thereof, may at any time by day or night, with such (if any) assistants as he considers necessary,—

- (a) enter and search such house, place, or premises, and every part thereof in which he suspects that such liquor is sold or may be found ;
- (b) if

Amendment of section 176—

Power to search premises where sale of liquor suspected.

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(b) if necessary break open the doors or other means of access to such house, place, or premises, and every such part thereof, and any vessels suspected to contain liquor; and

(c) seize all such liquor as he finds in such house, place, or premises, and the vessels containing such liquor.

(2) The Inspector or member of the Police Force who effects a seizure pursuant to this section may detain the liquor and vessels seized until the owner thereof attends before a Special Magistrate or two Justices to claim them, and satisfies such Magistrate or Justices how and for what purpose he became possessed thereof; and if the owner does not so attend within seven days after the day of the seizure, or if he does so attend and it appears to the Magistrate or Justices, after examination, that such liquor was in the house, place, or premises for the purposes of being illegally disposed of, then such Magistrate or Justices shall adjudge such liquor, and the vessels containing it, to be confiscated to the Crown, whereupon the same shall be absolutely confiscated to and become the property of the Crown; otherwise such liquor and vessels shall be restored to the person from whom they were seized.

Amendment of section 178—

Time for presentation of local option petition.

49. Section 178 is amended—

(a) by striking out the words “within six calendar months of the day of” in subsection (1), and inserting in lieu thereof the words “at any time prior to the date of the issue of the writ for”; and

(b) by adding the following sentence at the end of the said subsection:—“The writ referred to in this subsection is the writ for the House of Assembly election to be held, at the said general election, in the Electoral District which constitutes the Local Option District, or in which the Local Option District is situate.”

Amendments of sections 179 and 180—

Petition referred to the Returning Officer for the State.

50. (1) Section 179 is amended—

(a) by striking out the words “Electoral District for the House of Assembly which constitutes the Local Option District, or in which the Local Option District is situate (in this Division of this Part called ‘the Returning Officer’),” and inserting the word “State” in lieu thereof; and

(b) by inserting the word “said” before the words “Returning Officer,” in the eighth line thereof.

(2) Section 180 is amended—

(a) by inserting after the words “Returning Officer” in the fourth line the words “for the Electoral District for the House of Assembly which constitutes the Local Option District,

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District, or in which the Local Option District is situated (which Returning Officer is hereafter in this Division of this Part called 'the Returning Officer'); and

(b) by striking out the words "Returning Officer's certificate" in subsection (2), and inserting in lieu thereof the words "certificate of the Returning Officer for the State."

51. Section 181 is amended by striking out everything after the word "district" in the third line thereof. Amendment of section 181.

52. From the commencement of this Act the paragraph marked "(a)" in subsection (2) of section 195 shall be paragraph (b), the paragraph in the said subsection marked "(b)" shall be paragraph (c), and the paragraph in the said subsection marked "(c)" shall be paragraph (a). Amendment of section 195—
Classification of premises for purposes of reducing licences.

53. Form 9 in Schedule B to the principal Act is amended by substituting the word "eight" for the word "ten" in the provision as to the time during which tables may be used. Amendment of Schedule B—
Billiard table licences.

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ADDITIONAL AND GENERAL PROVISIONS.

54. (1) Notwithstanding anything in this Act or in the principal Act, no person shall be disqualified to be a member of a Licensing Court, or of a Special Bench, or shall be held to have been disqualified to be a member of a Licensing Bench, or to adjudicate on the hearing of any information, complaint, appeal, or matter under the principal Act, or any Act thereby repealed, merely by being a member of a club, or of the committee of management of a club, which is registered under the principal Act or was licensed under any Act thereby repealed, or as to which an application for registration or a licence has or had been made. Membership of a club not of itself to disqualify for Licensing Court.

