



ANNO DECIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1967

No. 41 of 1967

An Act to consolidate and amend the laws relating to the supply of intoxicating liquors and matters connected therewith, to amend the Prices Act, 1948-1967, and for other purposes.

[Assented to 28th September, 1967]

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. This Act may be cited as the "Licensing Act, 1967", and shall come into operation on a day to be fixed by the Governor by proclamation. Short title and commencement.

2. This Act is divided into parts and divisions, as follows :— Division of Act.

PART I.—PRELIMINARY.

PART II.—THE LICENSING COURT.

PART III.—LICENCES AND THE GRANT, RE-NEWAL, TRANSFER, TRANSMISSION, REMOVAL, AND FORFEITURE THEREOF—

DIVISION I.—LICENCES FOR SALE OF LIQUOR :

DIVISION II.—CLASSES OF LICENCES :

DIVISION III.—FEES FOR LICENCES :

DIVISION IV.—APPLICATIONS FOR LICENCES, AND OBJECTIONS :

DIVISION V.—TRANSFER OF LICENCES :

DIVISION VI.—TRANSMISSION OF LICENCES :

DIVISION VII.—REMOVAL OF LICENCES :

DIVISION VIII.—PROCEDURE ON HEARING OF APPLICATIONS :

DIVISION IX.—SPECIAL AUTHORITIES TO SELL LIQUOR :

DIVISION X.—FORFEITURE OF LICENCES :

DIVISION XI.—GENERAL :

DIVISION XII.—SPECIAL PROVISIONS APPLICABLE TO CLUBS :

DIVISION XIII.—LICENCES AT RENMARK :

PART IV.—RAILWAY LICENCES.

PART V.—RIGHTS, DUTIES, AND LIABILITIES OF LICENSEES AND OTHERS, AND OFFENCES.

PART VI.—TIED HOUSES AND ONEROUS LEASES.

PART VII.—HISTORIC INNS.

PART VIII.—LEGAL PROCEEDINGS AND EVIDENCE.

PART IX.—REGULATIONS AND FORMS.

Repeal and
savings.

3. (1) The Acts mentioned in the Schedule to this Act are repealed.

(2) All legal proceedings and every application, petition, and appeal pending or not finally disposed of at the commencement of this Act may be continued and completed and any appeal instituted in connection therewith and any legal proceedings in relation to any alleged offence alleged to have been committed before the said commencement may be instituted and completed and any appeal instituted in connection therewith dealt with under the repealed Acts as if this Act had not been passed.

(3) Subject to this section, every licence, certificate, register, approval, permit, permission, order, conviction granted, issued, given, made or passed under the repealed Acts and not expired at the time of the passing of this Act, shall confer and involve the same rights, privileges, liabilities and effects as if this Act had been in force when they were granted, issued, done, given or had and as if they were granted, issued, done, given or had under the authority or by virtue of this Act.

(4) Every publican's licence in force at the commencement of this Act shall be deemed to be a full publican's licence under this Act and every registration of a club so in force shall be deemed to be a club licence under this Act.

(5) Every holder of a storekeeper's licence granted under the repealed Acts and in force at the commencement of this Act may, within one month after the commencement of this Act, apply to the court to have his licence declared to be a wholesale storekeeper's licence or a retail storekeeper's licence under this Act, and the court may grant the application whereupon the licence shall, for the purposes of this Act, be deemed to be a wholesale storekeeper's licence or a retail storekeeper's licence granted under this Act.

(6) Every permit granted under section 197a of the repealed Acts and in force at the commencement of this Act and every storekeeper's Australian wine licence in force at the commencement of this Act shall continue and remain in force and confer and impose the same rights privileges liabilities and effects as it conferred and imposed under the repealed Acts. During a period of three years after the commencement of this Act but not thereafter every such permit may be renewed, and any such licence may be granted in respect of previously licensed premises, renewed, transferred or removed, as the case may be and every such permit if renewed, and every such licence if granted, renewed, transferred or removed, as the case may be, under this subsection, shall confer and impose the same rights privileges liabilities and effects as it would have conferred and imposed under the repealed Acts. The fee payable for every permit renewed, or licence granted, transferred or renewed under this subsection shall be calculated and paid in the same manner as such fee was calculated and payable under the repealed Acts.

(7) No wine licence shall be renewed after the expiration of five years after the commencement of this Act except in accordance with the provisions of this Act.

(8) The clerk and every officer of every licensing court in existence at the commencement of this Act and the Superintendent of Licensed Premises and every inspector appointed before such commencement shall continue in office as if this Act had been in force when he was appointed and he was appointed under this Act.

4. (1) In this Act, except where the subject matter or context, or other provisions of this Act, require a different construction—

Interpretation.

"bar-room" means any room in which liquor is kept and in or from which liquor is directly supplied to customers :

"clerk" means the clerk of the licensing court :

"court" or "licensing court" means the licensing court constituted under section 5 of this Act :

"inspector" means an inspector of licensed premises appointed under this Act :

"licence" means licence granted under this Act :

"licensed person" or "licensee" means a person holding a licence which is for the time being in force and authorizes the act or matter referred to or other person deemed by this Act to be a licensee generally or for a specified purpose :

"licensed premises" means premises in respect of which a licensed person is licensed and the area of which is defined by the court :

"liquor" means brandy, gin, rum, whisky, cordials containing spirits, wine, cider, perry, mead, ale, porter, beer, or any other spirituous, malt, vinous, or fermented liquors, but does not include any liquor which does not contain more than two per centum of proof spirit :

"owner of licensed premises" includes a *cestui que trust*, and means the person for the time being receiving or entitled to receive the rents of such premises, whether on his own account or as agent, trustee, or attorney for any other person :

"previously unlicensed premises" or "premises previously unlicensed" means premises not at the time licensed :

"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 :

"repealed Acts" means the Acts repealed by this Act :

"rules of court" means rules made by the Judge of the court pursuant to this Act :

"sale" includes sale, barter, exchange, and retailing :

"sale of liquor is prohibited by law" means sale of liquor is prohibited by this Act :

"sell" includes sell, barter, exchange and retail :

"Superintendent of Licensed Premises" means the Superintendent of Licensed Premises appointed under section 178 of this Act :

"Treasurer" means the Treasurer for the time being of the State :

"unlicensed person" means a person other than a licensed person (as hereinbefore defined).

(2) For the purposes of this Act one dozen containers each containing not less than twenty-six fluid ounces or two dozen containers each containing not less than thirteen fluid ounces shall in either case be deemed to contain a total quantity of two gallons.

PART II.

PART II.

THE LICENSING COURT

5. (1) There is hereby constituted a court to be known as the Licensing Court of South Australia which shall be a court of record and shall have a seal which shall be judicially noticed.

Constitution of
Licensing
Court.

(2) The court shall be constituted of a chairman, a deputy chairman and the Licensing Court Magistrates appointed as hereinafter mentioned.

(3) The Governor shall appoint a person who is eligible for appointment as a Local Court Judge to be chairman of the court. The chairman shall have the rank and title of Judge of the court.

(4) Subject to subsections (5) and (7) of this section, the chairman shall be appointed on such terms and conditions as are fixed by the Governor: Provided that he shall be appointed to hold office until he reaches sixty-five years of age and shall not be removed from office before reaching that age except upon an address of both Houses of Parliament.

(5) If any person in the employ of the Government of the State is appointed as chairman, his service as chairman shall be counted as service for the purpose of continuing all his existing and accruing rights and privileges.

(6) In the case of the illness or absence of the chairman, the Governor may appoint a person to act as acting chairman during such illness or absence, and the acting chairman shall, while so acting, have all the powers and perform all the duties of the chairman.

(7) The chairman shall be paid a salary at the rate of eleven thousand four hundred dollars per year: Provided that a person appointed as chairman may while holding that appointment hold any other appointments in the employ of the Government of the State in which event he shall be paid the salary in respect of his appointment as chairman or the salary in respect of any such other appointment whichever is the greater: Provided further that nothing in this subsection shall preclude the chairman from receiving such additional remuneration as the Governor may determine in respect of any part time appointment held by him.

(8) There shall be paid to the chairman such sums as he may incur as travelling expenses and which are considered reasonable by the Governor.

(9) The salary of the chairman shall be charged upon and be payable out of the general revenue of the State which is hereby to the necessary extent appropriated accordingly.

(10) The Governor shall appoint a special magistrate to be deputy chairman of the court.

(11) The Governor shall from time to time appoint such special magistrates as he thinks fit to be Licensing Court Magistrates.

(12) Three members of the court, one of whom shall be the chairman or deputy chairman, shall constitute a Full Bench of the court.

Jurisdiction.

6. (1) Subject to this Act and the rules of the court the jurisdiction vested in or exercisable by the court shall be exercised either by the Full Bench or by a single member of the court: Provided that the Full Bench shall hear and determine—

(a) all applications for new licences, the forfeiture, removal and suspension of licences, the imposition of conditions with respect to licences and the variation and revocation of such conditions ;

(b) all appeals from a single member of the court ;

(c) all special cases and points and questions of law referred to or reserved for the consideration of the Full Bench by a single member of the court ;

and

(d) such other matters as are required by the rules of court or by the express provisions of this or any other Act to be heard or determined by the Full Bench.

(2) The Judge of the court may make rules of court as to the mode of hearing applications for licences and for the renewal, transfer and removal of licences, and generally as to the manner of conducting the business of the court and the practice and procedure thereof and prescribing forms for the purpose of this Act.

(3) Rules may be made modifying, to any extent that may be necessary or expedient, any provisions in respect of any of the matters mentioned in subsection (2) of this section.

**Disqualification
in certain
cases.**

7. (1) No member of the court who is a member of any club shall be qualified to act as a member of the court when any application relating to that club or any information, complaint, appeal or matter in which the club is interested or concerned or relating to anything alleged to have been done or omitted to be done on the premises of the club is being heard, inquired into, determined or adjudicated upon.

(2) In the event of neither the chairman nor deputy chairman being able to act the Minister may appoint a licensing court magistrate to act as chairman for the hearing of a particular application or on a particular day.

8. The Governor may appoint a fit and proper person to be clerk of the court and such other officers of the court as he deems necessary. Clerk of Court.

9. (1) There shall be an appeal to the Full Court of the Supreme Court from every direction, determination, order, or decision given or made by the Full Bench of the Licensing Court with respect to any matter arising under this Act. Appeal to
Supreme Court.

(2) The appeal shall be instituted by notice within one calendar month or within such further time as the Supreme Court in its discretion allows 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 or applicant, as the case requires.

(5) Forthwith after the appeal is instituted the clerk shall cause the originals of the evidence given and notes taken on the hearing before the court or true copies thereof certified by the clerk as such, to be transmitted to the Master of the Supreme Court.

(6) 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.

(7) Every appeal shall be heard and be 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.

(8) 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 Full Bench of the Licensing Court ;

and

(e) make such order as to costs or otherwise as the Supreme Court shall think fit.

(9) 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.

Power to state case.

10. (1) The Full Bench of the Licensing Court may at its discretion state a special case for the opinion of the Full Court of the Supreme Court on any question of law.

(2) The Full Court of the Supreme Court shall deal with every such special case according to the practice of the Supreme Court on special cases and may make such order thereon as to the Full Court seems just.

(3) The Full Court of the Supreme Court may send any such special case back for amendment, or may itself amend the same.

(4) The Full Bench of the Licensing Court shall give its decision in accordance with the opinion of the Full Court of the Supreme Court.

PART III.

PART III.

LICENCES, AND THE GRANT, RENEWAL, TRANSFER, TRANSMISSION, REMOVAL, AND FORFEITURE THEREOF.

DIVISION I.

DIVISION I.—LICENCES FOR SALE OF LIQUOR

Duty to obtain licence.

11. Except as allowed elsewhere in this Act, no person shall directly or indirectly sell or permit to be sold within the State, any liquor without being licensed so to do under this Act.

Disqualification for licence.

12. No person in any office or situation under or in the employ of the Government of the State, or of the Commonwealth, and no member of the police force, and no sheriff's officer or other person employed to execute any legal process, and no licensed auctioneer shall, except where the court is satisfied that special circumstances justifying the grant of a licence exist, be licensed under this Act.

13. (1) The provisions of this Act relating to the sale of liquor shall not apply to—

- (a) the sale of spirituous or distilled perfume, *bona fide* as perfumery ;
- (b) the prescription or administration of any liquor simply as medicine or for medicinal purposes by or under the direction of any legally qualified medical practitioner, or pharmaceutical chemist, within the meaning of the Pharmacy Act, 1935-1965 ;
- (c) the sale by a pharmaceutical chemist of any spirituous medicinal wines compounded under a formula similar to one contained in the British Pharmacopoeia Codex of 1934.

(2) During a period of twelve months after the commencement of this Act, no licence shall be required under this Act by any person who is the occupier of a cider factory, vineyard or orchard for the sale or delivery by himself or his servants, in quantities of not less than two gallons of mead, wine, cider or perry manufactured by such person from honey, or fruit produced or grown in the Commonwealth of Australia : Provided that such mead, wine, cider, or perry is—

- i. neither sold nor delivered to any person in a state of intoxication :
- ii. neither sold nor delivered to any person to whom it is by this Act made unlawful to sell or supply liquor :
- iii. not consumed on any premises in the possession or occupation of such occupier of a cider factory, vineyard, or orchard, or his servants :
- iv. neither sold nor delivered except between the hours of five o'clock in the morning and six o'clock in the evening on any day except Sunday, Good Friday and Christmas Day :
- v. neither sold nor delivered at any place other than at the cider factory, vineyard, or orchard in the occupation of the person selling and delivering the same.

(3) Any person who, acting as an agent for more than one person, purchases or accepts delivery of any mead, wine, cider, or perry under the provisions of subsection (2) of this section, shall be guilty of an offence.

(4) No licence shall be required by the master or commander of any steamer or other vessel for the supply of any allowance of liquor to the crew of such steamer or vessel.

(5) This Act shall not apply to the sale or supply of liquor in Parliament House by the permission and under the control of the proper authority.

DIVISION II.—CLASSES OF LICENCES

Nature of
licences.

14. (1) The licences to be granted by virtue of this Act shall be of sixteen classes, and shall be denominated as follows:—

- (a) "Full publican's licence" ;
- (b) "Limited publican's licence" ;
- (c) "Wholesale storekeeper's licence" ;
- (d) "Retail storekeeper's licence" ;
- (e) "Wine licence" ;
- (f) "Brewer's Australian ale licence" ;
- (g) "Distiller's storekeeper's licence" ;
- (h) "Vigneron's licence" ;
- (i) "Club licence" ;
- (j) "Packet licence" ;
- (k) "Railway licence" ;
- (l) "Restaurant licence" ;
- (m) "Cabaret licence" ;
- (n) "Theatre licence" ;
- (o) "Special licence" ;
- (p) "Five gallon licence".

(2) Licences shall be in the forms respectively prescribed by rules of court.

(3) The annual fees to be paid for such licences shall be as provided in Division III of this Part.

Natural
pleasure
resort or
national
park
provision.

15. Notwithstanding the provisions of section 13 of the National Pleasure Resorts Act, 1914-1960 or the provisions of any other Act, but subject to the provisions of this Act, a full publican's licence, a limited publican's licence or a restaurant licence may be granted to the lessee of the chalet at the Wilpena National Pleasure Resort or the proprietor of any other premises situated upon any lands that the Governor declares by proclamation (which he is hereby empowered to do) to be a national pleasure resort or a national park.

Leigh Creek
Coal Field.

16. Notwithstanding anything in the Electricity Trust of South Australia Act, 1946-1966—but subject to the provisions of this Act, a full publican's licence may be granted to the Electricity Trust of South Australia in respect of the Leigh Creek Coal Field subject to such conditions and restrictions as the court thinks fit. Section 168 shall not apply to the Trust. The Trust shall not sell or supply any liquor except as is authorized under any such licence: Provided that the Trust may, during a period of twelve months after the commencement of this Act, sell and supply liquor in accordance with the said Electricity Trust of South Australia Act.

Licences for
premises in
Aboriginal
institutions

17. Notwithstanding anything in the Aboriginal Affairs Act, 1962-1967, contained, but subject to the provisions of this Act, a full publican's licence may be granted to any organization or association in respect of premises in any Aboriginal institution subject to such conditions and restrictions as the court thinks fit. Section 168 shall not apply to the holder of a licence under this section.

