

## LICENSING (No. 2).

15° and 16° Geo. VI., No. XLIX.

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No. 49 of 1951.

**AN ACT to amend the Licensing Act, 1911-1949.**

[Assented to 7th January, 1952.]

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

1. This Act may be cited as the *Licensing Act Amendment Act (No. 2), 1951*, and shall be read as one with the Licensing Act, 1911-1949 (Act No. 32 of 1911, as reprinted pursuant to the *Amendments Incorporation Act, 1938*, with amendments up to and including Act No. 30 of 1949 in Volume 4 of the Reprinted Acts of the Parliament of Western Australia), hereinafter referred to as the principal Act. Short title.

2. The principal Act, as amended by this Act, may be cited as the Licensing Act, 1911-1951. Citation of principal Act as amended.

S. 5  
amended.

3. Section five of the principal Act is amended by—

- (a) deleting therefrom the words, “Local option vote” and the definition thereof;
- (b) inserting after the definition of, “receiver of revenue” a new definition as follows—  
“sale” and “sell” include barter and exchange, and derivatives have corresponding meanings;.

S. 21  
amended.

4. Section twenty-one of the principal Act is amended by—

- (a) inserting after subsection (2) a subsection as follows:—

(2a) Subject to subsection (2) of this section, the chairman may delegate to either of the other two licensing magistrates all or any of his powers under this Act (except this power of delegation) so that the delegated power may be exercised by the delegate. Every such delegation shall be revocable at will and no such delegation shall prevent the exercise of any power by the chairman.;

- (b) deleting from subsection (5) the words, “provided that one of such members is the chairman or deputy chairman,” in lines three to five; and
- (c) inserting in subsection (7) after the words, “of licenses” in line five the words, “the making of orders under the proviso to subsection (3) of section one hundred and eighty-seven of this Act”.

S. 47  
amended.

5. Section forty-seven of the principal Act is amended by—

- (a) inserting after the word, “But” in line six of subsection (1) the words, “subject to subsection (2) of this section”;

- (b) deleting the words, "except in pursuance of a special authority granted under the next following subsection" in lines seven and eight of subsection (1);
- (c) substituting for subsection (2) a subsection as follows:—

(2) Subject to subsection (4) of this section, the Court may grant a new license within any district, notwithstanding that thereby the number of licensed premises of the same description within that district will be increased beyond the number therein on the thirty-first day of December, one thousand nine hundred and twenty-two, if the Court is satisfied that—

- (a) there has been an increase of population in the area referred to in subsection (3) of this section, and that such increase is likely to be permanent;
- (b) there are insufficient licensed premises of the same description to meet public requirements, or that there are no licensed premises of the same description within such area; and
- (c) at least one month prior to the hearing of the application for the license, a copy of the application has been published in the *Gazette* and in a newspaper circulating in the district;
- (d) substituting for the words, "a petition" in line one of subsection (3) the words, "an application for a license under subsection (2) of this section";
- (e) deleting from subsection (3) the words, "in either case the petition shall, within seven days after its presentation, be published by the petitioners in the *Gazette* and a newspaper circulating in the district" in the last four lines;

- (f) repealing subsections (4), (5) and (6);
- (g) inserting after subsection (3) a subsection as follows:—

(4) Before an application for a license under subsection (2) of this section may be granted, the Court shall fix, and the applicant for the license shall pay to the Consolidated Revenue Fund, a premium for the license or for the provisional certificate in respect of the premises the subject of the application.;

- (h) deleting from subsection (7) the words, "as a result of a petition and inquiry" in line one.

S. 58  
amended.

6. Section fifty-eight of the principal Act is amended by substituting for the words, "a licensed person" in line two the words, "the holder of a publican's general license or of a wayside-house license".

S. 97  
amended.

7. Section ninety-seven of the principal Act is amended by repealing subsection (4).

Part VI.  
repealed.

8. Part VI. of the principal Act (comprising sections ninety-eight to one hundred and ten, both inclusive, of the principal Act) is repealed.

S. 111  
amended.

9. Section one hundred and eleven of the principal Act is amended by inserting the words, "or Air Force" after the word, "military" both in line two and in line six of subsection (1) and again in line one of subsection (3).