(2) For the purposes of this section it shall make no difference that the club is or was the owner of the premises in respect of which the club is or was registered or licensed, or in respect of which an application for registration or for a licence has or had been made. No difference if club owns registered premises.

(3) Notwithstanding anything in this section no member of a club shall be qualified— Club member not to adjudicate when club interested.

- I. to act as a member of the Licensing Court when an application for the registration of such club, or any application in respect of the registration of such club is heard, inquired into, or determined by the Court;
- II. to be a member of any Special Bench constituted for the purpose of effecting a reduction of the number of licences in the Local Option District in which the premises

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premises in respect of which such club is registered are situated: Provided that this subdivision of this subsection shall not apply unless the number of registrations of such clubs in such Local Option District is to be reduced; or

- III. to adjudicate on the hearing of any information, complaint, appeal, or matter in which such club is interested or concerned, or relating to anything alleged to have been done or omitted to be done on the premises of such club.

Licensee not to be under 21 years of age.

55. After the commencement of this Act no licence of any class shall be granted to any person who is under the age of twenty-one years, unless such person is a licensee at the time of such commencement.

Forfeiture of licence at quarterly meeting of the Court.

56. (1) An inspector may apply to the Licensing Court to forfeit any licence on the ground that the management of the licensed premises has not been satisfactory.

(2) The Court may hear and inquire into the application at any quarterly meeting for the district wherein the licensed premises are situate: Provided that notice in writing, stating the particulars in which it is alleged that the management of the premises has not been satisfactory, and signed by the applicant, has been delivered to the Clerk of the Court (or if there is a clerk of the Court for such district, to such clerk) and to the licensee, at least fourteen days before the day fixed for such meeting.

(3) If the Court is satisfied that the management of the premises has not been satisfactory, and is of opinion that the licence should be forfeited, the Court shall, by an order signed by the President or by the clerk, declare such licence to be forfeited, and such licence shall thereupon cease to be of any force or effect.

Tied house.

Queensland, 29,
1912, s. 69.

57. (1) It shall not be lawful for any licensed person to give, or for any person to take, any security or charge for the payment of money over the lease, licence, goodwill, interest, or other property of the licensee, in or in connection with the licensed premises, without the consent of the Licensing Court.

(2) As a condition precedent to the giving of any such consent, the Court may require to be satisfied that the terms and conditions of the security or charge, or any collateral agreement between the same parties relating to the licensed premises, are fair and reasonable.

No such term or condition shall be deemed to be fair and reasonable unless it is stipulated—

- I. that the prices to be charged to the borrower for any such liquor shall be fair and reasonable;
- II. that the borrower shall not be restricted in the purchase of any liquor to any particular brand, kind, class, or quality; and
- III. that

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III. that the borrower shall, at any time, be at liberty to discharge the whole of his liability to the person to whom he is bound.

(3) This section shall be construed to extend to every document, agreement, condition, proviso, or stipulation, operating as a security or charge for the payment of money contained in any instrument or agreement for lease of the licensed premises hereafter executed, but not to any document, agreement, condition, proviso, or stipulation which merely extends a security or charge for the payment of money already lent, and not for any further advance.

(4) In any proceedings for obtaining the consent of the Court under this section, any Inspector shall have the right to lodge any objection and to appear before the Court and be heard.

58. An application for the consent of the Court under section 57 of this Act may be made, in manner prescribed by regulation, at any annual or quarterly meeting of the Court, or at such other time and place as are fixed and notified by the Court in manner so prescribed.

Time for application as to tied houses.

59. Any aboriginal native of Australia, or any half-caste of that race, who is found drinking liquor, or to have been drinking liquor or in possession of liquor, shall for every such offence be liable to a penalty of not more than Ten Pounds, or to be imprisoned for a first offence for a term not exceeding seven days, and for any subsequent offence for a term not exceeding four weeks.

Liquor not to be consumed or possessed by an aboriginal.