18. (1) Notwithstanding anything in this Act contained, but subject to this section, a licence may be granted by the court once in every calendar year to the Barossa Valley Vintage Festival Association Incorporated authorizing the said Association to sell or supply liquor of any kind in any quantity to the public at such times during a period not exceeding three days excluding Sundays at any one time upon such conditions as the court shall approve.

Special licence
for Barossa
Valley Vintage
Festival.

(2) Notwithstanding anything in this Act contained, but subject to this section, a licence may be granted by the court once in any calendar year to Süd Australischer Allgemeiner Deutscher Verein Incorporated authorizing the said Association to sell or supply liquor of any kind in any quantity to the public at such times during one day excluding Sunday upon such conditions as the court shall approve.

(3) A licence granted under this section shall be in the form prescribed by the rules of court and shall set forth the times during which liquor may be sold or supplied, the period during which it shall be in force, and the conditions upon which it is granted. Every such licence shall authorize the Committee of the Association to which it is granted to sell and dispose of any liquor in any quantity in accordance with the conditions thereof.

(4) A fee of fifty dollars shall be payable for any licence granted under this section.

19. (1) Subject to subsections (2), (3) and (4) of this section, every full publican's licence shall authorize the person thereby licensed to sell and dispose of any liquor in any quantity, in the house or premises therein specified—

Publican's
licence.

- (a) upon any day (other than Sunday, Christmas Day and Good Friday) between the hours of nine o'clock in the morning and ten o'clock in the evening or in the case of any particular licensed premises for such other continuous period not exceeding thirteen hours beginning not earlier than five o'clock in the morning and ending not later than ten o'clock in the evening as is fixed by the Licensing Court on the application of the licensee ;

- (b) upon Christmas Day, not being a Sunday, between the hours of nine o'clock in the morning and eleven o'clock in the morning ;
- (c) upon any day (other than Sunday, Christmas Day and Good Friday) between the hours of ten o'clock in the evening and half past eleven o'clock in the evening or in the case of any particular licensed premises for such other period ending not later than half past eleven o'clock in the evening as is fixed by the Licensing Court on the application of the licensee, for consumption by persons taking *bona fide* meals in such areas of the licensed premises as are fixed by the court, with or ancillary to such meals, but not otherwise ;
- (d) upon Sunday, Christmas Day and Good Friday between the hours of twelve o'clock noon and a quarter to eleven o'clock in the evening or for such shorter period between the hours mentioned in this paragraph as is fixed by the Licensing Court on the application of the licensee for consumption by persons taking *bona fide* meals in such areas of the licensed premises as are fixed by the court, with or ancillary to such meals, but not otherwise ;
- (e) where a permit (in this Act called a "supper permit") under subsection (2) of this section is in force, subject to and in accordance with the permit, on any day (other than Sunday, Christmas Day or Good Friday) between the hours of ten o'clock in the evening and half past eleven o'clock in the evening for consumption with or ancillary to substantial food in such part of the licensed premises as is specified in the permit and upon such conditions as the court shall fix.

and

- (f) at any time to excepted persons in the circumstances and subject to the restrictions set forth in section 158.

No offence shall be deemed to be committed by any person by reason of the consumption by him during the hours specified in paragraphs (a) and (b) of this subsection or within fifteen minutes thereafter or during the hours specified in paragraphs (c), (d) and (e) of this subsection or within thirty minutes thereafter of any liquor sold or supplied during the hours specified in such paragraphs respectively.

(2) The court may on application by the licensee (or the applicant for a new licence) and on payment of the fee prescribed in that behalf by the rules of court grant a permit subject to such terms and conditions and in respect of such part of the

licensed premises as it thinks fit for the purposes of paragraph (e) of subsection (1) of this section. Any such permit shall, unless sooner revoked by the court on the application of the Superintendent of Licensed Premises or an inspector, remain in force until a date specified therein being a date not later than one year from the grant thereof and may on the application of the licensee and on payment of the fee prescribed by the rules of court be renewed with the licence.

(3) The court may upon application by the holder of a full publican's licence for a renewal of his licence or of its own motion, having regard in either case, to the requirements of the public, renew a licence restricting the sale and supply of liquor by the licensee to the sale and disposal of liquor in and for consumption in bars or drinking areas and such of the following as the court thinks fit:—

- (a) the sale and disposal of liquor in sealed containers and not for consumption on the licensed premises;
- (b) the sale and disposal of liquor for consumption by persons taking *bona fide* meals on the licensed premises with or ancillary to such meals;

and

- (c) the sale and disposal of liquor to a *bona fide* lodger at any time.

(4) Every full publican's licence which is renewed restricting the sale and disposal of liquor pursuant to subsection (3) of this section 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 only upon the occasions and during the times specified in the licence.

20. (1) Every limited publican's licence shall authorize the person thereby licensed to sell and dispose of any liquor in any quantity in the house or premises therein specified being premises specifically constructed and primarily used for the service of the itinerant public—

Limited
publican's
licence.

- (a) for consumption by persons taking *bona fide* meals thereon with or ancillary to such meals, but not otherwise, on any day (except Sunday, Christmas Day and Good Friday) between the hours of twelve o'clock noon and half past eleven o'clock in the evening and on Sunday, Christmas Day and Good Friday between the hours of twelve o'clock noon and a quarter to eleven o'clock in the evening or in any case for such period or periods between the hours respectively mentioned in this section as are fixed by the court on the application of the licensee

for consumption by persons taking *bona fide* meals in such areas of the licensed premises as are fixed by the court with or ancillary to such meals, but not otherwise ;

- (b) where a permit (in this Act called a "supper permit") under subsection (2) of this section is in force subject to and in accordance with the permit, on any day (other than Sunday, Christmas Day, or Good Friday) between the hours of ten o'clock in the evening and half past eleven o'clock in the evening, for consumption with or ancillary to substantial food in such part of the licensed premises as is specified in the permit and upon such conditions as the court shall fix ;

and

- (c) the sale and disposal of liquor to a *bona fide* lodger at any time.

No offence shall be deemed to be committed by any person by reason of the consumption by him during the hours specified in this subsection or within thirty minutes thereafter of any liquor sold or supplied during the hours specified therein.

(2) The court may on application by the licensee (or the applicant for a new licence) and on payment of the fee prescribed in that behalf by the rules of court grant a permit subject to such terms and conditions and in respect of such part of the licensed premises as it thinks fit for the purposes of paragraph (b) of subsection (1) of this section. Any such permit shall, unless sooner revoked by the court on the application of the Superintendent of Licensed Premises or an inspector, remain in force until a date specified therein being a date not later than one year from the grant thereof and may on the application of the licensee and on payment of the fee prescribed by the rules of court be renewed with the licence.

Wholesale
storekeeper's
licence.

21. Every wholesale storekeeper's licence shall authorize the person thereby licensed to sell and dispose of liquor in the house, or on the premises therein specified, on any day (except Sunday, Good Friday and Christmas Day) between the hours of five o'clock in the morning and six o'clock in the evening, in quantities of not less than one gallon of spirits, or two gallons of wine or other fermented liquor, to be taken away at one time by one person, and not to be drunk in or about the house, or on the premises in which such liquor is sold : Provided that a wholesale storekeeper's licence may provide that the holder thereof may supply free of charge for consumption on any specified portion of the licensed premises any spirits, wine or other fermented liquor by way of sample.

PART III.
DIVISION II.

**Retail
storekeeper's
licence.**

22. (1) Every retail storekeeper's licence shall authorize the person thereby licensed to sell and dispose of liquor of any kind in any quantity, in the house or premises therein specified on any day (except Sunday, Christmas Day and Good Friday) between the hours of nine o'clock in the morning and six o'clock in the evening or in the case of any particular licence during such other hours as are fixed by the court on the application of the applicant for the licence, to be taken away by any person and not to be drunk in or about the house or premises in which the liquor is sold: Provided that where a retail storekeeper's licence relates to premises in a locality where other retail premises conducting business of a like nature are lawfully open during one or more evenings the court may, on application of an applicant or licensee extend the hours during which liquor may be sold and disposed of on one such evening per week to an hour not later than nine o'clock in such evening: Provided further that the court may grant renew or remove a retail storekeeper's licence subject to such conditions as the court, on the application of a person applying for such licence, or of its own motion, thinks fit.

(2) A retail storekeeper's licence except in an area situated outside a radius of five miles from existing licensed premises shall not, during a period of two years after the commencement of this Act, be granted except to the holder of a Storekeeper's Australian wine licence in force by virtue of subsection (6) of section 3 of this Act, or to a person who has held a brewer's Australian ale licence within a period of six months prior to his application for a retail storekeeper's licence, and, after the expiration of such period, a retail storekeeper's licence shall not be granted to any applicant therefor unless the court is satisfied that the public demand for liquor cannot be met by other existing facilities for the supply of liquor in the locality in which the applicant proposes to carry on business in pursuance of the licence.

(3) Nothing in subsection (2) of this section contained shall be deemed to limit the power of the court to declare a storekeeper's licence granted under the repealed Acts to be a retail storekeeper's licence under this Act pursuant to subsection (5) of section 3 of this Act.

23. (1) Every wine licence shall authorize the person thereby licensed to sell in the house or shop, or on the premises therein specified on any day (except Sunday, Good Friday and Christmas Day) between the hours of five o'clock in the morning and six o'clock in the evening, mead, wine, cider, or perry, in any quantity, for consumption in the premises or otherwise: Provided that if the court is satisfied that substantial food would be available on the premises specified in the licence for consumption by any person who might resort thereto and the premises and the service provided by the licensee are of such a

**Wine
licence.**

high standard that it is proper to extend the hours beyond six o'clock in the evening, the court may authorize the licensee to sell mead, wine, cider or perry as aforesaid during a continuous period not exceeding thirteen hours and ending not later than nine o'clock in the evening.

(2) No new wine licence shall be granted after the commencement of this Act.

(3) Every wine licence in force at the commencement of this Act may be renewed from time to time during a period of five years after the commencement of this Act but shall not thereafter be renewed unless the court is satisfied with the suitability of the premises and any such licence so renewed shall provide that any liquor to be consumed on the premises shall be consumed with substantial food on the licensed premises.

**Brewer's
Australian
ale licence.**

24. (1) Every brewer's Australian ale licence shall authorize the person thereby licensed to sell and dispose of liquor on the premises therein specified on any day (except Sunday, Good Friday and Christmas Day) between the hours of five o'clock in the morning and six o'clock in the evening, in quantities of not less than two gallons of spirits or two gallons of wine or other fermented liquor, to be taken away at one time by one person, and not to be drunk in or about the house or premises in which such liquor is sold. Such a licence shall be granted only to a brewer of ale, stout, or other fermented liquor, or to any manufacturer of cordials containing spirits who at any time before the twenty-third day of December, 1915, held a brewer's colonial ale licence: Provided that a brewer's Australian ale licence may provide that the holder thereof may supply free of charge for consumption on any specified portion of the licensed premises any spirits, wine or other fermented liquor by way of sample.

(2) No person while holding a brewer's Australian ale licence shall be capable of holding a wholesale or retail storekeeper's licence or a wine licence. Any grant of any of such last-mentioned licences to a person holding a brewer's Australian ale licence shall be void and of no effect.

**Distiller's
storekeeper's
licence.**

25. (1) Every distiller's storekeeper's licence shall authorize the distiller thereby licensed to sell and dispose of liquor on the premises therein specified, on any day (except Sunday, Good Friday and Christmas Day) between the hours of five o'clock in the morning and six o'clock in the evening, in quantities of not less at one time than one gallon of spirits, or two gallons of wine or other fermented liquor to be taken away at one time by one person, and not to be drunk in or about the house or premises in which such liquor is sold. Such a licence shall be granted only to a person holding a distillation licence under any

Act in force in the Commonwealth : Provided that a distiller's storekeeper's licence may provide that the holder thereof may supply free of charge for consumption on any specified portion of the licensed premises any spirits, wine or other fermented liquor by way of sample.

(2) No person, while holding a distiller's storekeeper's licence, shall hold a wholesale storekeeper's or retail storekeeper's licence or a wine licence. Any grant of any of such last-mentioned licences to a person holding a distiller's storekeeper's licence shall be void and of no effect.

26. Every vigneron's licence shall authorize the person thereby licensed to sell and dispose of mead, wine, cider or perry on any day (except Sunday, Good Friday and Christmas Day) between the hours of five o'clock in the morning and six o'clock in the evening, in any quantity to any person or organization licensed to sell liquor, or in quantities of not less than two gallons at one time to persons not licensed by this Act: Provided that such mead, wine, cider or perry—

Vigneron's
licence.

- (i) is the produce of honey or fruit produced or grown within Australia ;
 - (ii) is to the extent of at least seventy per centum made by him and is to the extent to which it is not made by him used only for the purpose of blending with mead, wine, cider or perry made by him ;
 - (iii) is sold and is delivered at the place at which such person makes mead, wine, cider or perry ;
- and
- (iv) is not consumed or intended to be consumed on the premises where the same is made, sold or offered for sale :

Provided that a vigneron's licence may provide that the holder thereof may supply free of charge for consumption on any specified portion of the licensed premises any wine or other fermented liquor by way of sample.

27. (1) Subject to section 87 of this Act every club licence shall authorize the sale supply and delivery of liquor by or on behalf of the club in the club premises to a member of the club or to a visitor in the presence and at the expense of a member thereof—

Club Licence.

- (a) upon any day (other than Sunday, Christmas Day and Good Friday) between the hours of nine o'clock in the morning and ten o'clock in the evening ;
- (b) upon Christmas Day, not being a Sunday, between the hours of nine o'clock in the morning and eleven o'clock in the morning ;

- (c) upon any day (other than Sunday, Christmas Day and Good Friday) between the hours of ten o'clock in the evening and half past eleven o'clock in the evening for consumption by persons taking *bona fide* meals in such areas of the premises of the club as are fixed by the court with or ancillary to such meals but not otherwise ;
 - (d) upon Sunday, Christmas Day and Good Friday between the hours of twelve o'clock noon and a quarter to eleven o'clock in the evening for consumption by persons taking *bona fide* meals in such areas of the club premises as are fixed by the court with or ancillary to such meals but not otherwise ;
 - (e) where a permit (in this Act called a "supper permit") under subsection (2) of this section is in force, subject to and in accordance with the permit, on any day (other than Sunday, Christmas Day or Good Friday) between the hours of ten o'clock in the evening and half past eleven o'clock in the evening for consumption with or ancillary to substantial food in such part of the licensed premises as is specified in the permit and upon such conditions as the court shall fix ;
- and
- (f) where a licence subject to conditions is granted under subsection (3) of this section, subject to and in accordance with the conditions of the licence so granted and not otherwise and shall authorize the sale and supply of liquor by or on behalf of the club in the club premises at any time to a *bona fide* lodger who is a member of the club.

No offence shall be deemed to be committed by any person by reason of the consumption by him during the hours specified in paragraphs (a) or (b) of this subsection or within fifteen minutes thereafter or during the hours specified in paragraphs (c), (d) or (e) of this subsection or within thirty minutes thereafter of any liquor sold or supplied during the hours specified in such paragraphs respectively.

(2) The court may on application by the licensee (or the applicant for a new licence) and on payment of the fee prescribed in that behalf by the rules of court grant a permit subject to such terms and conditions and in respect of such part of the licensed premises as it thinks fit for the purposes of paragraph (e) of subsection (1) of this section. Any such permit shall, unless sooner revoked by the court on the application of the Superintendent of Licensed Premises or an inspector, remain in force until a date specified therein not being a date later than

one year from the grant thereof and may on the application of the licensee and on payment of the fee prescribed by the rules of court be renewed with the licence.

(3) Subject to subsection (4) of this section, the court may grant or renew a club licence subject to such conditions as the court, on the application of the person applying for such licence, or of its own motion, thinks fit and, without limiting the generality of the foregoing, the court may impose either or both of the following conditions upon the licensee—

(a) restricting the sale of liquor by him to such periodic or other occasions as may be specified by the court ;

or

(b) requiring the licensee to purchase all the liquor that he requires for the purposes of the club from a person holding a full publican's licence.

(4) In the case of a club that is a sub-branch of the Returned Sailors' Soldiers' and Airmen's Imperial League of Australia (South Australian Branch) Club, if the court is satisfied that the sub-branch has, prior to the first day of August, 1967, obtained the liquor purchased by it for its purposes or a substantial part thereof from that Club, the sub-branch may continue to purchase liquor from that Club.

