

No. 16 of 1971

An Ordinance to amend the *Licensing Ordinance 1939-1970*

[Assented to 26 March, 1971]

BE it ordained by the Legislative Council for the Northern Territory of Australia as follows:—

1.—(1.) This Ordinance may be cited as the *Licensing Ordinance 1971*. Short title and citation

(2.) The *Licensing Ordinance 1939-1970* is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance as amended by this Ordinance may be cited as the *Licensing Ordinance 1939-1971*.

2. Section 3 of the Principal Ordinance is repealed and the following section inserted in its stead:—

“3. This Ordinance is divided into Parts, as follows:—

Part I.—Preliminary (Sections 1-5).

Part II.—Licensing Districts (Section 6).

Part III.—Licensing Court (Sections 7-10A).

Part IV.—Licences, and the Grant, Renewal, Transfer, Transmission, Removal and Forfeiture thereof.

Division 1.—Licence for Sale of Liquor (Sections 11-13C).

Division 2.—Classes of Licences and Fees (Sections 14-24).

Division 3.—Applications for Licences and Objections (Sections 25-38).

Division 4.—Transfer of Licences (Sections 39-41).

Division 5.—Transmission of Licences (Section 42).

Division 6.—Removal of Licences (Sections 43-45).

Licensing

- Division 7.—Renovation of Premises and Provision of Additional Accommodation and Equipment (Sections 46-48).
- Division 8.—Procedure on Hearing of Applications (Sections 49-56).
- Division 9.—Special Authorities to Sell Liquor (Sections 57-59A).
- Division 10.—Forfeiture of Licences (Sections 60-68).
- Division 11.—General (Sections 69-73).
- Division 12.—Clubs (Sections 73A-96).
- Part V.—Railway Licences (Sections 97-106).
- Part VA.—Airport Liquor Licences (Sections 106A-106H).
- Part VB.—Roadside Inn Licences (Sections 106J-106Q).
- Part VI.—Rights, Duties and Liabilities of Licensees and Others, and Offences (Sections 107-183B).
- Part VII.—Legal Proceedings and Evidence (Sections 184-203).
- Part VIII.—Miscellaneous (Sections 204-205).”.

Definitions**3. Section 5 of the Principal Ordinance is amended—**

(a) by omitting the definition of “bar-room” and inserting in its stead the following definitions:—

“‘bar’ means a liquor bar, and includes an aperture through which liquor is served but does not include—

(a) a bar on the premises of a licensed storekeeper, being a bar from which liquor is sold only in sealed containers and only for consumption elsewhere than on the premises; or

(b) a bar in a dining room;

‘bar-room’ means a room containing a bar, but, in the case where a part of the room is, or is capable of being, separated from the bar in such a manner as to prevent liquor being served across the bar, does not include the part of the room that is so separated while it is so separated;

‘beer garden’ means a garden or open space that is principally a place where the public consume liquor;”;

(b) by inserting after the definition of "Court" the following definition:—

"'dining room' means a room that is principally a dining room and from which liquor is not served except as ancillary to a meal;"

(c) by omitting the definition of "excepted person"; and

(d) by omitting the definition of "sale of liquor is prohibited by law".

4. Section 13 of the Principal Ordinance is amended by inserting after sub-section (5.) the following sub-sections:—

Exceptions to application of Ordinance

"(5A.) A licence shall not be required by the pilot on an aircraft for the sale or supply of liquor to a passenger for consumption in flight.

"(5B.) A licence shall not be required by the catering officer in charge of a dining car on a train for the sale or supply of liquor to a passenger for consumption with a meal in the dining car."

5. Section 15 of the Principal Ordinance is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

Publican's licence

"(1.) A publican's licence shall authorize the person thereby licensed to sell and dispose of any liquor, in any quantity, in the house or on the premises therein specified, in the manner specified in this Ordinance—

(a) at any time to *bona fide* lodgers or boarders in the premises therein specified for consumption in a private part of those premises by those lodgers or boarders or their guests;

(b) at any time between the hours of ten o'clock in the morning on any day and two o'clock in the morning on the day next following to persons taking a meal on the premises in a dining room for consumption as ancillary to the meal;

(c) on any day, other than a Sunday, Good Friday or Christmas Day, between the hours of ten o'clock in the morning and half past eleven o'clock in the evening;

(d) on a Sunday, other than Christmas Day falling on a Sunday, between the hours of twelve o'clock noon and ten o'clock afternoon; and

(e) from ten o'clock in the morning or twelve o'clock noon, as the case may be, on New Year's Eve until midnight and thereafter on New Year's Day until two o'clock in the morning."