60. (1) Any person, whether a licensed person or not, who supplies liquor in any quantity to any person knowing, or having reason to know, that such liquor, or any part thereof, is intended to be sold or supplied contrary to any provision of the principal Act or any amendment thereof, shall be liable to a penalty for the first offence of not more than Twenty-five Pounds, and for any subsequent offence of not more than One Hundred Pounds.

Penalty for supplying liquor to be illegally disposed of.

(2) In any proceedings for an offence under this section the facts—

(a) that liquor in a quantity exceeding five imperial gallons was supplied, in one lot at one time, or in separate lots at different times within a period of one month, to any person, and

(b) that such person has been convicted of an offence under section 133 or 134 committed within one month after the supplying of such liquor, or any of it,

shall be *prima facie* evidence that such liquor was, when supplied, intended to be sold or supplied contrary to a provision of the principal Act or an amendment thereof; and if those facts are proved to the satisfaction of the Special Magistrate or Justices hearing the information or complaint, the onus shall be on the defendant

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defendant to prove that he did not know, and had no reason to know, that such liquor was intended to be sold or supplied as last mentioned.

Cancellation of barmaid's registration.

61. (1) The Licensing Court may, at any annual or quarterly meeting, on the application of any Inspector, cancel the registration of a barmaid who is proved, to the satisfaction of the Court, to have been convicted of any indictable offence, or to have been convicted twice of offences against the Police Act or any amendment thereof, or against the principal Act or any amendment thereof, or to be a person of bad fame or character.

(2) No such application shall be heard by the Court unless notice in writing, stating the ground of the application, has been delivered to the Clerk of the Court (or, if there is a Clerk of the Court for the District wherein the barmaid is registered, then to such clerk), and also to the barmaid, at least fourteen clear days before the day fixed for the meeting of the Court at which the application is to be heard.

(3) If the Court is satisfied that the ground of the application is proved, the Court may, by an order signed by the President or the clerk, declare the barmaid's registration to be cancelled, and thereupon her registration as a barmaid in every District in which she is so registered shall cease to have any force or effect, and she shall deliver up to the clerk all certificates of registration as a barmaid held by her.

Right to use billiard tables and sell non-intoxicating refreshments preserved.

62. (1) Nothing in the Licensing Act Further Amendment Act, 1915, or in the principal Act or any other amendment thereof, shall be held to make it unlawful for a licensee (being the holder of a billiard table licence) to permit any billiard, bagatelle, or billiard-bagatelle table to be used between the hours of six o'clock in the evening and eleven o'clock at night, on any day upon which his said licence authorises him to allow the same to be used, provided that such table is not in any such bar-room or place as mentioned in section 155A (as enacted by this Act).

(2) Nothing in any of the said Acts shall be held to make it unlawful for a licensee to sell or supply or permit to be consumed, on his licensed premises, or for any person to purchase or obtain or to consume on any licensed premises, refreshments or drinks other than liquor, between the hours of six o'clock in the evening and eleven o'clock at night, provided that such refreshments or drinks are not supplied in or from, and are not obtained or consumed in, any such bar-room or place as mentioned in section 155A (as enacted by this Act).

Persons not to be in billiard rooms in prohibited hours.

63. (1) No holder of a billiard table licence, the holder of which is not also the holder of a publican's licence, shall permit or suffer any person who is not a member of the family, or a servant, of such holder, dwelling on his licensed premises, to be or to remain upon his licensed premises at any time when it is not lawful for the licensee to permit or allow the billiard, bagatelle, or billiard-bagatelle tables upon such premises to be used.

(2) Any

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(2) Any licensed person who is guilty of any contravention of this section, and any person who is, during any such time as aforesaid, upon any such licensed premises shall be liable to a penalty not exceeding Twenty Pounds.

(3) In any proceedings for an offence against this section, the presence of any person upon any such licensed premises, at any such time as aforesaid, shall be *prima facie* evidence that the licensee permitted or suffered such person to be upon such premises at such time.