(5) Notwithstanding anything in this section contained a club licence held by any club to which section 113 of the Licensing Act, 1932-1966 applied or in respect of which a proclamation under section 114 of that Act was in force at the commencement of this Act shall authorize the sale, supply and delivery of liquor by or on behalf of the club in the club premises to a member of a club or to a visitor in the presence and at the expense of a member thereof at any time on any day.

28. (1) Every packet licence shall authorize the master or commander thereby licensed to sell and dispose of liquor in any quantity to any passenger on board the steamer or vessel of which he is master or commander for consumption on the steamer or vessel during any voyage or passage, subject to the following restrictions :—

Packet
licence.

(a) If the steamer or vessel plies only from port to port within the State, liquor shall not be sold nor disposed of whilst the steamer or vessel is at her berth or moorings, nor until she has proceeded on her voyage or passage :

(b) If the steamer or vessel is on a voyage extending or about to extend from start to finish for a distance not greater than forty miles, or is on the River Murray or any lake connected therewith, liquor shall not be sold or disposed of except between the hours of nine o'clock in the morning and ten o'clock in the evening upon a day other than a Sunday or Good Friday.

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DIVISION II.

Five gallon
licence.

29. Every five gallon licence shall authorize the person thereby licensed to sell and dispose of liquor on the premises therein specified, on any day (except Sunday, Good Friday and Christmas Day) between the hours of five o'clock in the morning and six o'clock in the evening in quantities of not less than five gallons to any person licensed to sell liquor of that kind under this Act.

Railway
licence.

30. Every railway licence shall authorize the person thereby licensed to sell and dispose of any liquor, in any quantity, on the premises therein specified, in the manner mentioned in Part IV of this Act.

Restaurant
licence.

31. (1) Every restaurant licence shall authorize the person thereby licensed to sell and dispose of liquor of any kind in any quantity in the house or premises therein specified—

(a) for consumption by persons taking *bona fide* meals thereon with or ancillary to such meals, but not otherwise, on any day (except Sunday, Christmas Day and Good Friday) between the hours of twelve o'clock noon and half past eleven o'clock in the evening and on Sunday, Christmas Day and Good Friday between the hours of twelve o'clock noon and a quarter to eleven o'clock in the evening or in any case for such period or periods between the hours respectively mentioned in this section as are fixed by the court on the application of the licensee, for consumption by persons taking *bona fide* meals in such areas of the licensed premises as are fixed by the court with or ancillary to such meals but not otherwise ;

and

(b) where a permit (in this Act called a "supper permit") under subsection (2) of this section is in force, subject to and in accordance with the permit, on any day other than Sunday, Christmas Day or Good Friday, between the hours of ten o'clock in the evening and half past eleven o'clock in the evening for consumption with or ancillary to substantial food in such part of the licensed premises as is specified in the permit and upon such conditions as the court shall fix.

No offence shall be deemed to be committed by any person by reason of the consumption by him during the hours specified in this subsection or within thirty minutes thereafter of any liquor sold or supplied during the hours specified therein.

(2) The court may on application by the licensee (or the applicant for a new licence) and on payment of the fee prescribed in that behalf by the rules of court grant a permit subject to

such terms and conditions and in respect of such part of the licensed premises as it thinks fit for the purposes of paragraph (b) of subsection (1) of this section. Any such permit shall, unless sooner revoked by the court on the application of the Superintendent of Licensed Premises or an inspector, remain in force until a date specified therein being a date not later than one year from the grant thereof and may on the application of the licensee and on payment of the fee prescribed by the rules of court be renewed with the licence.

(3) The court shall not fix any area of the premises other than a dining room for the consumption of liquor by persons ancillary to *bona fide* meals except where it is satisfied that the premises are of such a size and standard that the provision of an area outside the dining room is desirable.

32. (1) Every cabaret licence shall, subject to such terms and conditions as are fixed by the court and specified in the licence, authorize the licensee to sell and dispose of liquor to any person on the premises therein specified for consumption on the premises with or ancillary to the supply of food and entertainment between seven o'clock in the evening and three o'clock in the morning, but the licence shall not authorize the sale or disposal of liquor on Good Friday at any time or on a Sunday or Christmas Day after three o'clock in the morning.

Cabaret
licence.

(2) A cabaret licence shall not be granted in respect of any premises for which a full publican's licence, a limited publican's licence or a restaurant licence is in force.

33. (1) Every theatre licence shall authorize the licensee to sell and dispose of liquor for consumption on the premises on the part or parts of the premises specified in the licence between the hours of seven o'clock in the evening and eleven o'clock in the evening or such later hour on a special occasion as may be specified in a permit issued under this Act on any evening upon which performances are given to the public on those premises.

Theatre
licence.

(2) A theatre licence shall not authorize the licensee to sell and dispose of liquor except during an evening on which the theatre is being used to provide entertainment in which all the performers whose words or actions constitute the entertainment are physically present in the theatre and actually perform the entertainment.

(3) A theatre licence shall not specify a part of the premises as a part for the sale or disposal of liquor which is readily accessible to persons who are not attending the performance.

34. (1) The fees for all licences, certificates, and permits under this Act shall be paid to the clerk.

Payment of
fees and date
when licences
take effect.

PART III.**DIVISION II.**

(2) Every licence, other than a packet licence, or a special licence, shall—

(a) without regard to the date thereof, commence and take effect from the day on which it is actually granted by the court ;

(b) if not previously forfeited, be in force for a period of twelve months and fourteen days thereafter or such lesser period as the court may determine and specify in the licence.

(3) Every packet licence shall, if not previously forfeited, be in force for twelve months from the date of its issue.

Special licence.

35. (1) Where an application for the renewal of a licence is adjourned, the court may grant a special licence to the applicant.

(2) The special licence shall be under the hand of the clerk of the court, and may be granted for such period, not exceeding three months, as the court thinks fit, and the period for which any such licence is granted shall be specified therein.

(3) A special licence shall have the same effect as if the licence the renewal whereof is applied for had been renewed in favour of the person named in the special licence for the period specified in such special licence.

Fee for licence for part of a year.

36. If any licence is issued for a period of less than a year, a proportionate amount only of the licence fee shall be payable by the licensee.

DIVISION III.**DIVISION III.—FEES FOR LICENCES.****Licence fees.**

37. (1) The fees to be paid for licences respectively shall subject to subsections (2) and (3) of this section, be as follows :—

(a) for any of such licences, other than those for which other provision is made in this section, the fee shall be equal to the sum of five per centum of the gross amount paid or payable for all liquor including liquor disposed of pursuant to any permit, and any certificate of approval granted under sections 65 and 71, which during the twelve months ended on the last day of June preceding the date of the application for the grant or renewal of the licence was purchased for the purposes of the licence in respect of which such grant or renewal is sought : Provided that the gross amount paid or payable during the twelve months ended on the thirtieth day of June, 1967, shall be deemed not to include sales to persons holding a licence under the Acts repealed by this Act ;

- (b) for a wholesale storekeeper's licence—a fee which is equal to the sum of five per centum of four-fifths of the gross amount paid or payable to the licensee for all liquor which, during the twelve months ended on the last day of June preceding the date of the application for the grant or renewal of the licence, was sold or disposed of under such licence to persons other than persons licensed under this Act or otherwise permitted by law to sell liquor ;
- (c) on a renewal of a wine licence in force at the commencement of this Act a fee equal to the sum of five per centum of the gross amount paid or payable by the licensee for all liquor including liquor disposed of pursuant to any certificates of approval granted under section 71 which, during the twelve months ended on the last day of June preceding the date of the application for the renewal of such licence, was purchased by the licensee for the purposes of the licence and was not disposed of under such licence to any other person licensed under this Act to sell liquor or exempted under section 13 ;
- (d) for a packet licence—a fee of fifty dollars ;
- (e) for a brewer's Australian ale licence—a fee equal to the sum of five per centum of four-fifths of the gross amount paid or payable to the licensee for all liquor which, during the twelve months ended on the last day of June preceding the date of the application for the grant or renewal of such licence was sold or disposed of under such licence to persons other than persons licensed under this Act or otherwise permitted by law to sell liquor ;
- (f) for a distiller's storekeeper's licence or a vigneron's licence—a fee equal to the sum of five per centum of four-fifths of the gross amount paid or payable to the licensee for all liquor which, during the twelve months ended on the last day of June preceding the date of the application for the grant or renewal of such licence, was sold or disposed of under such licence to persons other than persons licensed under this Act or otherwise permitted by law to sell liquor ;
- (g) for a five gallon licence—ten dollars.

In this subsection "gross amount" means amount paid or payable for liquor including any duties other than sales tax thereon but excluding packing, delivery and freight charges :
Provided that where pursuant to any condition imposed by the court a licensee is required to make his purchases by retail from another licensee or licensees such purchases by retail shall

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not be taken into account in computing a "gross amount" in relation to the licensee required so to purchase liquor.

(2) Where any fee for any licence computed in accordance with the provisions of subsection (1) of this section is less than fifty dollars the fee for such licence shall be fifty dollars.

(3) All fees to be paid for licences under this Act shall be computed and payable to the nearest dollar.

(4) The said fees shall be payable annually or may be paid (except in the case of packet licences) in equal quarterly instalments as provided by section 49 of this Act.

Court to fix
percentage fee.

38. (1) The Licensing Court shall finally and conclusively fix the amount of any fee payable on a percentage basis under this Act: Provided that the court may in its absolute discretion, upon application by the superintendent of licensed premises or the holder of a licence, at any time within twelve months of the grant or renewal of the licence, reassess such amount in which case the amount so reassessed shall be final and conclusive.

(2) The court shall fix such sum as it thinks reasonable in any case—

(a) where no information is produced to the court, or the information produced is incomplete or insufficient to enable the court to determine the gross amount paid or payable for liquor purchased or sold or disposed of (as the case may be);

or

(b) where information covering a period of twelve months cannot be produced.

(3) For the purpose of enabling the Licensing Court to fix fees payable on a percentage basis the court may by order in writing require any person firm or body corporate to state in such form as the court may require the name and address of every person holding a licence under this Act and of every person holding a permit under this Act and of every licensed club to whom or to which such person, body corporate or firm sold or supplied liquor during the twelve months ended on the preceding thirtieth day of June.

(4) Such statement shall show the quantity and nature of liquor so sold or supplied in each case the price paid or payable therefor and such other particulars as the court may require.

(5) Every person or body corporate and every member of a firm who or which within fourteen days after such order does not furnish such statement shall be liable to a penalty of not less than twenty nor more than two hundred dollars.

(6) When the court grants a licence or a renewal of a licence for which a fee is payable on a percentage basis the court shall cause to be inserted on the licence the amount of the percentage fee payable.

39. (1) Every applicant for the grant of a new licence shall, prior to the hearing of the application, furnish such particulars as the court may require to enable it to estimate what, if the application were for a renewal of licence, would have been the probable extent of the annual purchases or, as the case requires, sales of liquor for the premises in respect of which such grant is sought.

Applicants for licences, etc., to furnish declarations as to liquor purchases.

(2) Save as otherwise expressly provided every intending applicant for the renewal of a licence for which a fee is payable on a percentage basis shall in each year on or before a date fixed by the rules of court forward to the clerk a statutory declaration by such intending applicant (or where such intending applicant is a body corporate or club by the secretary thereof) setting forth with regard to the twelve months ended on the last preceding thirtieth day of June as nearly as practicable or if liquor has not been purchased during the whole of such period then with regard to any shorter period preceding the said thirtieth day of June during which liquor was purchased—

(a) the quantity of liquor purchased for the purposes of the licence in respect of which the application is made and the quantity of liquor purchased for sale pursuant to any certificates of approval granted under sections 65 and 71 and the gross amount paid or payable therefor;

and

(b) the names and addresses of the persons firms or bodies corporate who or which sold such liquor.

In this subsection the expression "gross amount" has the same meaning as it has in subsection (1) of section 37.

(3) In the case of an application for the transfer of a licence by a person other than a person specified in subsection (5) of this section a like declaration relating to liquor purchased or, as the case requires, sold up to the date of the application shall at the time of the application be furnished as aforesaid by the applicant.

(4) In the case of an application for the renewal of a brewer's Australian ale licence, distiller's storekeeper's licence, wholesale storekeeper's licence, or a vigneron's licence a like declaration shall be furnished as aforesaid setting forth the liquor sold or supplied during the said period of twelve months by every holder of the licence to persons other than persons licensed under this Act or otherwise permitted by law to sell liquor.

(5) Within seven days after the happening of any of the events mentioned in subsection (1) of section 55, the holder of any licence in respect of which such event happens or a person deemed to be a licensed person under section 55 (or in the case of any of the events mentioned in subdivisions I, II, III and IV of subsection (1) of section 55, the persons specified in the second column of the said subsection opposite to the event) shall furnish as aforesaid a like declaration setting forth the liquor purchased or, as the case requires, sold during the current licensing year in respect of the licensed premises up to the date of such event.

(6) Any person who is required by any provision of this section to forward or furnish to the clerk any statutory declaration and who fails so to forward or furnish on or before the due date or within the proper time a declaration in accordance with the requirements of this section shall be guilty of an offence and shall be liable to a penalty of not less than twenty dollars and not more than two hundred dollars.

DIVISION IV. DIVISION IV.—APPLICATIONS FOR LICENCES AND OBJECTIONS.

Applications to
be made to
court.

40. Every application for a licence or for the transfer or removal of any licence, shall be made to and considered by the court.

Conditions
precedent to
application for
licence for
previously
unlicensed
premises.

41. (1) No person shall be entitled to apply for a licence except a packet licence or vigneron's licence in respect of previously unlicensed premises unless he has—

- (a) twenty-eight clear days before the date upon which the application is to be made deposited with the clerk plans of the buildings erected or proposed to be erected on the said premises ;
- (b) within seven days of the deposit caused notice of the deposit to be given by two advertisements in such newspapers as a member of the court on application by the intending applicant directs ;
- (c) during the whole of the interval between the date of the deposit and the date upon which the application is to be made posted and kept posted on or near the main entrance to the premises or if the said premises have not been erected or completed on a conspicuous part of the land upon which it is intended to erect or complete the premises and in any case so as to be easily legible from the nearest public footpath notice in the form prescribed by the rules of court ;

and

(d) at the time of depositing the plans delivered to the clerk a duplicate of the said notice.

(2) The plans deposited under this section must show exactly—

(a) the site of the premises ;

(b) the boundaries thereof ;

(c) the situation thereon of the front door of the buildings erected or proposed to be erected and the entrance and exit of the drive-in bottle department (if any) and the parking area or areas appurtenant thereto ;

and

(d) words indicating which is or is to be the front door.

(3) Such plans shall be—

I. upon paper of at least the width of twenty-four inches :

II. certified as correct by such person and by a registered architect or licensed surveyor :

III. open to public inspection without fee.

(4) Forthwith after the deposit of any plans the clerk shall cause notice thereof to be inserted in two consecutive numbers of the *Gazette*. The applicant shall pay the cost of the said insertion.

42. (1) Any person who has complied with the requirements of section 41, may apply to the court for a licence in respect of the premises specified in the plans, and the court may thereupon—

Mode of
dealing with
applications.

(a) if the premises have already been erected or completed, grant or refuse the application ;

and

(b) if the premises have not then been erected or completed, decide whether a licence will be granted for such premises when erected or completed in accordance with such deposited plans to the satisfaction of and within a reasonable time to be then fixed by the court or such other time as the court may subsequently allow :

Provided that the court—

(a) may at any stage of the proceedings from time to time permit the deposited plans to be altered in any manner and to any extent or other plans to be substituted therefor ;

and

(b) subject to this Act, on approval of any such deposited plans or altered or substituted plans, may—

(i) grant the licence for the premises in their then state ;

or

(ii) decide whether the licence will be granted for such premises when erected or completed in accordance with such altered or substituted plans to the satisfaction of and within a reasonable time to be then fixed by the court :

Provided further that where the court permits the deposited plans to be altered or substituted the court may require the applicant as nearly as may be in accordance with the requirements of section 41 relating to the advertising of applications for new licences to advertise his intention to apply for approval of the altered or substituted plans and serve notice in writing of such intention upon all objectors to the original application. Any person who was entitled to object to the original application, whether in fact he did so object or not, may as nearly as may be in the manner in which objections might have been taken to the original application, object to the application in respect of the altered or substituted plans, but if any such person did not object to the original application such objection shall be limited to the alterations proposed to be made to the deposited plans or to the substituted plans or matters arising therefrom.