Private hotel
licence

6. Section 15A of the Principal Ordinance is amended—

- (a) by omitting from paragraph (a) of sub-section (1.) the words "between the hours of ten o'clock before noon and ten o'clock after noon on any day to lodgers or boarders" and inserting in their stead the words "to *bona fide* lodgers or boarders";
- (b) by omitting from paragraph (b) of sub-section (1.) the words "and half past eleven o'clock after noon on any day" and inserting in their stead the words "on any day and two o'clock in the morning on the day next following"; and
- (c) by omitting from paragraph (b) of sub-section (1.) the word "during" and inserting in its stead the words "as ancillary to".

Storekeeper's
licence

7. Section 16 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1.) the words "in bottles:" and inserting in their stead the words "in bottles on any day, other than a Sunday, Good Friday or Christmas Day, between the hours of ten o'clock in the morning and half past nine o'clock in the evening:";
- (b) by omitting paragraph (a) of the first proviso to sub-section (1.);
- (c) by omitting the second proviso to sub-section (1.);
- (d) by omitting sub-section (1A.); and
- (e) by omitting from sub-section (3.) the words "on a reserve within the meaning of the *Social Welfare Ordinance 1964*" and inserting in their stead the words "not less than fifteen miles by road from the nearest premises in respect of which a publican's licence or a roadside inn licence is held".

Wine licence

- 8.** Section 17 of the Principal Ordinance is amended by omitting from sub-section (1.) the words "or otherwise" and inserting in their stead the words—
"or otherwise—"

- (a) on any day, other than a Sunday, Good Friday or Christmas Day, between the hours of ten o'clock in the morning and half past eleven o'clock in the evening; and
- (b) on a Sunday, other than Christmas Day falling on a Sunday, between the hours of twelve o'clock noon and ten o'clock after noon."

9. Section 19 of the Principal Ordinance is amended by omitting the word "eight" (second occurring) and inserting in its stead the words "half past eleven". Liquor Merchant's licence

10. Section 20A of the Principal Ordinance is amended— Restaurant licence

- (a) by omitting from paragraph (b) of sub-section (1.) the words "as part of" and inserting in their stead the words "as ancillary to";
- (b) by omitting paragraph (c) of sub-section (1.) and inserting in its stead the following paragraph:—
 - "(c) at any time between the hours of half past eleven o'clock before noon on any day and two o'clock in the morning on the day next following,"; and
- (c) by omitting from sub-section (1.) the words "subject to section one hundred and sixty-three A of this Ordinance,".

11. Section 20B of the Principal Ordinance is repealed. Repeal of section 20B

12. Section 52 of the Principal Ordinance is amended by inserting after sub-section (1A.) the following sub-sections:— Discretion of Court as to applications

"(1B.) The Court shall not grant an application for a storekeeper's licence unless it is satisfied that the applicant's principal business as a storekeeper will be the sale of non-alcoholic stores.

"(1C.) The Court shall not grant an application for a renewal of a storekeeper's licence unless it is satisfied that the applicant's principal business as a storekeeper has been and will continue to be the sale of non-alcoholic stores.

"(1D.) For the purposes of the last two preceding sub-sections, the sale of non-alcoholic stores does not cease to be a storekeeper's principal business by reason only of the fact that the storekeeper derives more income from the sale of liquor than from the sale of other stores, but the Court shall have regard to the extent to which the storekeeper derives income from the sale of liquor in determining what is the storekeeper's principal business."

Five days'
certificate

13. Section 57 of the Principal Ordinance is amended—

- (a) by omitting sub-section (4.);
- (b) by omitting from sub-section (5.) the word "twenty-one" and inserting in its stead the word "eighteen".
- (c) by omitting from sub-section (7.) the words ", not earlier than one month before the date on which it is proposed to conduct the races or agricultural exhibition,";
- (d) by omitting paragraphs (a) and (b) of sub-section (8.) and inserting in their stead the following paragraphs:—
 - “(a) the stewards, committee of management or other persons applying for a certificate under the last preceding sub-section have obtained the consent and approval of the officer of the Police Force in charge of the station nearest the place referred to in the last preceding sub-section; and
 - (b) the approval of that officer of the Police Force includes an approval of a particular person as the person who will be, at all times, responsible for the sale of the liquor,”;
- (e) by omitting from sub-section (10.) the words "The distance referred to in sub-section (7.) of this section" and inserting in their stead the words "Distances referred to in this section"; and
- (f) by adding at the end thereof the following sub-section:—
 - “(11.) A person who is authorized under this section to sell liquor shall not—
 - (a) sell or supply liquor or permit liquor to be sold or supplied to any person to whom it is by this Ordinance made unlawful to sell or supply liquor;
 - (b) sell or supply liquor or permit liquor to be sold or supplied to a person who is quarrelsome, violent, intoxicated or a disturbance to good order;
 - (c) admit to or permit to be admitted to or to remain in the booth or building a person to whom he is not permitted to supply liquor; or
 - (d) sell or supply liquor or permit liquor to be sold or supplied from the booth or building—