64. (1) (a) Any person (except the occupier or any member of his family dwelling on the premises or any of his servants) who, during any day or time during which the sale of liquor is prohibited by law, drinks liquor in any unlicensed premises (as defined by this section) shall for every such offence be liable to a penalty for the first offence of not more than Five Pounds, and for any subsequent offence of not more than Ten Pounds:

Penalty for drinking on unlicensed premises during prohibited hours.
Cf. Vic., 2584, 1916, s. 5.

(b) Any person who permits or allows any liquor to be drunk (except by any of the persons excepted as aforesaid) on his unlicensed premises (as defined by this section), during any such day or time as aforesaid, shall be liable to a penalty for the first offence of not less than Five Pounds and not more than Twenty Pounds, and for every subsequent offence of not less than Ten Pounds and not more than Fifty Pounds.

(2) For the purposes of enforcing the provisions of this section any Inspector or any such officer or constable as referred to in section 175 may, at any time during any day or time during which the sale of liquor is prohibited by law, demand entrance into any unlicensed premises or the appurtenances thereof, and if admittance is delayed for such time that it may reasonably be inferred that wilful delay was intended, the occupier of the premises shall be liable to a penalty of not less than Five Pounds and not more than Twenty Pounds; and if such admittance is delayed as aforesaid such Inspector, officer, or constable may break into and enter such premises and any part thereof in which he suspects that an offence against this section is being or has been committed.

(3) In this section "unlicensed premises" means any premises where meals or refreshments are ordinarily sold or disposed of to the public for consumption on the premises, and, without affecting the generality of this definition, includes any café, restaurant, oyster saloon, or other eating-house, not being licensed premises, and any premises which the occupier of such unlicensed premises is permitted to use or uses for the purposes of or in connection with his business.

(4) Nothing

(4) Nothing in this section shall make lawful anything which would have been a contravention of any of the provisions of the principal Act or any amendment thereof if this Act had not been passed.

Exemption of certain Clubs.

65. The provisions of the principal Act or any amendments thereof (other than sections 83 to 103), shall not apply to any club established before the first day of January, nineteen hundred, which at the time of the passing of this Act was used *bona fide* for residential purposes and had no bar-room on the club premises.

Permits to supply liquor with meals between 6 and 8 p.m.

66. (1) Notwithstanding anything contained in the principal Act or any amendment thereof, the Minister may, in the exercise of his discretion, by writing signed by him, grant permission for such liquor as mentioned in subsection (5) hereof to be sold and supplied and consumed in the licensed premises specified in such writing, or to be consumed in the unlicensed premises (as defined by subsection (3) of section 64 of this Act) specified in such writing, between the hours of six o'clock and eight o'clock in the evening, on all days except Sundays, Good Fridays, and Christmas Days, provided that the liquor is consumed only by persons taking *bona fide* meals therein between those hours and with such meals, and is not supplied or consumed in any bar-room, or in any such place as mentioned in section 155A.

(2) For the purposes of section 155 and for the purposes of section 164, persons taking *bona fide* meals in the premises specified in a permission granted under this section shall, between the hours of six o'clock and eight o'clock in the evening, on all days except as aforesaid, be excepted persons in the premises so specified, but only in so far as is necessary to make the permission effective.

(3) Except to the extent by this section expressly provided nothing in this section or in any permission granted hereunder shall authorise or excuse the doing or omission of anything contrary in any way to any provision of the principal Act or any amendment thereof.

(4) If the Minister considers that any permission granted under this section has been abused in any way, or to any extent, he may, in the exercise of his absolute and uncontrolled discretion, by writing signed by him and published in the *Gazette*, cancel such permission either permanently or for the period of time specified in such writing, and, from the date of the publication in manner aforesaid of such writing, such permission shall have no effect whatever, permanently or for the time so specified, according to the tenor of such writing.

