



ANNO VICESIMO SEXTO

GEORGII V REGIS.

A.D. 1935.

No. 2241.

An Act to amend the Licensing Act of 1932, and for other purposes.

[Assented to, 19th December, 1935.]

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 as the "Licensing Act, 1935". Short title.
(2) This Act and the Licensing Acts, 1932 and 1933, may be cited together as the Licensing Acts, 1932 to 1935.
2. The Licensing Act, 1932, is hereinafter called the principal Act. Principal Act, 2102, 1932.
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.
4. The principal Act is amended by inserting therein after section 9 thereof the following section:— Amendment of principal Act—
 - 9A. (1) In any case where during the hearing of any application for the issue or transfer of a licence the court is of opinion, from the nature of the application or the attitude of the parties or their counsel or solicitors or in order to save delay or the needless expense of litigation it is desirable so to do, the court may investigate and

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inquire into the matter before it for determination and on its own view or on the oath of witnesses determine the same in a summary way. For the purpose aforesaid the court may exercise all and every the powers and authorities vested in the court under this Act in the same manner in every respect as if the application had been made and heard in the ordinary way.

(2) The court shall have power to order any party appearing on the application to pay costs.

Amendment of
principal Act,
s. 13—
Sale of
medicinal
wines.

5. The principal Act is amended by inserting in subsection (1) of section 13 thereof after paragraph (b) the following paragraph :—

“(c) the sale by a pharmaceutical chemist of any spirituous medicinal wines compounded under a formula similar to one contained in the British Pharmacopœa Codex of 1934.”

Amendment of
principal
Act, s. 69—

6. Section 69 of the principal Act is amended so as to read as follows :—

Power to
order costs
against
unsuccessful
applicants or
objectors.

69. (1) If the Court assembled at an annual or quarterly meeting refuses an application for the grant, renewal, transfer, or removal of a licence it may order payment of a sum to meet the reasonable costs and expenses of the person who has objected successfully to the granting of such application, to be made to the person by the unsuccessful applicant.

(2) If the said Court so assembled grants any such application to which objection has been made it may in its discretion order the person objecting and failing to support his objection to its satisfaction to pay to the applicant such sum as the Court thinks reasonable for the costs incurred by the applicant in supporting such application.

(3) Costs so ordered may be recovered in the same manner as any sum of money ordered to be paid by an order of Justices.

(4) No order for costs shall be made where the objection is made by any member of the Police Force or any Inspector.

Amendment of
principal Act,
s. 78—
Evidence on
application
for forfeiture.

7. Section 78 of the principal Act is hereby amended by adding the following subsection at the end of subsection (3) thereof :—

(4) Upon the hearing of an application under this section no evidence shall be led to prove the commission

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by the licensee of any offence against the provisions of the Act unless the licensee has been convicted of such offence.

8. Section 86 of the principal Act is repealed.

Repeal of
s. 86 of the
principal Act—
Right of women
to hold licences.

9. Section 189 of the principal Act is amended as follows:—

Amendment of
principal Act,
s. 189—

(a) After “*bona fide* lodger” in the thirteenth line of subsection (1) the words “or *bona fide* traveller” are inserted.

Bona fide
travellers.

(b) By inserting at the end of subsection (1) the following:—“A *bona fide* traveller is a person who within twelve hours before the time of his arrival at the licensed premises has travelled from a place at least sixty miles from those premises calculated by the nearest practicable route, and has made and signed a declaration on the prescribed form that he has so travelled. No person shall be deemed to be a *bona fide* traveller between the hours of five o’clock in the morning and ten o’clock in the evening on any Christmas Day or Good Friday.”

10. Section 191 is amended—

Amendment of
principal Act,
s. 191—
Duty to keep
bar doors
closed.

(1) By striking out all words after the word “unlocked” in the fifth line of subsection (1) (b) thereof and inserting the following:—“for any purpose contrary to the provisions of this Act, and the onus of proving that the bar room, place, or aperture as the case may be was not open for a purpose contrary to the provisions of this Act, shall be upon the defendant”.

11. Paragraph (d) of section 195 of the principal Act is amended by striking out the word “fifty” occurring in the first, third, and seventeenth lines before the word “miles” and by inserting in lieu thereof in every case the word “twenty”.