S. 122  
amended.

10. Section one hundred and twenty-two of the principal Act is amended by—

- (a) substituting for the word "Fifty" in line nine of subsection (1) the words, "One hundred";
- (b) substituting for the word, "One" in line ten of subsection (1) the word, "Two";

- (c) repealing subsection (2) and substituting the following:—

(2) But this section shall not prohibit the sale of liquor to, or the consumption of liquor by—

- (a) the licensee, a member of his family, an employee of the licensee living on the premises, or a lodger, provided no such liquor is taken away from the premises; or
- (b) any person being served with a meal on the premises in a room set aside for the purpose between the hours of one p.m. and two p.m. and the hours of six p.m. and seven-thirty p.m., if the liquor is drunk with the meal; or
- (c) any person on a Sunday, not being Anzac Day or Christmas Day, if—
  - (i) the premises are the subject of a publican's general license, an hotel license, or a wayside-house license, and are outside an area bounded by a circle having a radius of twenty miles from the Town Hall in Perth;
  - (ii) the liquor is sold and consumed between the hours of twelve noon and one p.m. or the hours of five p.m. and six p.m., and
  - (iii) the liquor is not sold by the bottle or in a bottle;
- (d) substituting for the word, "Two" in line four of subsection (3) the word, "Twenty";
- (e) repealing subsection (4).

S. 124  
amended.

11. Section one hundred and twenty-four of the principal Act is amended by—

- (a) deleting the word, “Sunday” in line eight;
- (b) inserting after the words, “Good Friday” in line ten the words, “and, subject to the provisions of subsection (2) of section one hundred and twenty-two of this Act, during the whole of every Sunday”.

S. 125  
repealed.

12. Section one hundred and twenty-five of the principal Act is amended by deleting the word “ten” in line six of paragraph (b) and inserting in lieu thereof the word “fifty”.

New section.  
134A.

13. A section is inserted in the principal Act after section one hundred and thirty-four as follows:—

Drinking in  
public places  
prohibited.

134A. (1) No person shall, whether or not in or on a vehicle—

- (a) drink liquor
  - (i) within a townsite on or in any road, street, footpath or lane, or
  - (ii) outside school premises, a town hall or agricultural hall, or on any road, street, footpath or lane, within twenty chains of any such school premises or hall while a dance or other entertainment is being held in such school premises or hall; or
  - (iii) except with the consent of the persons or authority in control, within any park or reserve;
- (b) drink liquor or have liquor in his possession within any sports ground (including any building or erection thereon, but excluding licensed premises) during, or within one hour before or thirty minutes after, the holding there of any exhibition, performance, lecture, amusement, game or sport for admission to which payment is made by any person;

- (c) drink liquor on any premises within twenty chains of any hall while a dance or other entertainment is being held in such hall, except with the consent of the occupier or person in control of the premises;
- (d) abandon or leave any bottle containing or which has contained liquor, or any part of any such bottle, on or in any road, street, footpath, lane, park or reserve, or in any place to which the public has access, except in a receptacle provided or a place set aside for that purpose.

Penalty—Twenty pounds.

(2) An averment in a complaint under this section that any place referred to in the complaint is within a townsite mentioned in the complaint shall be deemed to be *prima facie* proof that the place is within the townsite.

14. Section one hundred and forty-seven of the principal Act is amended by— S. 147  
amended.

- (a) inserting after the word, “premises” in line one of subsection (2) the words, “or on any premises, vineyard, or orchard referred to in subsection (1) of section forty-six of this Act”;
- (b) inserting after the word, “premises” in line two of subsection (2) the words, “or to premises, vineyard or orchard aforesaid”.

15. Section one hundred and forty-nine of the principal Act is amended by inserting after the word, “premises” in line three the words, “or on any premises, vineyard or orchard referred to in subsection (1) of section forty-six of this Act, or on a highway or place adjacent to any such licensed premises, premises, vineyard or orchard”. S. 149  
amended.

S. 165  
amended.

16. Section one hundred and sixty-five of the principal Act is amended by inserting after the word, "premises" in line five the words, "and any other person who on licensed premises bets on horse racing".