- (i) on Good Friday or Christmas Day;
- (ii) on a Sunday, except between the hours of twelve o'clock noon and six o'clock after noon;
- (iii) on a day other than a Sunday, except between the hours of ten o'clock in the morning and half past eleven o'clock in the evening; or
- (iv) on any day, more than half an hour before the scheduled time for the commencement on that day of the event or programme in respect of which the certificate was granted or more than half an hour after the cessation on that day of that event.

Penalty: One hundred dollars.”

14. Section 74A of the Principal Ordinance is amended—

Extension of
permitted
hours for
certain clubs

- (a) by omitting sub-section (1.); and
- (b) by omitting from sub-section (2.) all the words from and including the words “of liquor” and inserting in their stead the words—“of liquor—
 - (a) at any time to members of the club, whether subscribing or honorary, who are *bona fide* lodgers or boarders in the club premises for consumption by those members or their guests on the club premises;
 - (b) at any time between the hours of ten o'clock in the morning on any day and two o'clock in the morning on the day next following to members of the club, whether subscribing or honorary, who are taking a meal on the premises for consumption as ancillary to the meal by those members or their guests who are dining with them;
 - (c) on any day, other than a Sunday, Good Friday or Christmas Day, between the hours of ten o'clock in the morning and half past eleven o'clock in the evening to members of the club, whether subscribing or honorary, for consumption by those members or their guests;
 - (d) on a Sunday, other than Christmas Day falling on a Sunday, between the hours of twelve o'clock noon and ten o'clock

after noon to members of the club, whether subscribing or honorary, for consumption by those members or their guests; and

- (e) from ten o'clock in the morning or twelve o'clock noon, as the case may be, on New Year's Eve until midnight and thereafter on New Year's Day until two o'clock in the morning to members of the club, whether subscribing or honorary, for consumption by those members or their guests."

Rules of club

15. Section 76 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (h) the words "twenty-one" and inserting in their stead the word "eighteen"; and
- (b) by omitting from paragraph (i) the words "twenty-one" and inserting in their stead the word "eighteen".

Application of other provisions of Ordinance

Repeal of section 96A

Penalty for drinking on licensed premises during prohibited hours

16. Section 96 of the Principal Ordinance is amended by omitting paragraph (e).

17. Section 96A of the Principal Ordinance is repealed.

18. Section 124 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1.) the words "during any day or time during which the sale of liquor is prohibited by law" and inserting in their stead the words "on any day between the hours of half past two o'clock in the morning and half past eleven o'clock in the morning";
- (b) by omitting from sub-section (2.) the words "during any day or time during which the sale of liquor is prohibited by law" and inserting in their stead the words "on any day between the hours of half past two o'clock in the morning and half past eleven o'clock in the morning"; and
- (c) by omitting from sub-section (3.) the words "at any time during any day or time during which the sale of liquor is prohibited by law" and inserting in their stead the words "on any day between the hours of half past two o'clock in the morning and half past eleven o'clock in the morning".

Duty to sell liquor according to standard measure

19. Section 127 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1.) the words "in a quantity not less than half a pint"; and

(b) by adding at the end of sub-section (2.) the following sub-section:—

“(3.) Unless a purchaser otherwise directs, liquor shall be sold in a quantity of not less than one tenth of one gill, and if measured into a glass by a liquor dispenser, that dispenser shall deliver that liquor in a quantity of not less than one tenth of one gill or one fifth of one gill at each dispensing.”.

20. Section 132 of the Principal Ordinance is amended by omitting the words “Any person” (first occurring) and inserting in their stead the words “Subject to sub-section (3.) of section 16 of this Ordinance, any person”.

Penalty for drinking in the house or store of persons holding certain licences or of vigneron

21. Section 143 of the Principal Ordinance is amended—

(a) by inserting in sub-section (1.) before the words “gives or supplies” the words “or who, on licensed premises,”;

Sale or supply of liquor to minors

(b) by omitting from sub-section (1.) the words “twenty-one” and inserting in their stead the word “eighteen”; and

(c) by omitting sub-section (2.).

