



ANNO DECIMO OCTAVO

GEORGII V REGIS.

A.D. 1927.

No. 1808.

An Act to abolish the Licensing Court as constituted under the Licensing Act, 1917, and to constitute other Licensing Courts in lieu thereof and for purposes consequent thereon or incidental thereto.

[Assented to, November 30th, 1927.]

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

1. (1) This Act may be cited alone as the "Licensing Act, 1927." Short titles.
(2) The Licensing Acts, 1917 to 1926, and this Act may be cited together as the "Licensing Acts, 1917 to 1927."
(3) The Licensing Act, 1917, is hereinafter referred to as "the principal Act."
2. 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.
3. This Act shall come into operation on a day to be fixed by proclamation. Commencement of this Act.
4. (1) Notwithstanding this Act, any licence, certificate, permit, or permission lawfully issued or granted, and any direction, determination, order or decision lawfully given or made, and any other act, matter, or thing lawfully done, by the old Licensing Court and in Effect of this Act and saving provisions.

Licensing Act.—1927.

in force or unexpired at the commencement of this Act shall continue to exist and shall be of the same force and effect and may be dealt with as if duly issued, granted, given, made or done by the appropriate Licensing Court under the principal Act as amended by this Act, and as if this Act had been in force at the time when such licence, certificate, permit, permission, direction, determination, order, or decision was issued, granted, given, made, or done, and shall expire or cease to have effect at the time when such licence, certificate, permit, permission, determination, order, decision, act, matter or thing would have expired or ceased to have effect if this Act had not been passed.

(2) All proceedings pending in the old Licensing Court at the commencement of this Act shall be transferred to and completed by the appropriate Licensing Court under the principal Act as amended by this Act: Provided that if at the commencement of this Act any application is part heard before the old Licensing Court, or any member thereof, or has been adjourned by the old Licensing Court to be finally dealt with, that Court or member shall complete the hearing and determination of such application according to the law in force immediately prior to the commencement of this Act, and so long as is necessary for that purpose the old Licensing Court shall be deemed to remain in existence, and the decision of such Court or member and any action taken thereon shall be of the same force and effect as if made and done by the appropriate Court under the principal Act as amended by this Act.

(3) In this section "old Licensing Court" means the Licensing Court in existence immediately prior to the commencement of this Act.

Amendment of
principal Act, s. 2.

5. Section 2 of the principal Act is amended by striking out the words "The Licensing Court" in the fifth line thereof and inserting in lieu of those words the words "Licensing Courts".

Amendment of
principal Act, s. 4.

6. Section 4 of the principal Act is amended—

(a) by inserting at the end of the definition of "Clerk" therein the words "having jurisdiction according to this Act in the particular matter";

(b) by striking out the definition of "Court" therein and inserting in lieu thereof the following:—

"Court or Licensing Court" means the Licensing Court which, according to this Act, has jurisdiction in the particular matter; and

(c) by striking out the definition of "President" therein.

Repeal of principal
Act, s. 6—

7. Section 6 of the principal Act is repealed and the following section is hereby enacted and substituted in lieu thereof:—

The Licensing
Court.

6. (1) There shall be a Licensing Court for each Licensing District which shall be a Court of record and shall have a seal which shall be judicially noticed,

(2) Every

Licensing Act.—1927.

(2) Every Licensing Court shall have jurisdiction in respect of all applications, objections, directions, and other proceedings and matters under this Act relating to—

- (a) any licensed or other premises and any other property within the District of such Court :
- (b) any licence, certificate, permission, or permit issued or to be issued by the Court in respect of any premises situate within the District of such Court, or any application or objection to any application for any such licence, certificate, permission, or permit :
- (c) any person to whom any licence, certificate, permission, or permit has been issued by the Court in respect of any premises situate within the District of such Court :
- (d) the register of barmaids for the District of such Court :

and in respect of any other matter arising under this Act within the District of such Court and requiring to be dealt with by the Court.