(5) The only liquors to which this section applies are dry wines and cider manufactured in the Commonwealth of Australia, containing, in the case of wine, not more than twenty-five per centum of proof spirit, and in the case of cider, not more than twelve per centum of proof spirit.

67. Notwithstanding

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67. Notwithstanding anything contained in the Licensing Act Further Amendment Act, 1915, or in the principal Act or any other amendment thereof, permission for the consumption of liquor, in premises in respect of which a publican's licence is for the time being in force, or in unlicensed premises as defined by subsection (3) of section 64 of this Act, may be granted in manner hereinafter provided and subject to the conditions hereinafter set forth, namely—

Limited permits to supply liquor on special occasions until eleven o'clock.

- (a) The permission shall be granted only in respect of one night and shall be in force only until eleven o'clock, or such earlier time as is specified therein, on that night:
- (b) The permission shall be granted only for the occasion of a dinner, banquet, social gathering, or other similar engagement of a *bonâ fide* club, association, or society, or public body:
- (c) Permission shall not be granted for any engagement of any club, association, or society, or public body if permission has been granted for any engagement thereof which took place within the six months immediately preceding the first-mentioned engagement:
- (d) The application shall be made by writing in the form in the Second Schedule to this Act, signed by the licensee, or, in the case of unlicensed premises, by the occupier thereof, and by the president, chairman, secretary, or treasurer of the club, association, or society, or public body:
- (e) A copy of the application shall be delivered to the officer in charge of the police station nearest to the premises not less than twenty-four hours before the hearing of the application:
- (f) The application shall be made to a Special Magistrate, or to two Justices living within ten miles of the premises:
- (g) The Magistrate or Justices, upon hearing the application and anything stated in support thereof or in opposition thereto by any Inspector or any member of the Police Force, may grant or refuse the permission, entirely at his or their own discretion:
- (h) Any permission granted under this section shall be by writing in the form of the Third Schedule to this Act:
- (i) Liquor may be consumed under a permission granted under this section only by persons present at and taking part in the dinner, banquet, social gathering, or engagement, and only in such room or rooms or other portion or portions of the premises as are specified in the permission, and no bar-room or place as mentioned in section 155A (as enacted by this Act), shall be so specified:

(j) For

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(j) For the purposes of section 155 (but only so far as that section applies to permitting liquor to be consumed) and for the purposes of section 164, the persons mentioned in paragraph (i) hereof, shall, for the time for which the permission is granted, but only in so far as is necessary to make the permission effective, be deemed to be excepted persons:

(k) Except to the extent by this section expressly provided, nothing in this section or in any permission granted hereunder shall authorise or excuse the doing or omission of anything contrary in any way to any provision of the principal Act or any amendment thereof.

Register of Lodgers to be kept, and to be evidence.

68. (1) The holder of any publican's licence shall keep on his licensed premises a book to be called the "Register of Lodgers."

(2) In the said book such holder shall every day, enter, or cause to be entered, the name of every *bonâ fide* lodger (as defined by section 159) in such premises on the night of such day, showing clearly opposite the name of each lodger the distinguishing number or description of the room in such premises occupied by him on such night. This subsection shall apply in respect of regular as well as casual lodgers.

(3) The Register of Lodgers kept on any licensed premises shall be open to inspection at any time, upon demand, by any Inspector or any member of the Police Force.

(4) The fact that any person is found on any licensed premises during any day or time during which the sale of liquor is prohibited by law shall, unless his name appears, as required by subsection (2) hereof, in the Register of Lodgers kept on such premises, together with the distinguishing number or description of the room in such premises occupied by him on the night immediately preceding the day or night when he is so found, be conclusive evidence as against the holder of the licence, and *primâ facie* evidence as against such person, in any proceedings under the principal Act or any amendment thereof, that such person was not a *bonâ fide* lodger in such premises when he was so found.

Regulations.