(2) If any application is rejected on the ground—

(a) that the plans deposited do not meet with the approval of the court ;

or

(b) that the premises erected or proposed to be erected are not, or would not, in its opinion, be suitable to the locality,

the court shall, upon the request of the applicant or his counsel, state in what particulars—

I. the plans do not meet with its approval, or

II. the buildings or proposed buildings are unsuitable.

(3) When the court has decided that a licence will be granted for any premises not then erected or completed, those premises, upon being erected or completed in accordance with the deposited plans within the time fixed by the court, shall, for the purpose of regulating the mode of application for a licence therefor, be deemed to be previously licensed premises.

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Application by
unlicensed
person in
respect of
previously
licensed
premises.

43. Any unlicensed person applying for any licence other than a packet licence, in respect of previously licensed premises, shall—

- (a) twenty-eight clear days before the date upon which the application is to be made, post and keep posted until the date of the application, on or near the main entrance to the premises and so as to be easily legible from the nearest public footpath a notice in the form prescribed by the rules of court ;

and

- (b) at the same time deliver to the clerk a duplicate of that notice.

44. Any licensed person applying for a renewal of his licence shall, twenty-eight clear days before the expiration of his licence deliver to the clerk a notice in the form prescribed by the rules of court.

Manner of
application
for renewal
of any licence.

45. Upon the receipt of any notice of application, the clerk shall file the same, and shall forthwith cause notice of such application and the particulars thereof to be forwarded to the Superintendent of Licensed Premises.

Notice of
application to
Superinten-
dent.

46. No person other than the Superintendent of Licensed Premises shall be heard, either personally or by counsel, in support of any objection to the grant, renewal, transfer, or removal of a licence before the court unless notice in writing of such objection, stating the nature and grounds thereof, signed by the objector, and giving his place of residence and occupation or style, has been delivered to the clerk and to the person who has given the notice of application prescribed by this Act at least fourteen clear days before the day fixed by the clerk for the hearing of the application.

Notice of
objection to
be served.

47. An applicant for a licence other than a packet licence or a vigneron's licence in respect of previously unlicensed premises or for the removal of a licence shall satisfy the court—

Matters to be
established.

- (a) that the licensing of the premises is required for the needs of the public having regard to the licensed premises existing in the locality in which the premises are to be situated ;
- (b) that owners or occupiers of premises in the locality in which the premises are to be situated will not be unreasonably affected ;
- (c) that the premises will not be situated within an area set aside by any competent zoning authority for purposes which exclude premises of the kind desired to be licensed therefrom ;

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- (d) that the site shown in the application is suitable for the premises and that the applicant has complied with all the requirements of this Act ;
- (e) in the case of an application for any licence in a new or expanding community the licence would not unreasonably restrict the grant of a full publican's licence in the locality.

**Objections to
licences and
renewals.**

48. The objections to the grant or renewal of any licence except a packet licence or a vigneron's licence are the following :—

(1) As to all applications—

(a) that the applicant is—

- I. of bad fame or character ;
- II. interested in keeping a brothel or house of ill-fame ;
- III. of drunken or dissolute habits ;
- IV. not a fit and proper person to be licensed ;

(b) that during the twelve months preceding the day on which the notice of objection is given to the clerk, unlawful gaming within the meaning of the Lottery and Gaming Act, 1936-1967, has taken place on the premises mentioned in the application ;

(c) that the applicant has within six months previously been deprived of a licence under this Act or any Act repealed by this Act ;

(d) that the said premises, or any adjacent store, shop or house, owned or occupied by the applicant (whether there is or is not any means of communication between such adjacent store, shop or house and the said premises) is—

I. of a disorderly character ;

or

II. frequented by prostitutes, thieves, or persons of bad character ;

(e) that the licensing of the premises is not required for the needs of the public ;

or

(f) in the case of an application for a renewal of a full publican's licence restricting the sale and supply of liquor to all or any of the occasions or purposes mentioned in subsection (3) of section 19 the restrictions sought would leave a substantial public need uncatered for.

(2) As to applications for premises not previously licensed—

- (a) that the said premises are in the vicinity of a church or other place of public worship, or a hospital, recognized youth centre, or school, and would, if licensed, be the cause of inconvenience or annoyance to the persons using or frequenting such church, place of worship, hospital, centre or school ;
- (b) that the quiet of the locality in which the said premises are situated will be disturbed or that owners or occupiers of premises in the locality will be unreasonably affected if a licence is granted for the sale of liquor in the premises ;
- (c) that the said premises are not suitable to be licensed ;
- (d) that the licensing of the premises is not required on the site shown in the application for the needs of the public ;
- (e) that the site shown in the application is unsuitable or does not comply with the requirements of this Act ;
- (f) that the applicant has not the financial resources to carry out his proposals ;
- (g) that the premises will be situated within an area set aside by a competent zoning authority for purposes which exclude from such area premises of the kind desired to be licensed ;
- (h) in the case of an application for a new licence in a new or expanding community the licence would unreasonably restrict the grant of a full publican's licence in the locality ;

or

- (i) that the grant of the licence would result in undue competition and economic waste.

(3) As to applications for renewal of licences or by new applicants for previously licensed premises—

- (a) that the management of the licensed premises in such particulars as are specified in the notice has not been satisfactory ;

or

- (b) that any direction of the court has not been complied with.

PART III.

DIVISION IV.

Effect of
non-payment
of licence fee.

49. Until the licence fee, or, except in the case of a packet licence, the first quarterly instalment of the licence fee is paid to the clerk, and the licence is actually issued by him, the person entitled to the licence or (in the case of a club licence the club) shall be deemed unlicensed, and if the said licence fee or quarterly instalment is not paid within two calendar months after the date on which the licence was granted, the clerk may give notice in writing of such non-payment of such licence fee or quarterly instalment to the owner of the freehold of the premises in respect of which such licence was granted or (in the case of a club licence) to the members of the committee of management of the club, and if such licence fee or instalment is not paid within fourteen days after the giving of such notice as aforesaid, the grant shall be wholly void. Except in the case of a packet licence the subsequent quarterly instalments shall be paid three, six, and nine calendar months respectively after the date on which the licence was granted, and if default is made in paying any such instalment on the due date and the default continues for two calendar months, the clerk may give notice in writing of such default to the owner of the freehold of the premises in respect of which such licence was granted or (in the case of a club licence) to the committee of management of the club, and if such default continues for fourteen days from the giving of such notice, the licence shall thereby be *ipso facto* forfeited and wholly void for all purposes.

Publication of
list of licences
issued and
notice of
non-payment
of fees.

50. The clerk shall cause a list of all licences issued, and also notice of the non-payment of any licence fees or instalments as mentioned in section 49, to be inserted in the *Gazette*, on the first, second, or third day of its publication after the issue of the licences, or after the expiration of the said period of two calendar months and fourteen days, as the case may be.

DIVISION V.

DIVISION V.—TRANSFER OF LICENCES.

Application to
transfer to
person holding
certificate or
who has
entered.

51. (1) Any person who—

- (a) has a certificate under section 55 ; or
- (b) has given notice of entry to the clerk under subsection (2) of section 55,

may apply to the court to have the licence in respect of the premises the subject of the certificate or which have been entered transferred to himself.

(2) Notice in writing of the intention to make the application shall be given to the clerk at least fourteen days before the application is to be made. From the date on which such notice is given, a duplicate of the notice shall be posted and kept

posted on or near the main entrance to the premises so as to be easily legible from the nearest public footpath until the application is made.

(3) The court may, subject to this Act, transfer the licence to the applicant. A memorandum of the transfer shall be endorsed on the licence by the clerk upon payment to him of the sum of ten dollars.

52. (1) On the sale of any licensed premises (other than a club) an application may be made for the transfer of the licence from—

Transfer on
sale of
licensed
premises.

(a) the holder of the licence ;

or

(b) a person who has a certificate under section 55, in respect of those premises ;

or

(c) a person who has given notice of entry upon those premises under subsection (2) of section 55,

to some person other than himself. Such application shall be made by the transferor and proposed transferee jointly.

(2) The application shall be made to the court. Such application shall set forth the licensed premises the subject of the application and the names of the transferor and proposed transferee and shall be signed by them. The application shall be accompanied by—

(a) a copy of the contract of sale certified by the applicants ;

(b) a certificate by any person who has agreed to advance any moneys in connection with the sale setting forth details of such agreement ;

(c) a copy of an advertisement which has previously been inserted in at least one daily newspaper of the intention of the applicants to make the application ;

and

(d) where the licensed premises are held under a lease, a copy of the lessors terms of consent to the proposed transfer certified by the applicants.

(3) The court may, subject to this Act, approve the transfer to the proposed transferee as from the date upon which possession of the premises is to be taken by him. Within seven days after such possession has been taken the transferee shall give notice thereof to the clerk and deliver the licence to the clerk who shall thereupon endorse a memorandum of the transfer on the licence upon payment of the sum of ten dollars.

53. Upon the endorsement of a memorandum of transfer upon any licence pursuant to section 51 or section 52—

(a) the transferee shall thereafter have and exercise the same privileges and be subject to the same liabilities and penalties as if such licence had been originally granted to him ;

and

(b) the person whose licence is so transferred shall cease to be a licensed person under this Act in respect of the premises mentioned in such licence, but shall remain liable for any act or omission done, caused, permitted, or made by him prior to such transfer.

Objections to
transfers.

54. The objections to a transfer, of which notice may be given, are the following :—

(1) That the licence of the person proposing to transfer the same is liable to be forfeited for offences against this Act, or any Act hereby repealed.

(2) That the person to whom it is proposed to have the licence transferred—

(a) is of bad fame or character ;

(b) is interested in keeping a brothel or house of ill-fame ;

(c) is of drunken or dissolute habits ;

(d) is not a fit and proper person to be licensed ;

(e) has within six months previously been deprived of a licence under this Act, or any Act hereby repealed, as being personally incapable or unfit to hold the same.

(3) That on any premises for which the proposed transferee held a licence at any time during the period of twelve months preceding the day on which the notice of objection is given to the clerk, unlawful gaming within the meaning of the Lottery and Gaming Act, 1936-1967, took place during that period or that the said transferee is a bookmaker or reputed bookmaker.

(4) That the lease under which the holder of the licence occupies his house contains a covenant or prohibition against transferring the licence, or assigning, or subletting without the consent of the lessor, and that such consent has not been obtained.

(5) That any direction of the court has not been complied with.

DIVISION VI.—TRANSMISSION OF LICENCES.

55. (1) If any of the events mentioned in the first column of this subsection happens to the holder of any licence other than a club or packet licence, or of a certificate under this section, or if such holder does, permits, or suffers any of the acts, matters, or things mentioned in the first column, the person specified in the second column opposite to the events, acts, matters or things mentioned in the first column shall thereupon be entitled to enter upon the licensed premises of such holder, and may, subject to obtaining a certificate from the court as hereinafter mentioned, continue and carry on the business thereof for a period not exceeding twenty-eight days after such entry.

Transmission
of licences.

Within the said period of twenty-eight days an application shall be made by the person who has so entered for a transfer of the licence, or for a licence, as the case may require, and the proceedings to obtain the transfer or licence shall be the same, or as nearly as may be, and the court shall have and exercise the same discretion as in ordinary cases of applications for a transfer or licence.

First Column.

Second Column.

- | | |
|---|--|
| I. On death : | I. The legal personal representative (or his nominee or assignee), or the widow, widower, or any child of the deceased : |
| II. On bankruptcy, statutory assignment, or composition whereby the estate of a licensed person becomes an asset for the benefit of his creditors : | II. The assignee, trustee, or other person in whom the estate becomes vested, or his nominee or assignee : |
| III. On sickness or other infirmity, whereby the licensed person becomes disabled personally to conduct the business of the licensed premises : | III. The wife, or husband, or any child, or the nominee of the licensed person : |
| IV. On the mental defect of any licensed person : | IV. The committee of such person or the nominee of such committee : |

First Column.	Second Column.
v. On surrender, forfeiture, recovery by legal process, or other determination of the right of the licensed person to the possession of the licensed premises, or upon the licensed person yielding up possession of the premises before the expiration of the licence, or allowing such premises to become vacant :	v. The landlord, mortgagee, or other person who may be <i>bona fide</i> entitled to the licensed premises or the possession thereof, or the nominee or agent of any such landlord, mortgagee, or other person :
vi. On the neglect or refusal of the licensed person to give notice of application for the renewal of his licence, or, having given such notice, on his neglecting to apply for such renewal, or, on his having so applied, his being refused a renewed licence merely on personal grounds, or having been granted a licence, on his refusing or neglecting to pay the first quarterly instalment of the licensing fee within thirty days from the meeting of the court at which the licence was granted, or any other quarterly instalment within thirty days from the due date for the payment of the same :	vi. The landlord, mortgagee, or other person prejudiced thereby :
vii. On the neglect or refusal of a person to whom a certificate has been granted as hereinafter mentioned to make	vii. The landlord, mortgagee, or other person prejudiced thereby.

application for a transfer of the licence or for a licence (as the case may require) or upon the refusal of the court to transfer the licence or to grant a licence (as the case may require) to such person.

(2) Every person entering upon any licensed premises, and continuing the business thereof under the provisions of this section, shall, within seven days after entry, give notice thereof in writing to the clerk, and shall if the court so requires, on receiving notice from the clerk, attend before the court, at a time and place to be specified in the last mentioned notice. If the court is satisfied that the said person is a desirable person to hold a certificate and has not been previously refused a licence by any court, it may, in its discretion, grant him a certificate, in the form prescribed by the rules of court, and he shall, so long as the certificate continues in force, be deemed a licensed person, and shall be subject to the same liabilities and penalties as if he held a licence under this Act, and the certificate shall, whilst in force, be deemed to be his licence.

(3) The time specified in the notice last mentioned in subsection (2) of this section shall be not less than fourteen days after the clerk has received the notice first mentioned in that subsection; and the clerk shall send to the Commissioner of Police and to an inspector particulars of the notice in this subsection first referred to.

(4) Any person entering upon premises in consequence of any of the events mentioned in the said first column shall, within fourteen days after obtaining a certificate, present or send the same to the clerk and pay such licence fee as may be due in respect of the premises.

(5) A person who enters on premises under this section shall from the time of entry until he is granted a certificate as aforesaid, be deemed a licensed person, and his certificate, when granted, shall be subject to the same indorsements as if it had been in force at the time of entry.

(6) The production of a notice of entry given by any person under this section shall be sufficient proof, in any proceedings for any offence against this Act, that he has entered upon the premises mentioned in the notice of entry, and that he is carrying on the business of those premises.

DIVISION VII.

DIVISION VII.—REMOVAL OF LICENCES.

Removal of
licence.

56. (1) Any person holding—

(a) any licence under this Act except a packet or railway licence ;
or

(b) a certificate under section 55,

may apply to the court to remove his business to other suitable and convenient premises.

(2) No person shall be entitled to make any such application unless he has—

(a) twenty-eight clear days before the date upon which the application is to be made deposited with the clerk plans of the buildings erected or proposed to be erected on the premises to which it is proposed to remove the licence ;

(b) within seven days of the deposit caused notice of the deposit to be given by two advertisements in such newspapers as a member of the court on application by the intending applicant directs ;

(c) posted and kept posted during the whole of the interval between the date of the deposit and the date upon which the application is to be made notice of application in the form prescribed by the rules of court on or near—

(i) the main entrance to the licensed premises ;
and

(ii) the main entrance to the premises to which it is proposed to remove the licence, or if those 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 those premises.

Every such notice shall be so posted so as to be easily legible from the nearest public footpath ;

(d) at the time of depositing the plans deliver to the clerk a duplicate of the said notice.

(3) The plans to be delivered under subsection (2) of this section shall comply with all the requirements as to plans contained in section 41 of this Act.

(4) This section shall not render it obligatory on the holder of a licence who puts up on the site of his licensed premises new premises containing accommodation equal to or superior to that contained in the licensed premises to apply for a removal of his licence to those new premises.

57. (1) The objections to a removal of which notice may be given are, in addition to the grounds of objection specified in section 48, the following :—

Objections to
removal of
licence.