(3) Each Licensing Court shall consist of one person appointed thereto by the Governor, and every person so appointed shall, at the time of his appointment, be a Special Magistrate. The Governor is hereby empowered from time to time to appoint such Special Magistrates as he thinks fit to constitute Licensing Courts under this Act, and every Special Magistrate so appointed shall hold office as a Licensing Court during the Governor's pleasure.

(4) The same Special Magistrate may be appointed to constitute the Court for two or more Licensing Districts.

(5) If the Special Magistrate constituting any Licensing Court has any interest such as disqualifies him by law from hearing and determining any matter under this Act, the Governor shall appoint another Special Magistrate as the Licensing Court to hear and determine such matter.

(6) No Special Magistrate who is a member of any club shall be qualified—

- (a) to act as a Licensing Court when any application relating to such club is being heard, inquired into, or determined by the Court ;
- (b) to be a member of any Special Court constituted for the purpose of effecting a reduction of the number of licences in the Local Option District in which the premises in respect of which such club is registered are situated : Provided that this subsection shall not apply unless the number of registrations of such clubs in such Local Option District is to be reduced ;
or

(c) to

Licensing Act.—1927.

(c) 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.

(7) Every Special Magistrate constituting a Court under this Act shall be entitled to such travelling and other allowances and expenses as the Governor determines.

Repeal and re-enactment of secs. 7 and 8 of principal Act—

Clerk and officers of each Court.

Meetings of each Court.

8. Sections 7 and 8 of the principal Act are repealed and the following sections are hereby enacted and substituted in lieu thereof:—

7. The Governor may appoint a fit and proper person to be Clerk of each Licensing Court, and such other officers for each Court as he deems necessary. The same person may hold office as Clerk for two or more Licensing Courts.

8. (1) Subject to the next succeeding subsections each Licensing Court shall hold annual and quarterly meetings for its District, and every such meeting shall be held on such day and at such place as is fixed in that behalf by the Court by notification published in the *Gazette*.

(2) It shall not be obligatory for any Court to hold any quarterly meeting unless notice of some application to be made at such meeting has been given to the Clerk of such Court or the Court has been made aware at least seven days before the date fixed for the meeting of some business to be dealt with thereat.

(3) Whenever by reason of the absence of the Special Magistrate constituting a Court, a meeting is not held on the day fixed therefor, the Clerk of such Court 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 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.

(4) When a meeting of any 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.

(5) Where the day fixed for the annual or a quarterly meeting of any Court falls upon a public holiday it shall be lawful for the Attorney-General, by notice in the *Gazette*, to alter the day for holding such meeting to a day to be named in such notice.

Amendment of principal Act, s. 9—
Consequential amendment.

9. Section 9 of the principal Act is amended by inserting after the word "meetings" in the first line of subsection I. thereof, and in the first line of subsection II. thereof, the words "of every Court".

10. Section

Licensing Act.—1927.

10. Section 10 of the principal Act is repealed and the following section is hereby enacted and substituted in lieu thereof:—

Amendment of
principal Act,
s. 10—

10. (1) There shall be an appeal to the Supreme Court from every direction, determination, order, or decision given or made by any Licensing Court with respect to the grant, renewal, transfer, removal, or forfeiture of any licence, certificate, or permit.

Right of appeal
against decision of
Court.

(2) The appeal shall be instituted by notice within one calendar month from the time of the direction, determination, order, or decision appealed against.

(3) The notice of appeal shall be in writing and shall be given to the Clerk and shall state the nature and grounds of the appeal.

(4) A copy of the notice of appeal shall be given also to each objector.

(5) The appeal shall be set down for hearing at the first sittings of the Supreme Court for hearing appeals under the "Justices Act, 1921," to be held not less than ten days after the giving of the notice of appeal, and forthwith after such setting down notice thereof shall be given to the Clerk and each objector.