22. After section 143 of the Principal Ordinance the following section is inserted:—

“143A.—(1.) A person under the age of eighteen years shall not—

Drinking by minors

(a) buy liquor; or

(b) consume liquor on licensed premises.

Penalty: Forty dollars.

“(2.) In a prosecution for an offence against the last preceding sub-section—

(a) an averment of the prosecutor, contained in the complaint, stating that the defendant is under the age of eighteen years is evidence of the matter so averred; and

(b) where the defendant is proved to have consumed liquor and to have been on licensed premises, he shall be deemed, unless the contrary is proved, to have consumed that liquor on those premises.”.

23. Section 145 of the Principal Ordinance is amended—

(a) by inserting in sub-section (1.) after the word “bar-room” (first occurring) the words “or, unless the child appears to be with his parent or

Exclusion of children from bar-room

guardian or with a responsible adult with the knowledge and approval of his parent or guardian, in any beer garden"; and

(b) by inserting in sub-section (1.) after the word "bar-room" (second occurring) the words "or beer garden".

Times when premises may be open and liquor may be sold

24. Section 153 of the Principal Ordinance is amended by omitting all the words after the words "on his licensed premises" and inserting in their stead the words—

"Penalty: One hundred dollars."

Repeal of section 153A

25. Section 153A of the Principal Ordinance is repealed.

Repeal of section 154

26. Section 154 of the Principal Ordinance is repealed.

Duty to close means of entrance or aperture to bar-room

27. Section 155 of the Principal Ordinance is repealed and the following section inserted in its stead:—

"155. A person who holds a licence in respect of any licensed premises shall ensure that, at any time when he is not permitted by law to sell liquor on or from those licensed premises to any class of persons or, in the case of licensed club premises, to any class of members, no door or other entrance or means of any kind by which admission can be gained, whether from outside or inside those licensed premises, to—

(a) any bar-room on those licensed premises; or

(b) any bar on those licensed premises, being a bar that is not in a bar-room,

is kept open or unlocked except for the purpose of supplying liquor to a person to whom he is at that time authorized to supply liquor and for such time only as is necessary for supplying liquor to that person.

Penalty: Forty dollars."

Repeal of section 156

28. Section 156 of the Principal Ordinance is repealed.

Repeal of section 160

29. Section 160 of the Principal Ordinance is repealed.

Supply and consumption of liquor on approved premises

30. Section 163 of the Principal Ordinance is amended—

(a) by omitting from sub-section (8.) the words "one o'clock" and inserting in their stead the words "two o'clock"; and

(b) by inserting in sub-section (18.) before the words "on a Sunday" the words "after two o'clock in the morning".

31. Section 163A of the Principal Ordinance is repealed.

Repeal of
section 163A

32. Section 163B of the Principal Ordinance is amended—

Extended
hours permit
for social
function in
licensed
premises

(a) by omitting from paragraph (a) of sub-section (10.) the words “during the hours specified in paragraph (a) of sub-section (11.) of this section” and inserting in their stead the words “from ten o’clock in the evening of the day specified in the permit until two o’clock in the morning on the day next following”;

(b) by omitting from paragraph (c) of sub-section (10.) the words “during the hours specified in paragraph (b) of sub-section (11.) of this section” and inserting in their stead the words “from ten o’clock in the evening of the day specified in the permit until half past two o’clock in the morning on the day next following”; and

(c) by omitting sub-section (11.).

33. Section 168 of the Principal Ordinance is repealed and the following section inserted in its stead:—

“168.—(1.) A person shall not, at any time when the holder of a licence is not authorized to sell or supply liquor to him, purchase or obtain or attempt to purchase or obtain liquor from that holder of the licence.

Penalty for
purchasing liquor
or drinking
liquor on
licensed premises
during prohibited
time

“(2.) A person other than the licensee or a servant of the licensee shall not be in or about a bar-room on licensed premises or drink liquor on licensed premises later than fifteen minutes after the holder of the licence in respect of those premises ceases to be authorized to sell or supply liquor to him.

Penalty: Twenty dollars.”.

34. Sections 169 and 170 of the Principal Ordinance are repealed.

Repeal of
sections 169 and
170

35. The Second Schedule to the Principal Ordinance is amended by omitting from form two the words “that no bottle shall contain less than a reputed pint and”.

Second
Schedule