- (a) That the licensing of the premises to which it is proposed to remove the licence is not required for the accommodation of the public :
- (b) That the said premises are in the vicinity of a church or other place of public worship, or a hospital, recognized youth centre, or school, and would, if licensed, be the cause of inconvenience or annoyance to persons using or frequenting such church, place of worship, hospital, centre or school :
- (c) That the quiet of the locality in which the said premises are situated will be disturbed, if a licence is granted for the sale of liquor in those premises :
- (d) That the lease under which the holder of the licence occupies his premises contains a covenant or prohibition against removing the licence to any other premises without the consent of the lessor, and that such consent has not been obtained.

58. (1) Any person who has complied with the provisions of section 56 may apply to the court for the removal of his licence or his certificate under section 55 in accordance with the notice.

Procedure on
application
for removal.

(2) The provisions of section 42 *mutatis mutandis* shall apply to the application : Provided that if the premises to which it is proposed to remove the licence have not at the time of the application been erected or completed, and the court decides that the application will be granted when the premises have been erected or completed as mentioned in section 42, the application shall be adjourned to be finally dealt with after the premises have been so erected or completed.

(3) When an application for removal is granted a certificate shall be issued in the form prescribed by the rules of court. Upon the issue of the certificate and payment of the sum of ten dollars therefor—

- (a) the holder of a licence or of a certificate under section 55 shall be authorized 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 removed according to the tenor and effect of the licence ;

- (b) the premises in respect of which the licence was originally granted shall thereupon cease to be licensed.

DIVISION
VIII.

Proceedings on
consideration
of application.

DIVISION VIII.—PROCEDURE ON HEARING OF APPLICATIONS.

59. (1) The provisions of this Act as to the proceedings upon an application for a licence shall apply as nearly as possible to the proceedings upon an application for the transfer of a licence or the removal of a licence from one house to another.

(2) The proceedings on the consideration of—

- (a) every application for any licence ;
(b) every application to remove any licence ;
(c) any objection to any application,

shall be public and shall be dealt with by the Full Bench of the court.

(3) The court shall—

(a) hear, inquire into, and determine—

- I. all such applications ;
II. all such objections ;

(b) hear on oath such witnesses as are called.

(4) The court may—

(a) grant, subject to this Act, such licences to such persons as are approved by the court ;

(b) direct the holder of a licence to—

- I. supply additional accommodation at his premises ;
II. make repairs therein ;

(c) upon application—

- I. approve of alterations or additions to buildings ;

II. approve areas being deleted from or added to the licensed premises,

in such manner and within such reasonable time as it deems fit.

60. (1) The clerk shall—

Duties of clerk
magistrate,
and treasurer
at meetings.

- (a) attend all the sittings of the court ;
- (b) minute the result of the proceedings ;
- (c) prepare a list of applications to be heard at each sitting of the court ;
- (d) lay that list before the court ;
- (e) sign a licence in respect of every application for a licence granted by the court in such form as is prescribed by the rules of court ;
- (f) record the signing of each licence together with the date of the signing on the said list.

(2)—

- (a) The court shall record the grant of every application and the amount of any fee fixed pursuant to section 38 at the time of the grant by writing opposite to or against the name of the applicant in the said list :
- (b) The record so made by the court shall be a valid authority to the clerk to sign any licence pursuant to paragraph (e) of subsection (1) of this section.

(3) The clerk shall issue and deliver every licence granted by the court but shall first—

- (a) receive the annual licence fee or, except in the case of a packet licence, the first quarterly instalment of the annual fee payable in respect of the licence ;
- (b) record at the foot of the licence the date of the issue and delivery thereof.

61. (1) No licence shall be renewed nor shall any application be granted as a matter of course ; and upon the hearing of any application for the grant, renewal, transfer, or removal of a licence, whether objection is taken at the hearing or not, the court shall hear, inquire into, and determine the application and all such objections (if any) on the merits, and shall grant or refuse the application with or without conditions upon any ground or for any reason whatsoever which, entirely in the exercise of its discretion, it deems sufficient.

Discretion of
court as to all
applications.

PART III.
DIVISION
VIII.

(2) No compensation shall be payable to any person by reason of the refusal of the court to grant any application.

(3) The court shall have general power to waive compliance with any formalities in connection with any application upon such terms as to adjournment, costs, or otherwise, as it thinks fit.

Summons for
witnesses.

62. (1) The applicant, or any person objecting to the grant of a licence, or to the renewal, transfer, or removal, of a licence, may obtain, at the office of the clerk, summonses for witnesses.

(2) Every such summons shall be in the form prescribed by the rules of court or to the like effect.

(3) The court may direct that any person, whose evidence it deems desirable to have, be summoned to attend and give evidence including evidence relating to the fixing of the amount of any fees payable on a percentage basis in the matter of any application for the grant, renewal, transfer, or removal of a licence. The clerk shall thereupon issue such summons as mentioned in subsection (1) of this section, and cause the same to be served upon the said person.

(4) Any person summoned under this section who refuses or neglects to attend or to give evidence or to answer any relevant question may be dealt with in the same manner as a court of summary jurisdiction might deal with a person so offending.

(5) The provisions of section 208 shall apply to a person summoned as a witness under this section.

Duty of
applicant to
give evidence

63. (1) The applicant for the grant, renewal, transfer, or removal of a licence may be summoned under the next preceding section hereof to attend and give evidence upon the hearing of the application ; and whether summoned or not, such applicant may, if present at the hearing, be called as a witness.

(2) All the provisions of the last preceding section and of the section therein mentioned shall apply to any applicant so summoned and to any applicant present at the hearing.

Power to
order costs
against
unsuccessful
applicants or
objectors.

64. (1) If the court 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 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 the Superintendent of Licensed Premises, any member of the police force, or any inspector.

DIVISION IX.—SPECIAL AUTHORITIES TO SELL LIQUOR.

DIVISION IX.

65. (1) Any person—

Five days' certificate.

(a) who holds a full publican's licence ;

and

(b) has obtained the consent and approval of the stewards, committee of management, or other persons having the conduct, control or management of any fair, military encampment, agricultural exhibition, races, regatta, rowing match, cricket ground, or other place of public or private amusement or any other organized gathering approved by the court ;

may apply to the court for a certificate of approval authorizing him to sell for such period as the court approves liquor in any booth or building at the said fair, military encampment, agricultural exhibition, races, regatta, rowing match, cricket ground, or other place of public or private amusement or other arranged gathering.

(2) If the court is satisfied that the consents and approval have been obtained as mentioned in subsection (1) of this section it may signify its approval in writing by a certificate in the form prescribed by the rules of court.

(3) Upon the issue of the certificate and payment of a fee of two dollars for the first day and one dollar for every subsequent day for which the certificate is granted, it shall be lawful for the licensed person therein mentioned to sell liquor accordingly in the said booth or building and for the number of days specified in the certificate.

(4) Nothing in this section shall authorize any person—

(a) to sell or supply liquor to any person to whom it is by this Act made unlawful to sell or supply liquor ;

(b) to admit any such person to the said booth or building, or allow him to remain therein ;

or

(c) to sell or supply any liquor during any day or time other than a day or time approved by the court.

(5) Nothing in this section shall apply to the occasion of any cadets' military encampment, or any races, regatta, rowing or other match, or sports held in connection with any college or school, or any association of which the members are or may be of less than twenty-one years of age.

Permits.

66. (1) Where an entertainment is to be held on licensed premises, the licensee, may apply to the court for a special permit for the sale and supply and consumption of liquor at that entertainment during hours, or in circumstances, in which the supply or consumption of the liquor would otherwise be unlawful.

(2) Where an entertainment is to be held on unlicensed premises, the person proposing to hold the entertainment may apply to the court for a special permit for the consumption of liquor at that entertainment during hours, or in circumstances, in which the consumption of the liquor would otherwise be unlawful.

(3) An applicant for a special permit shall, at least fourteen clear days before the day on which the entertainment is to be held, deliver or send by post to the clerk and to the Commissioner of Police notice in writing of his intention to apply for a special permit, which notice shall contain particulars of the entertainment in respect of which the application is made including the name and objects of the organization (if any) on behalf of which the application is made.

(4) Where the applicant is not the person in possession or control of the premises in which it is proposed to hold the entertainment the notice to the clerk shall be accompanied by evidence of consent by that person to the use of those premises for the purpose of holding the entertainment.

(5) On receipt of a notice under subsection (3) of this section, the Commissioner of Police may make a written report to the clerk on the following matters :—

(a) the place in which the entertainment is to be held ;

(b) the manner in which the applicant proposes to control the supply or consumption of liquor at the entertainment ;

- (c) the standing of the applicant, and of the organization (if any) on behalf of which the application is made ;
 - (d) the manner in which the applicant, and the organization (if any) on behalf of which the application is made, conducted any entertainment for which a special permit was granted on any prior occasion ;
- and
- (e) whether he does or does not object to the application,
- and the clerk shall, before the hearing of the application, refer any such report to the court.

(6) The court shall hear and determine an application duly made under this section, and may, in its discretion, grant a special permit subject to any special conditions which it thinks necessary or desirable, or may refuse the application.

(7) The court may, if it considers that the circumstances justify it in so doing, hear and determine an application although the notices referred to in subsection (3) of this section have been delivered or sent less than fourteen clear days before the day on which the entertainment is to be held.

(8) A special permit shall specify—

- (a) the persons or class of persons to whom the permit applies ;
 - (b) the hours during which liquor may be consumed ;
 - (c) the rooms or places where liquor may be consumed ;
- and
- (d) any special conditions subject to which the special permit has been granted.

(9) A special permit shall, according to its tenor but subject to this section and the conditions (if any) specified in the permit, authorize—

- (a) the sale and supply of liquor to the persons, or to persons included in the class of persons, during the period and in rooms or places specified in the permit ;

or

- (b) the consumption of liquor so supplied by those persons in the rooms and places so specified during the period so specified and a period of thirty minutes immediately following that period,

or both such sale and supply and consumption as the case requires.

(10) The holder of a special permit in respect of unlicensed premises shall not, during the hours and in the rooms or places specified in the permit, supply or permit any person to supply liquor to a person under the age of twenty-one years.

(11) A person under the age of twenty-one years shall not consume liquor during the hours and in the rooms or places specified in a special permit.

(12) The holder of a special permit shall comply with and observe every condition subject to which the permit has been granted.

(13) Where a special permit has been granted, a person, other than the holder of the special permit or his servant or agent, shall not carry liquor into or away from the rooms or places specified in the permit during the hours specified in the permit : Provided that the court may in any case where it is satisfied that by reason of the nature of the entertainment or the age of the persons likely to attend or for any other reason that it is proper so to do, specify in the permit that liquor shall not be sold or supplied at that entertainment but may be carried into the rooms or places specified and there consumed by the persons or class of persons to whom the permit applies.

(14) Subject to subsection (16) of this section, a person shall not consume liquor in unlicensed premises.

(15) Subject to subsection (16) of this section, a person shall not permit or suffer liquor to be consumed in unlicensed premises under his control.

(16) It shall be a defence to a prosecution under either subsection (14) or subsection (15) of this section if the person charged proves that the liquor was consumed—

(a) by the occupier of the unlicensed premises, or a member of the family of the occupier dwelling on the premises or a servant of the occupier dwelling on the premises ;

or

(b) by a person, or a person included in a class of persons, to whom a special permit applies, in a room or place specified in the permit, and during the period specified in the permit and a period of thirty minutes immediately following that period.

(17) An Inspector or member of the police force may at any time demand admittance into unlicensed premises or premises of which unlicensed premises form a part, and, if admittance is refused or delayed, the Inspector or member of the police force may break into the premises by force.

(18) A person shall not refuse or delay the admittance of an Inspector or member of the police force into unlicensed premises or premises of which unlicensed premises form a part.

(19) A fee of three dollars shall be payable upon the issue of a special permit: Provided that no fee shall be payable for a special permit in respect of an entertainment to be given or held for any charitable purpose within the meaning of the Collections for Charitable Purposes Act, 1938-1947, by a person, society, body or association holding a licence under that Act.

(20) In this section, unless the contrary intention appears—

“entertainment” means—

- (a) a social gathering ;
- (b) a dinner or banquet ;
- (c) a concert ;
- (d) a dance ;
- or
- (e) a function of a like character,

at which not less than twelve adult persons or a lesser number approved by the court are likely to be present, and whether or not a charge is made for admission or attendance, but does not include any function which is to be held on Good Friday, Christmas Day, or any other prescribed day or part of a day :

“supply” when used as a noun includes sale and when used as a verb includes sell :

“unlicensed premises” means premises (other than premises for which a licence is in force) of any of the following descriptions :—

- (a) a cafe, restaurant, oyster saloon, eating house or other premises where meals or refreshments are ordinarily sold or disposed of to the public for consumption on the premises ;
- (b) premises which the occupier of premises referred to in the last preceding paragraph uses or is permitted to use for the purposes of, or in connection with, his business ;
- or
- (c) a public hall or other place intended for, or ordinarily used as, a meeting place for the public ;

PART III.

DIVISION IX.

Permit for
supply of liquor
for
consumption
at club.

67. (1) Any club that was in existence at the date of the commencement of this Act, whether licensed under this Act or not, may, upon application to the court accompanied by the fee prescribed by the rules of court being not less than five dollars and not more than fifty dollars, be granted a permit for the keeping sale and supply of liquor for consumption only by the members of the club or by visitors under and in accordance with subsection (3) of this section on such portion of the club premises as is specified by the court on such days (including Sundays) and during such periods as the court deems proper.

(2) A permit shall not be granted under subsection (1) of this section unless, in the opinion of the court—

(a) there are adequate restrictions upon admission to membership of the club ;

and

(b) there is adequate reason for the grant of the permit.

(3) A permit under this section shall be granted upon condition that liquor shall not be supplied to a visitor except in the presence and at the expense of a member and that a member shall not introduce more than one visitor to the club on any one day during the period within which liquor may be supplied under the permit.

(4) It shall be a condition of a permit granted under subsection (1) of this section, except a permit granted to a club licensed under this Act, that the liquor kept, sold or supplied in pursuance of the permit, shall be purchased—

(a) from the holder of a full publican's licence or a retail storekeeper's licence licensed in respect of premises in the vicinity of the club premises ;

or

(b) from the holder of a full publican's licence or a retail storekeeper's licence, if the club has purchased supplies of liquor from that person prior to the first day of August, 1967 ;

or

(c) if it is impracticable for the provisions of paragraph (a) or (b) of this subsection to be complied with or if the limitation of the permit pursuant to paragraphs (a) and (b) of this subsection would prevent a reasonable choice of licensee from whom to make purchases from the holder of a licence under this Act nominated by the court ;

or

(d) in the case of a club that is a sub-branch of the Returned Sailors' Soldiers' and Airmen's Imperial League of

Australia (South Australian Branch) Club, from that Club, if the court is satisfied that the sub-branch has, prior to the first day of August, 1967, obtained the liquor purchased by it for its purposes or a substantial part thereof from that Club.

(5) In the case of a permit under this section that authorizes the sale and supply of liquor on a Sunday the club shall not advertise in the press, by handbills or by radio or television, that it has a permit authorizing it to sell or supply liquor on a Sunday or that entertainment is provided on the premises of the club on a Sunday.

(6) The provisions of subsections (3), (5), (6), (7), (8), (9), (10), (11), (12), (13), (17) and (18) of section 66 shall, *mutatis mutandis*, apply to permits under this section.

68. (1) The court may, by a certificate in duplicate in the form prescribed by the rules of court and upon payment of a fee of two dollars, give permission to the master or commander of any steamer or other vessel in respect of which a packet licence has not been granted or is not subsisting to sell liquor on such steamer or vessel on the occasion of any excursion or trip for a period not exceeding one day.

Packet
certificates.

(2) The person to whom any such certificate is granted may sell liquor on the said steamer or vessel during the period mentioned in the certificate.

(3) Nothing in this section shall authorize any person—

(a) to sell liquor to any person to whom it is by this Act made unlawful to sell or supply liquor ;

(b) to admit any such person to any bar on the said steamer or other vessel, or to allow him to remain therein ;

or

(c) to supply or sell liquor except between the hours of nine o'clock in the morning and ten o'clock in the evening on a day other than a Sunday or Good Friday.

69. Notice of the grant of any certificate under the next preceding section, giving the name of the person to whom, and the name of the steamer or vessel in respect of which, the same has been granted, shall be published by the clerk in the *Gazette* as soon as practicable after he receives notice of the grant thereof.

Gazetted of
certificates.