S. 177  
amended.

17. Section one hundred and seventy-seven of the principal Act is amended by—

(a) inserting after the word, "Court" in line two of paragraph (a) the words, "or of a resident magistrate";

(b) adding a subsection as follows:—

(2) The provisions of this section shall, so far as the same can be made applicable, apply to a person being the holder of an Australian Wine License, an Australian Wine and Beer License, or of an Australian Wine Bottle License as they apply to a person being the holder of a publican's general license.

S. 183  
amended.

18. Section one hundred and eighty-three of the principal Act is amended by adding to paragraph (b) after the word, "purposes" in line five the words, "and must have been operating as such a club for a period of not less than twelve months".

S. 184  
amended.

19. Section one hundred and eighty-four of the principal Act is amended by inserting after the word, "members" in line one of paragraph (d) the words, "other than honorary or temporary members".

S. 186  
amended.

20. Section one hundred and eighty-six of the principal Act is amended by substituting for the words, "The chairman or two members of the Licensing Court may" in lines one and two of subsection (1) the words, "any member of the Licensing Court, any resident magistrate, or the clerk of the Court may, on the payment of the prescribed fee and".



21. Section one hundred and eighty-seven of the principal Act is amended by substituting for the proviso to subsection (2) the following:—

S. 187  
amended.

Provided that a member of a club in which meals are customarily provided may, on giving at least six hours' notice in writing to the secretary, and subject to the approval in writing of the committee, invite not more than three guests whose names shall be stated in the notice to any meal in a room set aside for that purpose on the club premises, and thereupon such guests shall be entitled to use the club premises, or such parts of the club premises as are set apart for the use of guests, during the ordinary meal hours of the club for that meal and, where the meal is dinner, between six p.m. and twelve midnight on the day of the meal.

22. Section one hundred and eighty-eight of the principal Act is amended by—

S. 188  
amended.

- (a) substituting the word, "ten" for the word, "nine" in line three;
- (b) adding after the word, "furniture" in lines nine and ten the words, "Penalty—One hundred pounds".

23. Section one hundred and ninety-four of the principal Act is amended by inserting after paragraph (j) of subsection (1) a paragraph as follows—

S. 194  
amended.

- (ja) any one or more of the objections referred to in paragraphs (d), (f), (g) and (h) of subsection (2) of section sixty-three of this Act.

24. Section one hundred and ninety-eight of the principal Act is amended by deleting from subsection (4) all words after the word, "Court" in line three down to the end of the subsection.

S. 198  
amended.

25. Section two hundred and four of the principal Act is amended by substituting for the words, "his own consumption" in line four the words—  
consumption by him or by his guests.

S. 204  
amended.

S. 205  
repealed.  
New section  
substituted.

26. Section two hundred and five of the principal Act is repealed and the following section substituted:

Sale of liquor  
on Sundays,  
etc.

205. (1) No liquor shall be sold or disposed of in any club on a Sunday, Anzac Day (the twenty-fifth day of April), or Good Friday.

Penalty—For a first offence, one hundred pounds; for any subsequent offence, two hundred pounds.

(2) But this section shall not prohibit the sale or disposal of liquor—

- (a) to any *bona fide* lodger or employee of the club living on the licensed premises;
- (b) to a person being served with a meal in a room set aside for the purpose between the hours of one-thirty p.m. and two-thirty p.m., or the hours of six-thirty p.m. and seven-thirty p.m., if the liquor is drunk with the meal; or
- (c) on a Sunday, not being Anzac Day, if the liquor is not sold by the bottle or in a bottle, and if the liquor is sold and consumed between the hours of eleven-thirty a.m. and one-thirty p.m., or the hours of four-thirty p.m. and six-thirty p.m. or, in lieu of the periods between such hours, in relation to any particular club, between such other hours representing two periods each of two hours and separated by at least three hours, as the Court, on the application of the club, may from time to time determine.

S. 239  
amended.

27. Section two hundred and thirty-nine of the principal Act is amended by substituting for the words, "unless he" in line seven of subsection (1) the words, "and the premises so alleged to be licensed shall be deemed to be licensed unless the person charged in the complaint".