(6) When the appeal is instituted, the Clerk shall cause the originals of the evidence given and notes taken on the hearing before the Licensing Court or true copies thereof certified by the Clerk as such, to be transmitted to the Master of the Supreme Court.

(7) No evidence shall be received on the hearing of the appeal other than such originals or copies as aforesaid, except by consent of the parties or by the order of the Supreme Court.

(8) Every appeal shall be heard and determined by the Supreme Court in a summary way and in accordance with the rules in force with reference to the proceedings of the Supreme Court in that behalf.

(9) Upon the hearing of the appeal the Supreme Court may—

- (a) Adjourn the same from time to time ;
- (b) Mitigate any penalty, forfeiture, or sum ;
- (c) Affirm, quash, or vary the direction, determination, order, or decision appealed from or substitute give or make any direction, determination, order or decision which in its opinion ought to have been made in the first instance ;
- (d) Remit the subject matter of the appeal for hearing or further hearing before the appropriate Licensing Court ; and
- (e) Make such order as to costs or otherwise as to the Court shall seem fit.

(10) When

Licensing Act.—1927.

(10) When the Supreme Court makes any order as to the costs of an appeal it shall direct by, and to whom, and the time within which, such costs shall be paid.

Amendment of
principal Act, s.
29—
Special licences.

11. Section 29 of the principal Act is amended—

(a) by inserting after the word “ annual ” in the first line thereof the words “ or quarterly ” ; and

(b) by striking out the words “ subsection (1) of ” in the third line thereof.

Amendment of
principal Act, s.
42—
Time for
advertisement of
deposit of plans.

12. Section 42 of the principal Act is amended by striking out the word “ fourteen ” in the second line of subsection (3) thereof and inserting in lieu of that word the word “ twenty-one ”.

Amendment of
principal Act, s.
53—
Consequential
amendment.

13. Section 53 of the principal Act is amended—

(a) by inserting after the word “ Clerk ” in the first line thereof the words “ of each Court ” ; and

(b) by inserting after the word “ premises ” in the fourth line thereof the words “ within the District of such Court ”.

Amendment of
principal Act, s.
58—
Consequential
amendment.

14. Section 58 of the principal Act is amended by striking out the word “ President ” wherever the same occurs therein and inserting in lieu thereof “ Special Magistrate constituting the Court.”

Amendment of
principal Act, s.
64—
Time for paying
fees.

15. Section 64 of the principal Act is amended by striking out the word “ seven ” in the third line of subsection (5) thereof and inserting in lieu of that word the word “ fourteen ”.

Amendment of
principal Act, s. 65.

16. Section 65 of the principal Act is amended—

(a) by striking out the word “ within ” in the sixth line of subsection (1) thereof and inserting in lieu of that word the words “ at least ” ; and

(b) by striking out the figure “ (1) ” in the first line of subsection (3) thereof and inserting in lieu thereof the figure “ (2) ”.

Amendment of
principal Act, s. 69—
Consequential
amendment.

17. Section 69 of the principal Act is amended—

(a) by striking out the words “ and against such grant or refusal there shall be no appeal ” at the end of subsection (1); and

(b) by striking out subsection (2) thereof.

Amendment of
principal Act, s.
81—
Meetings at which
licences may be
forfeited.

18. Section 81 of the principal Act is amended—

(a) by striking out the words “ quarterly meeting for the district wherein the licensed premises are situate ” in the second and third lines of subsection (2) and inserting in lieu thereof the word “ meeting ” ;

(b) by

Licensing Act.—1927.

(b) by striking out the words “ of the Court (or if there is a Clerk of the Court for such district, to such Clerk) ” in the sixth and seventh lines of the said subsection ; and

(c) by striking out the word “ President ” in the third line of subsection (3) and inserting in lieu thereof the words “ Special Magistrate constituting such Court ”.

19. Section 86 of the principal Act is amended by striking out the word “ President ” in the fifth line of subsection (2) thereof and inserting in lieu thereof the words “ Special Magistrate constituting the Court ”.