70. (1) Any holder of a licence who intends to leave the licensed premises for a time may obtain permission for a person to act for him during his absence in the following manner :—

Provision for
carrying on
business
during the
absence of
licensed
person.

PART III.

DIVISION IX.

(a) He shall give notice of his intention to the clerk stating the time he intends to be absent and the name and description of the person he wishes to be appointed to act for him :

(b) He shall, on receiving notice from the said clerk, attend before the court with the person he wishes to be appointed unless the court in its discretion exempts him and the said person from so attending.

(2) If the court in its discretion deems the said person to be a desirable person to act and if that person has not been previously refused a licence on personal grounds the court may grant a certificate in the prescribed form, permitting the said person to act for the holder of the licence during his absence for such time not exceeding twelve months as the court in its discretion allows.

(3) Any person so permitted to act shall be liable to the same liabilities and penalties as if he were the holder of a licence under this Act and as if the licence of the person who appointed him to act were his licence.

Certificates to
sell liquor on
goldfields.

71. (1) If the court approves of any person holding a full publican's licence selling liquor or any person holding a wine licence selling mead, wine, cider and perry, on any goldfield, in any erection or building to be approved by the court, the court may, upon being satisfied that such licensed person has first obtained the consent of the officer in charge of such goldfield, grant one or more certificate or certificates, in the prescribed form, to sell liquor, or mead, wine, cider, and perry, as the case may be, in a stated place on such goldfield for the residue of the term of the applicant's licence, subject to a fee of ten dollars for a full publican's licence, and two dollars for a wine licence, being paid into the hands of the officer in charge of such goldfield before any such sale is made. Such officer shall pay all fees so received to the clerk.

Renewal
of such
certificates.

(2) Any such certificate may on like payment be renewed from time to time for a further term not exceeding six months by the court, so long as the person holding the certificate holds a licence under this Act : Provided that any person holding such a certificate for premises situate within one mile from the nearest boundary of any town or township which is proclaimed, or from any hotel for which a licence is obtained, shall, after thirty days' notice by the clerk, and although the period for which such certificate was granted has not expired, cease to be entitled to sell any liquor under the certificate.

(3) No certificate shall be granted to any person in respect of premises situate on Crown lands unless such person has lawful authority to occupy those Crown lands.

72. (1) The Court may grant a permit to a licensed auctioneer authorizing him, in the *bona fide* exercise of his business, to sell or offer for sale by auction, any liquor—

(a) on account of another person authorized to sell such liquor where such sale or offering for sale takes place on the premises in respect of which such authority is held ;

or

(b) on account of the estate of a deceased or bankrupt person ;

or

(c) on account of another person where such liquor is sold or offered for sale in conjunction with other effects of such person and such other effects are substantially greater in value than the value of such liquor.

(2) A permit granted under this section shall authorize the person to whom it is granted to sell or offer for sale by auction any liquor in accordance with the terms thereof.

73. (1) If the holder of a permit or certificate under this Division contravenes or fails to comply with any term or condition of the permit or certificate or any provision of this Act, he shall be guilty of an offence.

Breach of
permit or
certificate.

(2) If the holder of a permit or certificate is convicted of an offence under subsection (1) of this section, the court may, upon the application of the Superintendent of Licensed Premises, cancel the permit or certificate.

DIVISION X.—FORFEITURE OF LICENCES.

DIVISION X.

74. If any person holding a licence is—

Forfeiture of
licences.

(a) convicted of any indictable offence ;

or

(b) permits any person whomsoever, other than a member of his family, to manage, superintend or conduct the business of his licensed premises during his absence for a longer period than one month, without the previous consent of the court ;

or

(c) whether residing in the premises or not, permits any unlicensed person to become virtually or in effect the keeper thereof ;

or

(d) suffers his licensed premises or any part thereof to become ruinous or dilapidated or unsuitable in any particular ;

or

(e) neglects or fails to comply with any direction of the court as to additional accommodation,

then, upon complaint by any person and on proof of the facts to the satisfaction of the court, the court may, by an order under the hand of the clerk, declare the said licence to be forfeited, and the said licence shall thereupon cease to be of any force or effect: Provided that if the licensed premises have become ruinous dilapidated or unsuitable in any particular by reason of fire, tempest, or other cause beyond the control of the holder of the licence, then the licence shall not be declared forfeited until a reasonable time has elapsed for the holder to repair or reinstate the licensed premises.

**Forfeiture of
licence for
convictions.**

75. (1) If any person holding a licence is within a period of two years convicted two several times of offences for which his licence is liable to be forfeited as provided in this Act, the court may declare the licence to be forfeited.

(2) If any person holding a licence is within a period of three years convicted three several times of such offences as aforesaid, the court shall declare the licence to be forfeited: Provided that this section shall not apply in the case of a licence held by a company if the court so decides.

(3) The declaration of forfeiture may be made upon complaint by any person and proof of the convictions, by an order under the hand of the clerk.

(4) No such declaration or forfeiture shall be made by the court except upon a complaint lodged with the clerk within four months after the second or third conviction, as the case may be, nor unless seven days' notice of the time and place of the hearing of the complaint has been given by the clerk to the holder of the licence.

(5) An order for forfeiture under this section may be made but shall not be enforced while the hearing of any appeal against the second or third conviction, as the case may be, is pending, but if that conviction is upheld on appeal the order shall take effect from the time when the appeal is disposed of.

(6) If the convicting court considers that the offence is of a trifling nature, this section shall not apply in respect of that offence.

(7) The offences mentioned in sections 123, 124, 125, 126, 129, 130, 131, 133, 134, 140, 141, 142, 143, 144, 146, 153, 155, 157, 158, 159, 172, 175, 176, 180, 182 and 184 of this Act, and in the section or subsection of any repealed Act respectively corresponding to these sections are hereby declared to be offences for which a licence may be forfeited as provided in this section.

76. (1) The Superintendent of Licensed Premises or any inspector may apply to the court to forfeit any licence on the ground that the management of the licensed premises has not been satisfactory.

Forfeiture of licence for unsatisfactory management of premises.

(2) The court may hear and inquire into the application at any hearing: 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 and to the licensee, at least fourteen clear days before the day fixed for the hearing.

(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 clerk, declare the licence to be forfeited, and the licence shall thereupon cease to be of any force or effect.

77. If, after any holder of a licence has been convicted of any offence for which his or her licence is liable to be forfeited as in this Act provided, he or she procures the transfer of the licence to his or her wife or husband (as the case may be), and after the transfer the wife or husband is convicted of any offence or offences, the licence of the transferee shall be under the same liability to forfeiture as if the transferee had been the holder of the licence at the time the transferor was convicted of the offence, and had been convicted in the place of the transferor.

Effect of convictions prior to transfer of licence to spouse.

78. Nothing in this Act shall prevent the infliction of any pecuniary penalty nor any term of imprisonment to which any person whose licence is forfeited would be liable nor shall in any way limit the power of the court to refuse any licence to such person.

Forfeiture not a waiver of penalty.

79. (1) Upon granting the renewal of any licence other than a packet licence the court may impose the condition that the licensee shall deposit new plans of his licensed premises with the clerk: Provided that no such condition may be imposed within five years of the first grant of such a licence in respect of the premises, nor within five years of the last deposit of plans thereof as mentioned in this section.

Forfeiture for not depositing fresh plan of premises.

(2) If such a condition is imposed unless the court, on the application of the applicant for renewal approves of altered plans of the premises, the licence shall, at the expiration of six months after the said renewal, or such further time as the court allows, become forfeited and void unless in the meantime the licensee has deposited with the clerk such plans of his licensed premises as would be necessary if he were applying for a licence pursuant to section 41 of this Act in respect thereof, as premises which had not been previously licensed.

PART III.

DIVISION X.

Power of
landlord or
mortgagee
when licence
forfeited.

80. (1) If the person who holds a licence which is forfeited under this Act is a tenant or a mortgagor of the premises in respect of which the licence is forfeited, a member of the court may, on an *ex parte* application by the owner or superior landlord, or other person entitled to the reversion of the said premises, or the mortgagee, and on proof by affidavit or otherwise of the forfeiture, make an order authorizing the owner or superior landlord, or other person entitled to the reversion of the said premises, or the mortgagee, or the agent of either of those persons, to enter and take possession of the said premises.

(2) Thereupon the person mentioned in the order may enter upon the said premises, and continue and carry on the business thereof until the sitting of the court held next after the expiration of twenty-eight days from the time of such entry, within which time an application may be made by that person in possession for a new licence; and the proceedings to obtain a licence shall be the same as in ordinary cases for obtaining a licence for previously licensed premises.

(3) The person authorized by the said order to enter and take possession shall until the said application is heard be deemed to be a licensed person, and the order shall be deemed to be his licence, and he shall be liable to the same liabilities and penalties as if he were the holder of a licence.

Costs on
forfeiture.

81. The court may, if it thinks fit, order any person whose licence is forfeited to pay costs to the person on whose complaint such forfeiture is ordered; or in case any such complaint is dismissed, may order the person (other than a member of the police force or an inspector) laying such complaint to pay costs to the holder of the licence.

DIVISION XI.

DIVISION XI.—GENERAL.

Power of
company to
hold licence.

82. (1) A company incorporated under the laws of the State, and with the sole object of carrying on the business of a licensed victualler, may hold a full publican's licence in respect of one hotel only, and any company incorporated under the said laws may hold any licence other than a full publican's licence.

(2) Upon applying for any such licence the company shall submit to the court the name of a person as its manager of the licensed premises, and for the purpose of objections that person and every director of the company shall be deemed to be applicants. The licence shall state the manager's name, and the approval in writing of the court shall be necessary before any change of manager will be recognized for the purposes of this Act.

(3) For the purposes of this Act the manager of the licensed premises and during any period when there is no manager every director of the company shall, on default by the company in compliance with any of the provisions of this Act be deemed to be the person licensed in respect of the premises or the holder of the licence thereof and the premises shall be deemed to be his licensed premises or the premises in respect of which the company is licensed or holds a licence.

(4) In addition to the manager and the directors the company shall be liable to pay the amount of any fines or penalties incurred or inflicted in consequence of any offence upon the licensed premises against this Act, and the same may be enforced by distress in manner provided by the Justices Act, 1921-1965.

(5) Any licence granted or issued to any person prior to the fifteenth day of November, nineteen hundred and thirty-two, shall be deemed to be a valid licence if the only ground of objection to such licence is or was that it was issued or granted to or held by or on behalf of a company incorporated under the laws of the State.

(6) Any licence other than a publican's licence granted or issued prior to the fifteenth day of November, 1932, to a company incorporated in the United Kingdom or Australia and registered in the State as a foreign company pursuant to Division III of Part XI of the Companies Act, 1962-1965, shall be deemed to be and to have been a valid licence if the only ground of objection to such licence is or was that it was issued or granted to a company not incorporated under the laws of the State and any such company may hold any such licence notwithstanding that it is not incorporated under the laws of the State.

83. No licence or permit of any class shall be granted to any person who is under the age of twenty-one years. Disqualification of minors.

84. (1) The clerk—

(a) shall cause a report to be inserted in the first, second, or third number of the *Gazette* published next after the last days of March, June, September and December in each year showing—

- I. the dates of the sittings of the court ;
- II. the names of all applicants ;
- III. the nature of the applications ;
- IV. the names and situations of the premises in respect of which the applications were made;

Publication of applications and forfeitures.

v. the manner in which the applications were disposed of, including (if the court so directs), in case of a refusal, any objection or objections on account of which the refusal was made ;

and

(b) shall cause particulars of every forfeiture of a licence and of the issue of every certificate or other authority under this Act to sell or supply liquor, or carry on the business of any licensed premises so situated of which he receives notice or has knowledge to be inserted in the first, second, or third number of the *Gazette* published next after he receives notice or acquires knowledge of such events.

(2) The clerk shall file duplicates of the reports referred to in subsection (1) (a) of this section as a record which shall be open for inspection by any person at the office of the clerk without payment of any fee.

Duty of clerk
as to plan.

85. The 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.

Provision for
issuing
duplicate of
lost licence.

86. (1) Whenever any licence is lost or destroyed, the licensee or the holder of a certificate authorizing such holder to carry on business in any licensed premises, may apply to the court for a duplicate thereof.

(2) If the court is satisfied of the loss or destruction of the licence, and that the same has not been forfeited or transferred or wilfully destroyed, it may grant the issue of a duplicate licence ; and the clerk shall, upon payment of a fee of ten dollars deliver the duplicate licence to the licensee or holder of a certificate.

DIVISION XII.

Licensing
of clubs.

DIVISION XII.—SPECIAL PROVISIONS APPLICABLE TO CLUBS.

87. (1) Except in pursuance of a permit granted under section 67 of this Act, no liquor shall be sold or supplied by or on behalf of a club in the club premises or kept in or upon those premises unless the club has been duly licensed under this Act.

(2) A club licence shall not authorize the sale or supply of liquor otherwise than to a member of the club or to a visitor in the presence and at the expense of a member of the club.

(3) Except as provided by subsection (7) of this section, liquor shall not be sold or supplied by or on behalf of any club that was not registered under the repealed Acts immediately before the commencement of this Act for consumption otherwise than in the licensed portion of the club premises nor shall it be carried away from that portion of the premises of any such club.

(4) Liquor shall not be supplied or delivered to any person in pursuance of a club licence otherwise than upon the club premises.

(5) Subsections (2), (3) and (4) of this section shall not apply to or in relation to the sale or supply of liquor—

(a) to a club under paragraph (b) of subsection (4) of section 67 of this Act by the holder of a club licence ;

or

(b) to a sub-branch of the Returned Sailors' Soldiers' and Airmen's Imperial League of Australia (South Australian Branch) Club by that Club under subsection (4) of section 27 or paragraph (c) of subsection (4) of section 67 of this Act,

and for the purposes of paragraph (e) of subsection (1) of section 88 of this Act, any such sale or supply of liquor shall be deemed not to have been made to a member of the public.

(6) Every person who sells or supplies or keeps liquor, and every member of the committee of management of a club who permits the sale or supply or keeping of liquor, in contravention of this section, shall be guilty of an offence. The averment in an information or complaint that a member of the committee of management of a club permitted the sale or supply or keeping of liquor in contravention of this section shall be *prima facie* evidence of the fact so averred.

(7) The holder of a club licence in respect of a club which was not registered at the time of the commencement of this Act may apply to the court to be authorized to sell liquor to members of the club to be consumed otherwise than upon the licensed portion of the club premises, and the court, if it is satisfied that the members of the club are unable, without great inconvenience, to procure supplies of liquor from a source other than the club, may authorize the licensee accordingly.

88. (1) No club shall be or continue to be licensed under this Part of this Act unless all the following conditions exist with respect to it :—

Conditions of
licence.

(a) The club must be a *bona fide* association, body, or company of such number of persons as the court considers appropriate. The court may, in granting or renewing a club licence, impose a condition as to the minimum or maximum number of members of the club :

(b) The club must be a body, association, or company associated together for social, literary, political, sporting, athletic, or other lawful purpose :

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DIVISION XII.

- (c) The club must be established upon premises of which the said association, body, or company is the *bona fide* occupier :
- (d) The accommodation must be provided and maintained from the joint funds of the club, and no person may be entitled under its rules or articles to derive any profit, benefit, or advantage from the club which is not shared equally by such of the members thereof and pursuant to such rules as the court may approve :
- (e) The premises upon which the club is established and the accommodation must be suitable for the purposes of the club and the activities of the club on club premises and elsewhere must be consistent with the declared objects of the club. Without limiting the generality of the foregoing no club shall be licensed or continue to be licensed where its activities include any form of trading in the sale or supply of liquor with the public whether on or off the premises of the club :
- (f) No payment or part payment of any secretary, manager, or other officer or servant of the club shall be made by way of commission or allowance from or upon the receipts of the club for liquor supplied :
- (g) A register of members of the club for the time being shall be kept on the club premises as hereinafter required :
- (h) The business and affairs of the club must be under the management of a committee elected for not less than twelve months by the general body of members upon such conditions as to the voting rights of members or classes of members as the court thinks fit :
- (i) 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.

Rules of club.