Amendment of
principal Act,
s. 195 (d)—
Bona fide
lodgers.

12. Section 197 of the principal Act is repealed.

Repeal of
principal Act,
s. 197.

13. Section 198 of the principal Act is amended—

Amendment of
principal Act,
s. 198

(a) by adding at the end of subsection (1) thereof the following words:—“on ordinary days, and on Sunday, Good Friday and Christmas Day, as hereinafter provided”;

Permits to
supply liquor
with meals.

(b) by adding at the end of paragraph (a) of subsection (3) thereof the following words:—“on ordinary days and between the hours of one o’clock in the afternoon

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and half-past two o'clock in the afternoon and between the hours of six o'clock in the evening and eight o'clock in the evening on any Sunday, Good Friday, or Christmas Day";

(c) by striking out the words "on any Sunday, Good Friday, or Christmas Day or" in the third line of subsection (7) thereof;

(d) by adding at the end of subsection (8) thereof the following words:—"and for which the charge shall be not less than one shilling and sixpence".

Amendment of
principal Act—

14. The principal Act is amended by inserting therein before section 198 the following section:—

Permits to sell
liquor in
restaurants.

197A. (1) The occupier of any unlicensed premises as defined by subsection (3) of section 150 may apply to a special magistrate for a permit authorising him to sell or supply dry wines and cider as defined by this section on those premises for consumption by persons taking *bona fide* meals thereon with such meals. In this section "dry wines and cider" means 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.

(2) If, in the opinion of the special magistrate, the premises are serving the needs of the public for the supply of meals, the special magistrate may in his discretion grant the application.

(3) A fee of fifteen pounds shall be payable for every such permit if the unlicensed premises are wholly within ten miles from the General Post Office at Adelaide; and a fee of ten pounds shall be so payable if the unlicensed premises are wholly or partly outside ten miles from the General Post Office at Adelaide.

(4) Every permit shall unless sooner cancelled or suspended remain in force for twelve months from the issue thereof and may be renewed on payment of the annual fee.

(5) The permit shall authorise the sale and supply of such liquor as aforesaid for consumption on the premises to a person having a *bona fide* meal thereon but not otherwise on any day except Sunday, Good Friday, and Christmas Day, between the hours of—

(a) twelve o'clock noon and two o'clock in the afternoon; and

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(b) six o'clock and eight o'clock in the evening.

(6) Upon application to a special magistrate the special magistrate may, if satisfied that any permit has been abused in any way, cancel the permit.

(7) For the purpose of dealing with any application under this section the special magistrate shall have the like powers of summoning and examining witnesses and administering oaths as justices have under the Justices Act, 1921, and sections 23 to 26 inclusive of that Act with the necessary modifications shall apply in relation to an application under this section and to witnesses and persons summoned as witnesses on any such application.

(8) Nothing in this section shall authorise the sale or supply of such liquor as aforesaid to any person to whom it is by this Act made unlawful to supply liquor.

15. Section 199 of the principal Act is amended so as to read as follows :—

Amendment of
principal Act,
s. 199—

199. Notwithstanding anything contained in this Act permission for the sale, supply, and consumption of liquor, in premises in respect of which a publican's licence or wine licence or a certificate of registration of a club is for the time being in force, or for the consumption of liquor in unlicensed premises as defined by subsection (3) of section 150 of this Act, may be granted in manner hereinafter provided and subject to the conditions herein after set forth, namely :—

Power to sell
and supply
liquor on
licensed
premises.

- (a) The permission shall be granted only in respect of one night and shall be in force until midnight or such earlier time as is specified therein on that night :
- (b) The permission shall be granted on the occasion of a dinner, banquet, social gathering or other similar engagement to be given or held by any person, *bona fide* club, association or society or public body :
- (c) The application shall be made by writing in form in the Schedule VI. of this Act, signed by the licensee or, in the case of unlicensed premises, by the occupier thereof and by or on behalf of the person, club, association, society or public body on whose behalf permission is sought :
- (d) 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 :

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- (e) The application shall be made to a Special Magistrate or to two Justices living within ten miles of the premises :
- (f) 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 :
- (g) Any permission granted under this section shall be by writing in the form of Schedule VII. to this Act :
- (h) Liquor may be sold or supplied or consumed in the case of licensed premises or may be consumed in the case of unlicensed premises under a permission granted under this section only to and by persons present at and taking part in the dinner, banquet, social gathering, or other similar 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 190 hereof, shall be so specified :
- (i) For the purposes of section 189, and for the purpose of section 202, the persons mentioned in paragraph (h) 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 :
- (j) 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 this Act.