69. (1) The Governor may make all such regulations as may be necessary or convenient for carrying out and giving effect to any of the provisions and objects of this Act.

(2) The provisions of sections 231 and 232 shall apply to all regulations made under the power conferred by this section.

Right to surrender lease granted before 27th March, 1915.

70. If any premises with respect to which a licence exists at the time of the commencement of this Act is in the occupation of some person other than the owner of the same under or by virtue of a lease or agreement of tenancy granted or entered into before the twenty-seventh day of March, nineteen hundred and fifteen, such person, subject

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subject to his obtaining the consent of any mortgagee of, or any other person having any charge or encumbrance on such lease or agreement may, at any time within the period of twelve months from such commencement, give to the lessor or landlord of the said premises, as the case may be, written notice of his intention to surrender such lease or agreement of tenancy at the expiration of fourteen days from the giving of such notice, and the lessor or landlord, as the case may be, shall, at the cost of the lessee or tenant, execute all documents and do all things necessary to give effect to such surrender: Provided that if such person is a sub-lessee or subtenant he shall give his said notice not later than six months prior to the expiration of the said period of twelve months.

PART VI.

PART VI.

ADJUSTMENT OF RENTS CONSEQUENT ON EARLIER CLOSING OF LICENSED PREMISES.

71. In this Part—

Interpretation.

“ Lessee ” includes any person in the occupation of premises under or by virtue of a lease or agreement of tenancy (in writing or otherwise), and also includes a lessee who has sublet the premises ; and the term “ lease ” has a corresponding meaning :

“ President ” means President of the Industrial Court.

72. A lessee of any licensed premises may, within two months after the commencement of this Act, or within such further time, not exceeding six months after such commencement, as the President may allow, give to the owner of such premises notice in writing that, by reason of his pecuniary loss consequent on the operation of the Licensing Act Further Amendment Act, 1915, he desires that the amount of the rent payable under any lease, existing at the commencement of the said Act, under which such lessee holds the said premises, or relating thereto, shall be adjusted as from the commencement of the said Act.

Notice to owner of
desire to adjust
rents.

73. (1) If the said lessee (having given notice under section 72 of this Act) and the said owner do not, within one month after the giving of the said notice, agree as to the adjustment to be made, the said lessee may, within two months after the giving of the said notice, or within such further time as the President may allow, make application in writing to the President to adjust the amount of the rent payable as mentioned in the said section 72 ; and if he makes such application he shall, within seven days, or within such further time as the President may allow, after so doing, serve on the said owner notice in writing that such application has been made.

Application to
President if rent
not adjusted by
agreement.

(2) Within

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(2) Within seven days, or within such further time as the President may allow, after receiving the last mentioned notice the said owner shall serve on every other person who is, within the meaning of the principal Act, an owner of the said licensed premises, a copy of such notice.

Place and time of inquiry.

74. (1) The President shall appoint a place, day, and hour, at which he will sit for the purposes of the inquiry. At least seven days' notice of such sitting shall be given to all parties of the intention of the President to so sit.

Evidence and counsel.

(2) At the inquiry any party shall be entitled to adduce such evidence as he may desire, and may be heard by counsel.

President to adjust rents.

75. The President shall entertain, inquire into, hear, and determine the matter of the application, and in his determination shall make such adjustment (if any) of the amount of rent payable as mentioned in section 72 of this Act as in his opinion, having regard to all the circumstances, is fair and equitable in consequence of the operation of the Licensing Act Further Amendment Act, 1915.

Where owner himself tenant of another person.

76. (1) Notwithstanding anything in any Act or in any lease or agreement made or entered into prior to the twenty-seventh day of March, nineteen hundred and fifteen, where, as the result of any adjustment under this Part, the amount of any rent payable as mentioned in section 72 of this Act to an owner is reduced, and the said owner is himself a lessee of another person who is, within the meaning of the principal Act, an owner of the licensed premises, the amount of the rent payable by the first mentioned owner to such other person shall be reduced by such an amount as, in default of agreement between the said first mentioned owner and such other person, the President determines to be fair and equitable.