Amendment of principal Act, s. 86—
Consequential amendment.

20. Part IV. of the principal Act is amended by inserting therein after section 91 the following section—

New section, 91a—

91a. Every Clerk, as soon as practicable after the deposit with him of any plans, shall forward those plans to the Superintendent of Licensed Premises. The said Superintendent shall keep the said plans in his custody, but shall produce them for the use of the Court whenever necessary.

Custody of plans.

21. (1) Section 93 of the principal Act is amended—

Amendment of principal Act, s. 93—

(a) by striking out the word “ Court ” in the first line thereof and inserting in lieu of that word the word “ Governor ” ;

Power to make regulations as to Court procedure.

(b) by striking out the word “ the ” in the seventh line thereof and inserting in lieu of that word the word “ every ” ; and

(c) by striking out the word “ approved ” in the eighth line thereof and inserting in lieu of that word the word “ made ”.

(2) Until regulations are made by the Governor under section 93 of the principal Act as amended by this Act, the regulations in force immediately prior to the commencement of this Act shall, with the necessary modifications, continue in force.

22. Section 103 of the principal Act is amended—

Amendment of principal Act, s. 103—

(a) by striking out the words “ and against such grant or refusal there shall be no appeal ” in paragraph (c) of subsection (2) ; and

Consequential amendment.

(b) by striking out subsection (3) thereof.

23. Section 179 of the principal Act is amended by striking out the word “ President ” in the last line thereof and inserting in lieu of that word the words “ Special Magistrate constituting the Court for such other District as aforesaid ”.

Amendment of principal Act, s. 179—

Signature of certificates of registration of barmaid.

24. Section 184 of the principal Act is amended by striking out the word “ President ” in the second line of subsection (3) thereof and inserting in lieu of that word the words “ Special Magistrate constituting such Court ”.

Amendment of principal Act, s. 184—

Signature of orders cancelling registration of barmaid.

25. Section

Licensing Act.—1927.

Amendment of
principal Act,
s. 188—
Consequential
amendment.

25. Section 188 of the principal Act is amended by striking out the words "absolute and uncontrolled" occurring in the sixth and fifteenth lines of subsection (6) thereof.

Amendment of
principal Act, s. 207.

26. Section 207 of the principal Act is repealed and the following section is hereby enacted and substituted in lieu thereof:—

Appointment of
Supervisor of
Licensed Premises
and Inspectors.

207. (1) The Governor may appoint a Superintendent of Licensed Premises and such Inspectors of Licensed Premises as he thinks fit.

(2) The offices of the Superintendent of Licensed Premises and of the Inspectors of Licensed Premises shall be offices in the Police Department, but the holders of those offices, if not members of the Police Force, shall be subject to the Public Service Act, 1916.

(3) The Superintendent of Licensed Premises shall himself have all the powers of an Inspector under this Act, and where necessary to give effect to this subsection the term Inspector in this Act shall be construed as including the Superintendent of Licensed Premises.

Amendment of
principal Act, s.
216—

Jurisdiction as to
applications
concerning tied
houses.

27. Section 216 of the principal Act is amended—

(a) by striking out the words "Licensing Court" at the end of subsection (1) thereof and inserting in lieu thereof the words, "Special Magistrate constituting the Court for the Midland District"; and

(b) by striking out subsections (5) and (6) thereof.

Amendment of
principal Act, s.
233—

Constitution of
Special Court.

28. Section 233 of the principal Act is amended by striking out at the end of subsection (3) thereof the following passage:—

"No person shall be appointed a member of the Special Court who is not either a Member of the Licensing Court, or qualified to be a Member of the Licensing Court."

Amendment of
principal Act, s.
267—

Signature of orders
for payment of
money.

29. Section 267 of the principal Act is amended by striking out the word "President" in the third line thereof and inserting in lieu of that word the words "Special Magistrate constituting the Court".

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

TOM BRIDGES, Governor.