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

16. Section 203 is amended by striking out subsection (2) thereof and inserting the following subsection in lieu thereof :—

(2) Any person other than an excepted person who is present on any licensed premises during any Sunday or Good Friday, except between the hours of one o'clock in the afternoon and half-past two o'clock in the afternoon and between the hours of six o'clock in the evening and eight o'clock in the evening or during any Christmas Day except between the hours of nine o'clock and eleven o'clock in the morning and between the hours of one o'clock and half-past two o'clock in the afternoon and between the hours of six o'clock in the evening and eight o'clock in

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the evening, 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 guilty of an offence and liable to a penalty of not less than two pounds unless he satisfies the Special Magistrate or Justices that his presence on those premises on that day or at that time was not for the purpose of purchasing or obtaining or attempting to purchase or obtain liquor.

17. Subsection (1) of section 209 is amended by striking out all of the words from the first line thereof down to the word "person" in the tenth line thereof and inserting the following words in lieu thereof:—

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

(1) 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 except between the hours of one o'clock in the afternoon and half-past two o'clock in the afternoon and between the hours of six o'clock in the evening and eight o'clock in the evening, or during any Christmas Day except between the hours of nine o'clock and eleven o'clock in the morning and between the hours of one o'clock and half-past two in the afternoon and between the hours of six o'clock in the evening and eight o'clock in the evening, or at any time on any other day except between the hours of five o'clock in the morning and six o'clock at night shall be guilty of an offence and liable to a penalty of not less than two pounds and more than ten pounds unless he proves to the satisfaction of the Special Magistrate or Justices hearing the case, that the said person

18. Section 267 of the principal Act is amended as follows:—
After "be" in the third line of subsection 4 thereof insert "*prima facie*" and after "charge" in the fifth line thereof strike out all words down to and including the word "given" in the sixth line thereof.

Amendment of principal Act, s. 267—
Evidence.

19. (1) The South Australian Railways Commissioner may, at any refreshment room carried on by him at any railway station outside a radius of ten miles from the General Post Office at Adelaide, and the lessee of any such refreshment room holding a railway licence under Part V. may, sell or supply any liquor—

Sale of liquor at refreshment rooms and on trains.

(a) to any person from the time of arrival at that station of any passenger or mixed train or rail motor car which is in the course of making a journey, until the departure of such train or rail motor car, or any other train or rail motor car continuing the

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journey in place of such train or rail motor car, but not during any day or time when the sale of liquor is prohibited by law :

(b) to any *bona fide* passenger on any such train at any time.

(2) Any person who purchases or obtains or attempts to purchase or obtain liquor from a railway refreshment room by representing that he is a *bona fide* passenger shall be guilty of an offence, and shall be liable for a first offence to a penalty not exceeding five pounds, and for every subsequent offence to a penalty not exceeding twenty pounds.

(3) The South Australian Railways Commissioner may, in any dining car or buffet car on a train which is in the course of making a journey, sell or supply any liquor to any passenger on that train, but only for consumption on that train.

(4) The Railways Commissioner may sell or supply liquor as permitted by this section without obtaining any licence or permit.

Sale of liquor
at Adelaide
Railway
Station.

20. The South Australian Railways Commissioner may at the railway refreshment rooms at the Adelaide Railway Station and without obtaining any licence or permit sell or supply dry wines and cider as defined in this section to any person between the hours of eight o'clock in the morning and eight o'clock in the evening on any day except Sunday if that person is taking a *bona fide* meal or refreshments at such refreshment rooms and consumes the same whilst taking such meals or refreshments.

In this section "dry wines and cider" means 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.

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

W. DUGAN, Governor.