(2) If upon receipt of the notice, or a copy of the notice, provided for by section 73 of this Act, such first mentioned owner desires to apply for a reduction under this section of the rent payable by him in respect of the said premises, he shall within seven days after the receipt of such notice or copy, or within such further time as the President may allow—

- I. make application in writing to the President for that purpose; and
- II. serve notice in writing that such application has been made on any person from whom he desires to claim such reduction,

and, subject to this Part, the President may make a determination reducing or otherwise adjusting the said rent accordingly.

All matters as to same premises to be determined at one time.

77. The President shall, as far as practicable, determine all matters under this Part relating to the same licensed premises at the one time, and may make all such (if any) adjustments of rents between all persons interested as, in his opinion, are fair and equitable in consequence of the operation of the Licensing Act Further Amendment Act, 1915.

78. The

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78. The President may award costs to or against any of the parties to any proceedings before him under this Part, and the amount of any costs so awarded may be recovered as a debt in any Court of competent jurisdiction.

Costs of applications.

79. (1) Every determination of the President under this Part shall be binding and conclusive upon the parties to the matter, including every person served with the notice or a copy of the notice of the application, and shall not be removable to any Court by *certiorari* or otherwise; and no determination or award or proceeding of any kind of the President under this Part shall be challenged, appealed against, reviewed, quashed, or called in question, in any court or tribunal on any account whatever other than excess or want of jurisdiction.

Effect of determination of President.

(2) The amount of the rent, as adjusted or reduced by the President, shall, notwithstanding anything in any lease or agreement made or entered into prior to the twenty-seventh day of March, nineteen hundred and fifteen, be the amount of the rent payable under the said lease or agreement, as from the commencement of the Licensing Act Further Amendment Act, 1915, until the said lease or agreement ceases to operate.

(3) Any provision, covenant, clause, condition, or other stipulation, in any conveyance, settlement, contract, transfer, mortgage, power of attorney, underlease, assignment, lease, sublease, agreement, or document whatsoever, whether under seal or not, made or entered into prior to the twenty-seventh day of March, nineteen hundred and fifteen, which directly or indirectly negatives or excludes, or purports to negative or exclude, or can be construed as negating or excluding or affecting, the provisions of this section or any other provision of this Part, shall be absolutely void.

80. Where any person has actually paid any rent, with respect to any period after the commencement of the Licensing Act Further Amendment Act, 1915, in excess of the amount of rent determined by the President under this Part to be payable, or to have been payable, in respect of such period by such person, the amount of such excess shall be a debt due to that person from the person to whom the same was paid and may be recovered in any Court of competent jurisdiction.

Recovery of excess rent actually paid.

81. A notice, or a copy of a notice, under section 72, 73, or 76 of this Act, may be served personally, or by post by letter addressed to the last known address of the person upon whom the notice or copy is required to be served; and if any person directed by or pursuant to this Part to serve such notice or copy is unable to ascertain such address, or if the person required to be served is out of the State, service may be made as aforesaid upon his authorised agent or upon such other person, on behalf of the person required to be served, as the Board directs.

Service of notices.

82. For

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Trustees empowered to agree to adjustment.

82. For the purposes of this Part, all persons (whether trustees or not) are hereby authorised, notwithstanding anything to the contrary in any Act or instrument, to enter into an agreement to adjust or reduce, pursuant to this Part, the amount of rent payable by any lessee in respect of any licensed premises.

Supplementary powers and duties of President.

83. For the purpose of any proceeding or matter under this Part, the President—

- (a) shall be satisfied that any notice required has been duly served;
- (b) in the event of the non-appearance of any party, may proceed with and determine the matter in his absence; and
- (c) may make such orders as to procedure (including orders to prevent undue multiplicity of proceedings) as he thinks necessary.