89. (1) No club shall be eligible to be licensed or its licence renewed unless its rules provide that—

- (a) The committee shall hold meetings at least once a quarter, and minutes of all resolutions and proceedings of the committee shall be entered in a book to be kept for that purpose :

- (b) The names and addresses of persons proposed as ordinary members of the club shall be displayed in a conspicuous place in the club premises for at least a week before their election, and an interval of at least two weeks shall elapse between nomination and election of ordinary members :
- (c) All members shall be elected by the general body of members or by a general or election committee, and a record shall be kept by the secretary of the club of the number of the members voting :
- (d) There shall be a defined subscription payable by members monthly, quarterly, half-yearly, or annually, in advance : Provided that the court may in any case require a minimum subscription to be defined :
- (e) Correct accounts and books shall be kept showing the financial affairs of the club and the particulars usually shown in the books of account of a like nature :
- (f) A visitor shall not be supplied with liquor in the club premises unless in the company and at the expense of a member who has entered the name of the visitor in a book kept for the purpose and signed his name opposite the name of the visitor. No member shall introduce or entertain more than five visitors on any one day :
- (g) No person shall be allowed to become an honorary or temporary member of the club, or be relieved of the payment of the regular subscription, except those possessing certain qualifications defined in the rules and subject to conditions and regulations described therein :
- (h) No person under twenty-one years of age shall be admitted to full membership of the club except when a club is primarily devoted to some athletic purpose in which case there shall be no limitation in the age of a member. No liquor shall be sold or supplied to any person under twenty-one years of age :
- and
- (i) No person under eighteen years of age, except boys who are being trained as waiters or messengers and are not allowed to serve behind the bar, shall be employed in the premises of such club.

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(2) The Governor may, by proclamation, declare that any club named therein which is mainly devoted to some athletic purpose, and the management of which is vested in trustees, shall be exempted from compliance with paragraphs (b) and (c) of this section, and with paragraphs (c) and (h) of section 88, and such trustees shall, for the purposes of this Division, be deemed the elected committee of the club.

Manner of
application for
licence.

90. An application for a club licence or the renewal or removal of a club licence shall be made by the secretary, steward, or manager of the club.

Notice of
application to
inspector.

91. When application is made for the grant of any such licence the clerk shall file the same and forthwith cause notice of the application and the particulars thereof to be forwarded to the Superintendent of Licensed Premises.

Inspection of
club premises.

92. The Superintendent of Licensed Premises, on receipt of any such notice, may inspect the premises of the club and the register of its members, and satisfy himself by proper inquiries that the premises are in a satisfactory condition, and that the provisions of this Division are being duly observed.

Personal
attendance of
applicant.

93. (1) Every applicant for a licence for a club not previously licensed shall—

(a) attend the court on the hearing of his application ;

and

(b) if required by the court verify upon oath the averments contained in the application.

(2) No applicant for a renewal of a club licence who has given notice as required by this Act shall be required to attend the court for the purpose of obtaining a renewal of the licence unless notice of objection to the application, stating the grounds, has been duly served as required by section 96.

Proceedings on
consideration
of application.

94. (1) The proceedings on the consideration of any application or any objection to an application for a club licence and also of every application for or objection to the renewal of such a licence or to change the premises, shall be public.

(2) The court—

(a) shall hear, inquire into, and determine on the merits, all such applications, and also all objections which are made to any such applications ;

- (b) shall hear on oath such witnesses as are called ;
 - (c) shall grant or refuse the application entirely in the exercise of its discretion ;
 - (d) may direct that such additional accommodation shall be supplied in or repairs made to such club premises and in such manner and within such reasonable time as it deems fit.
- (3) No compensation shall be payable to any person by reason of the refusal of the court to grant any application.

95. (1) At the hearing of an application for the grant or renewal of a licence objections may, subject to section 96, be taken upon one or more of the following grounds in addition to the grounds specified in section 48 :—

Objections
to grant or
renewal of
licence.

- (a) That the application made by the club or the rules of the club or any of them are in any respect specified in such objection not in conformity with this Act :
- (b) That the club has ceased to exist or that the number of members is less than the number fixed by the court :
- (c) That the club is not conducted in good faith as a club, or that it is kept or habitually used for any unlawful purpose or mainly for the supply of liquor :
- (d) That there is frequent drunkenness in the club premises, or that persons in a state of intoxication are frequently seen to leave the club premises, or that the club is conducted in a disorderly manner :
- (e) That illegal sales of liquor have taken place in the club premises :
- (f) That persons who are not members are habitually admitted to the club premises, merely for the purpose of obtaining liquor :
- (g) That a licence of any class or a certificate of registration under any Act hereby repealed, in respect of the premises occupied or proposed to be occupied by the club, has been forfeited or cancelled, or the renewal thereof has been refused within twelve months next preceding the formation of the club, or next preceding the application :
- (h) That the supply of liquor to the club is not under the control of members of the committee appointed by the members :

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DIVISION XII.

- (i) That any of the rules of the club are habitually broken;
- (j) That the rules have been so changed as not to be in conformity with the provisions required by this Act to be embodied in the rules;
- (k) That persons are habitually admitted as members without an interval of at least two weeks between nomination and election;
- (l) That any other specified provision of this Division has not been complied with.

(2) For the purpose of determining whether a club is conducted in good faith as a club, the court shall, amongst other things, have regard to the nature of the premises occupied by the club.

Persons
entitled to
object and
notice of
objection

96. (1) An objection to the grant or renewal of a club licence may be taken by any person or number of persons.

(2) No objector other than the Superintendent of Licensed Premises shall be heard against any application unless notice in writing of the objection has been given to the clerk and to the applicant fourteen clear days before the time fixed for the hearing of the application to which the notice applies.

Powers of
court to grant
licence.

97. (1) Upon proof being made to the satisfaction of the court of the matters mentioned in sections 88 and 89 of this Act, the court may grant to the applicant a licence for the club.

(2) The clerk shall forthwith sign a licence in the form prescribed by the rules of court.

(3) The licence shall state the name of the person who is then the secretary, steward, or manager of the club; and until receipt by the clerk of a notice in writing of change of secretary, steward, or manager, as provided by section 98, the certificate shall be *prima facie* evidence that that person is the secretary, steward, or manager of the club.

Duty to
notify change
of steward or
manager and
alteration of
rules.

98. (1) The committee of management of a licensed club shall—

- (a) within fourteen days after any change in the secretaryship, stewardship, or managership thereof forward notice in writing of the change to the clerk, and that notice shall be *prima facie* evidence of the appointment of the person named therein as the secretary, steward, or manager of such club;
- (b) within fourteen days from the making of any amendment or alteration in the rules of such club forward to the said clerk a certified copy of every such amendment or alteration.

(2) Every member of any committee which fails to comply with this section shall be guilty of an offence.

99. (1) Upon the complaint of the Superintendent of Licensed Premises, an inspector or an inspector of police, the secretary, steward, or manager, or other person conducting or managing a club, may be called upon to show cause before the court why the licence of the club should not be cancelled.

Cancellation of licence.

(2) Upon the hearing of the complaint, if it is proved that—

(a) the conditions of sections 88 and 89 or any of those conditions have not substantially been fulfilled with respect to the club ;

or

(b) that any one or more of the grounds set forth in section 95 exists with respect to the club or the premises thereof ;

or

(c) that three or more convictions for offences for which a licence under this Act is liable to be forfeited as provided by section 75, or against this Divisions have been made in respect of any acts or omission, in connection with the club,

the court shall cancel the licence ; or if two such convictions have been made the court may cancel the licence.

100. (1) Every secretary, steward, manager, or other person conducting or managing a club shall, on the hearing of any charge against himself or against any member of the committee of management of the club for any offence against this Act, produce the licence of the club to the special magistrate or justices hearing such charge.

Duty to produce licence upon hearing.

(2) If the secretary, steward, manager, or other person conducting or managing the club, or any member of such committee is convicted of any offence, the special magistrate or justices shall endorse a memorandum of the conviction on the licence.

(3) If the secretary, steward, or manager of or other person conducting or managing the club refuses or neglects to produce the licence upon the hearing of the charge, he shall be guilty of an offence.

101. The steward, secretary, manager, or other person for the time being conducting or managing any club who refuses or neglects to produce to any inspector or any inspector of police, when demanded, the licence for the club, or the register of existing members, or a certified copy of the rules of the club shall be guilty of an offence.

Duty to produce licence, register and rules of club on demand.

PART III.

DIVISION XII.

Punishment
for false
statement in
notice or
declaration.

102. Any secretary, steward, or manager of a club, or any person purporting to be secretary, steward, or manager of a club, who makes any untrue statement in any notice or declaration under the provisions of this Division, knowing the same to be untrue, shall be guilty of an offence and liable to be imprisoned for any term not exceeding twelve months, with or without hard labour.

Application
of other
provisions of
Act.

103. For the purposes of the provisions of this Act, other than this Division—

(a) the secretary, steward, or manager named in a club licence or in such notice as mentioned in section 96 shall be deemed to be the person licensed in respect of the premises of the club or the holder of the licence thereof ;

and

(b) the premises of a licensed club shall be deemed to be the licensed premises of the secretary, steward, or manager, or the premises in respect of which he is licensed or holds a licence.

Effect of
non-renewal
of Returned
Soldiers
League's
registration
as club.

104. If at any time after the passing of this Act the renewal of the certificate of registration or licence as a club granted to the secretary or manager of the Returned Sailors and Soldiers Imperial League of Australia (South Australian Branch) Incorporated in respect of the premises formerly known as the Prince of Wales Hotel, situated in Angas Street, Adelaide, is not applied for or is refused by the court the court may, upon application made pursuant to this Act, grant a full publican's licence in respect of the said premises to a person appointed for the purpose of holding such a licence by the trustees appointed by or pursuant to a certain indenture made on the 27th day of July, 1922, between Arthur Seaforth Blackburn and others of the first part, Sir Henry Newman Barwell, K.C.M.G., of the second part, the said association of the third part, and the said Arthur Seaforth Blackburn and others of the fourth part, and filed in Action No. 648 of 1921 in the Supreme Court of South Australia.

DIVISION
XIII.

Licences for
premises at
Renmark.

DIVISION XIII.—LICENCES AT RENMARK.

105. (1) No licence shall be granted in respect of any previously unlicensed premises situated in that portion of the State which is comprised and described in "The Chaffey Brothers Irrigation Works Act, 1887", and in the schedule thereto, unless—

- (a) the Governor has consented to the grant of such licence ;

and

- (b) a petition has been presented to the court signed by not less than a majority of the electors resident within the said portion of the State, praying that the licence be granted ; and

I. setting forth the purposes to which any profits of the business to be carried on under the said licence are intended to be applied ;

II. nominating the first members of the committee in this section after mentioned ;

and

III. stating the mode of appointing subsequent members of the said committee.

(2) In this section the word "licence" means a full publican's licence or a limited publican's licence.

(3) Upon the presentation of such a petition, and upon being satisfied that the Governor has consented as aforesaid, the court may in its discretion grant the licence upon the following conditions, but not otherwise, namely :—

- (a) That arrangements be made for the said business being vested in and managed by a committee in trust to carry on the said business, and to apply the profits thereof for the purposes set out in the petition ;

- (b) That the said purposes be approved by the Treasurer.

(4) Upon the said arrangements being made to the satisfaction of the Treasurer, and upon the said purposes being approved by him, the Treasurer may issue the licence.

(5) The Treasurer may from time to time entirely or partially change or vary the purposes to which the profits of the said business shall be applied, and upon receiving notice in writing of any such change or variation the committee shall, until receipt of notice of further change or variation, use any profits not already applied and any future profits accordingly : Provided that the Treasurer shall not make any such change or variation except upon petition setting forth the proposed change or variation and signed by two-thirds at least of the electors resident within the said portion of the said State.

(6) A licence granted and issued as provided by this section may be renewed or transferred, or be removed to other premises situated in the said portion of the State, upon the court being satisfied that the committee is at the time fully constituted, and that the business is being properly managed by the committee, and that the profits (if any) are being applied for the purposes for the time being in force in respect thereof: Provided that notwithstanding anything in this section, such renewal, transfer, or removal shall be entirely at the discretion of the court.

(7) The provisions of subsections (5) and (6) of this section shall apply to all licences granted in respect of premises situated in the said portion of the State, whether granted before or after the passing of this Act, and whether such premises were licensed or not at the time of the passing of this Act, and to the businesses carried on under such licences.

(8) This section shall apply to licences in respect of premises situated within the Cobdogla Irrigation Area in the same way and to the same extent as it applies to licences in respect of premises situated within the portion of the State mentioned in subsection (1) of this section.

(9) In any case where before the fifteenth day of November, one thousand nine hundred and thirty-two, the court decided that a licence would be granted in respect of premises proposed to be erected in the Cobdogla Irrigation Area and which were not completed at the time when the application for the licence was made the requirements of this section as to the presentation and signature of the petition shall be deemed to be complied with if a petition otherwise complying with this section is signed by the members of the House of Assembly for the electoral district in which the premises are situated and is duly presented to the court.

In this subsection and the preceding subsection "Cobdogla Irrigation Area" means the irrigation area commonly known by that name as delineated by the proclamation made on the third day of November, one thousand nine hundred and sixteen, under the Irrigation and Reclaimed Lands Acts, 1914 and 1915, or by any other proclamation substituted for or amending that proclamation.

PART IV.

RAILWAY LICENCES.

106. The South Australian Railways Commissioner (in this Part hereinafter referred to as "the Commissioner") may, from time to time, demise for refreshment-rooms, for any period not exceeding seven years, upon such terms and conditions as may appear to him expedient, any premises at any railway station in South Australia vested in him as such Commissioner.

Power to lease refreshment rooms.

107. The court may grant to any lessee under the last preceding section a licence to be called a railway licence, in the form prescribed by the rules of court, which licence shall authorize the holder thereof to sell and dispose of liquor in any quantity, at such refreshment-rooms upon such days and during such hours as are authorized by the licence, any law relating to the sale of such liquors to the contrary notwithstanding.

Grant of licences by court.

108. No railway licence shall authorize the sale or supply of any liquor except during the times specified in the licence.

Times of sale.

109. No railway licence shall be granted or issued for a longer period than twelve calendar months from the day of the issue thereof, or shall continue in force for any longer period.

Period of licence.

110. The annual licence fee for a railway licence shall be as provided in Division III of Part III of this Act.

Licence fee.

111. Every railway licence shall determine and become forfeited on the holder thereof becoming bankrupt, or making any assignment for the benefit of his creditors, or on his lease becoming determined, or on his being convicted within a period of nine months for three several offences against this Part.

Forfeiture of licences.

112. The Commissioner may, on the expiration or forfeiture of any lease under this Part of this Act, by any writing under his hand, authorize any person to take possession of the premises mentioned in such lease on behalf of the Commissioner ; and it shall be lawful for the person so authorized and his assistants, without any further authority, to forcibly eject any person and the goods and effects of any person in possession or occupation of such premises, and to take possession thereof on behalf of the Commissioner. Notice of any authorization given by the Commissioner under this section shall be given to the clerk.

Summary recovery of possession.

PART IV.

Penalty on sales at authorized hours or to railway employees.

113. If any person holding a railway licence directly or indirectly sells, or supplies, or permits to be sold, or supplied, any liquor—

- (a) at any time not authorized by his licence ;
- (b) during any day or time during which the sale of liquor is prohibited by law ;
- or
- (c) to any railway employee contrary to any rule or regulation of the Railway service,

he shall be guilty of an offence against this Part and shall be liable to a penalty of not less than four dollars and not more than forty dollars.

Effect of railway licence.

114. Every person holding a railway licence, shall, for the purposes of sections 123, 124, 125, 129, 130, 140, 153, 155, 157 and 184 of this Act, be deemed to be a person holding a licence, and the refreshment-rooms for which he holds a licence under this Act shall, for such purposes, be deemed to be licensed premises.

Other offences.

115. The provisions of sections 159, 163, 165, 166, 170, 173 and 174 of this Act shall apply to any person holding a railway licence, to the refreshment-rooms for which he is licensed, to the sale or supply of liquor therein, to the purchase or obtaining of liquor therein, or the attempt to purchase or obtain liquor therein, or the drinking of liquor therein, and to the presence of any person therein. A conviction in proceedings taken in relation to the provisions of any one or more of the sections in this section mentioned shall be deemed to be a conviction for an offence against this Part of this Act.

Power of Commissioner to make regulations.

116. The Commissioner may make regulations to be observed by every lessee under this Part for regulating the quality and variety of the refreshments (including liquor) to be provided by such lessee : to limit the scale of charges to be made therefor : to provide the forms, particulars, terms, and conditions of tendering, for any lease, and to provide what covenants, conditions, and provisos shall be inserted in any lease and generally for carrying this Part into effect.