Powers of the President as to parties, witnesses, evidence, &c.

84. For the purposes of any matter under this Part, the President shall have, with respect to parties, and to the summoning and attendance of witnesses and other persons, the examination of witnesses upon oath or affirmation, and the allowance of fees and expenses to witnesses, and with respect to the admission of evidence and procedure generally, all the powers and discretions which he would have and might exercise in the exercise of his jurisdiction under the Industrial Arbitration Act, 1912.

No. 1110 of 1912.

As to railway refreshment room leases.

85. This Part shall apply, with any necessary modifications, to leases of refreshment rooms under the Railway Refreshment Rooms Act, 1887, and to the South Australian Railways Commissioner as the lessor of such rooms, and to the lessees thereof.

No. 398 of 1887.

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

H. L. GALWAY, Governor.

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SCHEDULES.

THE FIRST SCHEDULE.

[*Schedule N to the Principal Act.*]

FORM OF CERTIFICATE OF REMOVAL TO OTHER PREMISES.

Sec. 30.

The Licensing Act, 1908.

I, A.B., Clerk to the Licensing Court (*or clerk to the Licensing Court for the Licensing District of* _____), do hereby certify that on the _____ day of _____, 19____, the _____ licence held by C.D., in respect of the house and premises called or known as _____, situated at _____, in the State of South Australia, was removed by the said Court to the house and premises called or known (*or to be called or known*) as _____ situated at _____ in the said State. From the day of the issue hereof by the Treasurer the said licence shall cease to apply in respect of the house and premises firstly hereinbefore mentioned, and shall apply in respect of the house and premises secondly hereinbefore mentioned and the appurtenances to such house and premises, but not in respect of any other place.

Given under my hand, at _____, this _____ day of _____, 19____.

A.B., Clerk to the Licensing Court.

Issued the _____ day of _____, 19____. [*or as the case may be.*]

E.F., Treasurer.

THE SECOND SCHEDULE.

APPLICATION FOR PERMISSION TO SELL LIQUOR AFTER SIX O'CLOCK ON SPECIAL OCCASION. Sec. 67.

The Licensing Acts, 1908 to 1915.

I, C.D., being the holder of a publican's licence in respect of the licensed premises situate at _____, and known as _____ (*or being the occupier of the unlicensed premises situate at _____, and known as _____*), hereby apply for permission for liquor to be consumed on the _____ day of _____, 19____, until the hour of _____ o'clock, on the occasion of a dinner [*or as the case may be*] to be held by the _____ Club [*or as the case may be*] at the said premises, by persons present at and taking part in the said dinner [*or as the case may be*], but by no other persons, the liquor to be consumed in [*describe room or rooms or other part or parts of the premises*], and not elsewhere, on the said occasion.

Dated this _____ day of _____, 19____.

C.D.

THE THIRD SCHEDULE.

PERMISSION TO SELL LIQUOR AFTER SIX O'CLOCK ON SPECIAL OCCASION. Sec. 67.

The Licensing Acts, 1908 to 1915.

I (*or we*), [*full name or names*], the undersigned Special Magistrate (*or Justices of the Peace for the State of South Australia residing within ten miles of the premises hereinafter mentioned*), do hereby grant permission for C.D.,

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now holding a publican's licence in respect of the licensed premises situate at _____, and known as _____ (or being the occupier of the unlicensed premises situate at _____, and known as _____) to permit the consumption of liquor on the _____ day of _____ 19 _____, until the hour of _____ o'clock, on the occasion of a dinner [*or as the case may be*] to be held by the _____ Club [*or as the case may be*] at the said premises, by persons present at and taking part in the said dinner [*or as the case may be*], but by no other persons. Such liquor may be consumed in [*describe room or rooms or other part or parts of the premises*], and not elsewhere, on the said occasion.

Dated the _____ day of _____ 19 _____.

S.M.

(or

J.P.

J.P.)