Publication of regulations.

117. All such regulations shall be published in the *Gazette*, and shall thereafter have the force of law ; and all regulations for the time being in force shall, for all purposes, be incorporated with and form part of this Part of this Act.

PART V.

RIGHTS, DUTIES, AND LIABILITIES OF LICENSEES
AND OTHERS, AND OFFENCES.

118. (1) Every person holding a full publican's licence shall keep his Christian names and surname and the words "Licensed Dealer in Ales, Wines and Spirits", and every person holding a wine licence shall keep his Christian names and surname and the words "Licensed Dealer in Australian Wines", legibly painted, in letters not less than three inches in length, on some conspicuous part of the front of his licensed house.

Duty to display
names, etc.

(2) Where the court has fixed hours for particular licensed premises under paragraph (a) of subsection (1) of section 19 or has restricted the sale and supply of liquor by the holder of a licence under subsection (3) of section 19, the licensee shall also cause the particulars of the hours fixed or a reference to the terms of the licence sufficient to indicate the nature of the restriction or both (as the case may be) to be exhibited in prominent letters and figures on some conspicuous part of the front of his licensed premises.

(3) Any person who fails to observe any provision of this section shall be guilty of an offence.

119. (1) No *bona fide* property of any traveller, guest, or inmate of any premises, in respect of which a full publican's or limited publican's licence has been granted under this Act, or of any person who has entrusted any such traveller, guest, or inmate therewith, and being in or on the said premises or any part thereof, or in or on any place used or occupied therewith, shall be liable to be distrained or seized for or in respect of the rent of the said premises or place.

Exemption
from distress
of stranger's
goods.

(2) If any such property is so distrained or seized, any special magistrate or two justices may inquire into any complaint made in respect of the seizure or distress in a summary manner, and order the property to be restored, and award reasonable costs to the complainant, and may levy such costs by distress and sale of the goods or effects of the person so distraining or seizing as aforesaid.

(3) Nothing in this section shall deprive licensed persons of their lien on any such property for their own lawful demands.

120. (1) In this section "licensee" means the holder of a full publican's or limited publican's licence; and "licensed premises" means the premises in respect of which a full publican's or limited publican's licence is in force.

Liability of
licensee for
loss of
property of
guests.

(2) No licensee shall be liable to make good to any guest of such licensee any loss of or injury to goods or property brought on the licensed premises to any greater amount than the sum of sixty dollars, except in the following cases :—

- (a) Where the goods or property has been stolen, lost, or injured through the wilful act, default, or neglect of the licensee or any servant in his employ ;
- (b) Where the goods or property has been deposited with or entrusted to the licensee expressly for safe custody : Provided that in such case the licensee may, if he thinks fit, require as a condition of his liability that the goods or property shall be deposited or placed in a box, room, outhouse, or other receptacle or place fastened and sealed or locked by the person depositing the same.

(3) Every licensee shall cause at least one copy of the second subsection of this section printed in plain type to be exhibited in a conspicuous part of the hall or entrance to his licensed premises, and he shall be entitled to the benefit of this section in respect of such goods or property only as are brought to his licensed premises while the copy is so exhibited.

**Right of sale
on lien.**

121. (1) Subject to this section the holder of a full publican's or limited publican's licence may in addition to his ordinary lien sell or dispose of by public auction any goods or property which under such lien he has detained or which have been deposited with him or left on his licensed premises when the person who deposited or left such goods or property is indebted to him for any accommodation.

(2) Such sale shall not be made—

- (a) until after the said goods or property have been for the space of two months in the charge or custody of the said holder or on the licensed premises without such debt having been paid or satisfied ;
- (b) unless the said holder has at least one month before the intended sale caused to be entered in one Adelaide newspaper circulating throughout the State or left an advertisement of such intended sale giving shortly a description of the goods or property intended to be sold and the name of the owner or person who deposited or left the same where known ;

and

- (c) unless the said holder has served upon the owner of the goods or property where his address is known to him a copy of such advertisement.

(3) The said holder after having out of the proceeds of such sale deducted the amount of any such debt together with the cost and expenses of such sale shall pay to the clerk of the nearest Local Court to the credit of the owner of any such goods or property remaining after such sale and in all cases whether there be a surplus or not give to the said clerk an account containing particulars of the debt, costs and expenses and the proceeds of such sale together with a fee to be estimated according to the scale of charges for receiving and paying money fixed by the third Schedule of the Local Courts Act, 1926-1962, as amended, and to be paid by the said clerk to the Treasurer as provided in respect of other moneys received by him by section 316 of that Act; and the said clerk shall on demand pay to the person to whose credit he received it the surplus (if any) so paid to him. Any holder of a full publican's or limited publican's licence making default in compliance with the provisions of this subsection in any particular shall be guilty of an offence.

(4) No such sale shall be for any other or greater debt than the debt for which the goods or property could have been retained by the inn-keeper under his ordinary lien and nothing in this section shall be construed to give any holder of a full publican's or limited publican's licence any lien or power of sale in respect of any goods or property in any circumstances in respect of or in which he is not by law entitled to a lien.

(5) Whenever any person indebted for accommodation to the holder of a full publican's or limited publican's licence neglects or refuses to pay the amount so owing that amount may be recovered in a summary way but so that no person shall be imprisoned for default in payment.

122. (1) No person holding a full publican's or limited publican's or wine licence shall recover any debt or demand for or on account of any liquor, unless the debt has been *bona fide* contracted at one time to the amount of two dollars or upwards.

Tippling
clause.

(2) No debt for liquor shall be recovered where the value of the liquor actually delivered at one time does not amount to two dollars, notwithstanding that the debt or any part thereof has been secured or agreed to be paid, unless—

- I. a written order for the liquor or wine was given by the purchaser before the liquor or wine was delivered ;
or
- II. the purchaser was at the time of the delivery resident in the licensed premises ;
or
- III. the purchaser was when the liquor was supplied a person taking liquor with or ancillary to a meal in the licensed premises.

Penalty on
licensed
persons taking
payment in
anything
except legal
tender.

123. If any person holding a licence—

- (a) takes or receives in payment or as a pledge, for any liquor or entertainment supplied in or from the licensed premises, anything except legal tender, or a cheque or order on some known bank or banker, or a money order or orders ;

or

- (b) takes any such note, cheque, or order at less than the full nominal value thereof,

he shall be guilty of an offence.

Unlawful
gaming, etc.,
and presence
of certain
persons on
licensed
premises.

124. (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 unlawful wagering or gaming ;

or

- (c) gets up or takes part in any unlawful sweepstake ;

or

- (d) exercises, exposes, opens, or shows to be played, thrown or drawn at, any unlawful lottery,

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) 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 practicable 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.

125. (1) If—

Liability of licensee.

(a) any person is convicted for an offence against section 62 of the Lottery and Gaming Act, 1936-1967 ;

and

(b) the said offence took place on licensed premises, the licensee of those premises shall be guilty of an offence.

(2) In any proceedings against a licensee under this section any statement in the conviction for the offence under section 62 of the Lottery and Gaming Act, 1936-1967, as to the place where that offence was committed shall be *prima facie* evidence of the place where that offence was committed.

(3) It shall be a defence to a charge under this section against licensee to show—

(a) that the licensee or, if the licensee was not on the premises when the offence against section 62 of the Lottery and Gaming Act, 1936-1967, was committed, the person then in charge of the premises, did not know and could not by the exercise of all practicable diligence have known that the said offence was being committed ;

or

(b) that the said offence was committed contrary to the will of the licensee, or, if the licensee was not on the premises when the said offence was committed, contrary to the will of the person who was then in charge of the premises, and that the licensee or person so in charge, as the case may be, took all reasonable steps to prevent the offence from being committed :

Provided that none of the defences mentioned in this subsection shall be available if it is proved that within one month previous to the commission of the offence against the said section 62, a member of the police force had warned the licensee that such member suspected that unlawful gaming was taking place on the licensed premises, and informed the licensee of the name of the person whom he suspected and that the person so named was the person convicted of the offence against section 62 of the Lottery and Gaming Act, 1936-1967, in respect of which the licensee is charged.

PART V.

Power of
court to close
hotels on
Saturday
afternoons.

126. (1) If any licensee is found guilty of an offence under paragraph (b) of subsection (1) of section 124 or under section 125, and the offence is a first offence, the convicting court may, in addition to or in lieu of imposing a fine as mentioned in that section by the conviction order that the licensed premises of that licensee be closed at twelve o'clock noon on one, two, or three Saturdays next after the conviction; and if the offence is a second or subsequent offence the court shall, in addition to or in lieu of imposing a fine as aforesaid, order that the said licensed premises be closed at twelve o'clock noon on the three Saturdays next after the conviction: Provided that if any proceedings by way of appeal or otherwise are instituted in respect of the conviction and after those proceedings have been finally disposed of the conviction is affirmed or otherwise remains in full force and effect, the order shall be deemed to refer to the Saturday or Saturdays next after the date when the order finally disposing of the said proceedings is made.

(2) No licensed person with respect to whose licensed premises an order has been made under this section shall on any day mentioned in that order after the hour of twelve o'clock noon keep his licensed premises open for the sale of liquor, or sell or supply any liquor or permit any liquor to be consumed on his licensed premises:

Provided that nothing in this section shall relate to the sale or supply to or consumption of liquor by the licensee, any member of his family living or staying on the premises, any servant of the licensee living or staying on the premises, or any *bona fide* lodger (which persons are in this Act called "excepted persons"), if the liquor is not drunk in any bar-room on the licensee's premises.

Every licensee who offends against any provision of this subsection shall be guilty of an offence.

(3) For the purposes of section 159 of this Act the hour of twelve o'clock noon shall be deemed the closing time for the licensed premises mentioned in any order under this section on any day to which the order relates, and the remainder of the day after that hour shall be deemed hours during which the sale of liquor is prohibited by law, in addition to any other time during which the sale of liquor is so prohibited.

Power of
police to
remove
persons
betting from
licensed
premises.

127. (1) If any member of the police force has reasonable grounds for suspecting that any person whom he finds on any licensed premises has at any time on the day on which he finds him been guilty of betting or offering to bet by way of unlawful wagering or gaming on those licensed premises, or that the said person is on the licensed premises for the purpose of so betting, that member of the police force may without warrant arrest that person and remove him from the licensed premises, or cause him to be so arrested and removed.

(2) If any person who has been so removed from any licensed premises re-enters or is again upon those premises during the day on which he was so removed, he shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred dollars.

(3) No member of the police force who has acted *bona fide* in the intended exercise of the powers conferred on him by subsection (1) of this section, and no person acting under the instructions of, or for the purpose of assisting any such member, shall be liable to any proceedings civil or criminal in consequence of his having so acted.

128. (1) Any person holding a licence under this Act may refuse to admit to and may turn out of the premises in respect of which his licence is granted any person—

Power to exclude or expel certain persons from licensed premises.

(a) who is a reputed prostitute or thief ;

(b) who is drunken, violent, quarrelsome, or disorderly ;

or

(c) whose presence on the premises would or might subject the holder of the licence to a penalty under this Act.

(2) Any such person who, upon being requested in pursuance of this section by the holder of the licence, or his agent or servant, or any member of the police force or an inspector, to quit the premises, refuses or fails so to do, shall be guilty of an offence and liable to a penalty not exceeding ten dollars.

(3) Every member of the police force shall, on demand of the holder of the licence, or his agent or servant, expel or assist in expelling every such person from the premises, and may use such force as is required for that purpose.

129. (1) If any person holding a licence permits drunkenness, or any indecent, violent, quarrelsome, or riotous conduct to take place on his licensed premises or the appurtenances thereof, he shall be guilty of an offence.

Permitting drunkenness or riotous conduct on premises.

(2) Where any person is charged under this section with permitting drunkenness on his licensed premises or the appurtenances thereof, and it is proved that any person was drunk on such premises or appurtenances, it shall lie on the person so charged to prove that he and the persons employed by him took all reasonable steps to prevent that drunkenness.

130. Any person holding a licence who is found drunk in any part of his licensed premises or the appurtenances thereof to which the public have access shall be guilty of an offence.

Penalty on licensee drunk on premises.

PART V.

Restriction
on use of
licensed
premises for
theatrical
performances,
etc.

131. (1) Notwithstanding the provisions of the Places of Public Entertainment Act, 1913-1965, no portion of any premises in respect of which a licence is current, or of the appurtenances thereof, shall be used as a theatre, concert-room or ball-room or otherwise for public entertainment, without a permit from the court and upon such terms and conditions as are imposed by the court including conditions relating to health, safety and morals having regard to the provisions of the Places of Public Entertainment Act, 1913-1965, and the regulations thereunder.

(2) No permit shall be granted under this section in respect of a Sunday, Good Friday or Christmas Day unless and until the Governor declares by proclamation that such a permit may be granted in respect of any one or more of such days.

(3) Any person who uses or permits to be used any portion of any such premises or appurtenances in contravention of this section, or at any hour not authorized by the permit, shall be guilty of an offence.

(4) Every person obtaining any such permit shall pay a fee of five dollars to the clerk on the issuing thereof.

(5) In this section "public entertainment" does not include the supply of meals or refreshments with accompanying music other than music provided by live artists on the premises.

(6) No such permit shall extend over a longer period than twelve months.

(7) Any such permit may be revoked by the court at any time upon the application of the Superintendent of Licensed Premises and proof that the holder thereof has failed to comply with any term or condition thereof.

(8) This section shall come into operation on the fifteenth day of January, 1968.

Duty to set
up parts of
this Act in
bar-room.

132. (1) Every person holding a full publican's or wine licence shall cause sections 153 and 155 to be printed or fairly written in large, legible, permanent, and conspicuous characters, and affixed in one of the most public parts of every bar-room, in his licensed premises, or in the case of a wine licence, in one of the most public parts of his licensed premises, and keep the same so affixed, and fair and legible.

(2) Any person failing to comply with the requirements of this section shall be guilty of an offence and liable to a penalty of four dollars, and to a further penalty of one dollar for every day during which the said sections or any of them are not kept affixed, and fair and legible as aforesaid.

133. (1) Subject to section 135 of this Act, no person holding a licence, shall have or keep any retail store or shop on account of himself, or of any other person, which, by door, window, or in any other manner internally communicates or admits of a communication with the licensed premises or any part thereof, or which communicates or admits of communication with such licensed premises externally, save by a separate public outer door or entrance thereto.

Restriction on keeping retail stores together with licensed premises.

(2) Any person contravening the provisions of this section shall be guilty of an offence.

(3) This section shall not extend to confectioner's shops, or refreshment rooms, had or kept by the holder of a wine licence, and forming part of his licensed premises.

134. (1) Subject to section 135 of this Act, no person holding a licence shall use or keep open, or permit to be used or kept open, any communication, by door, window, passage, or in any other manner (save by a separate public outer door or entrance), between his licensed premises or any part thereof and any retail store, shop, eating-house, or refreshment-rooms.

Prohibition of communication between licensed premises and stores or eating-houses.

(2) Any person offending against the provisions of this section shall be guilty of an offence.

135. The court may at any time make or revoke any order exempting from the provisions of section 133 or section 134 or both of the said sections any store, shop or room used for such purposes as the court may approve.

Power of court to grant exemptions concerning stores and shops.

136. (1) Subject to section 66—

(a) any person (excepting the occupier of the premises or any member of his family dwelling on the premises or any of his servants dwelling on the premises) who, drinks liquor in any unlicensed premises shall be guilty of an offence ;

Penalty for drinking on unlicensed premises during prohibited hours.

(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 shall be guilty of an offence.

(2) For the purposes of enforcing the provisions of this section any inspector or any such officer or member of the police force as is referred to in section 184 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. If admittance is delayed for such time that it may reasonably be inferred that wilful delay was intended—

(a) the occupier of the premises shall be guilty of an offence ;

and

(b) the inspector, officer, or member of the police force 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 cafe, 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 in this section shall make lawful anything which would have been a contravention of any of the provisions of this Act if this section had not been contained therein.

Duty to state age.

137. (1) A person who is on licensed premises or on any premises in respect of which a permit granted under this Act is in force, shall, upon request made by any member of the police force, truly state whether he or she is or is not under the age of twenty-one years.

(2) A person who contravenes or fails to comply with any provision of this section shall be guilty of an offence.

Consumption of liquor within 300 yards of dances.

138. (1) A person shall not while a dance is being held in any public premises, consume any liquor or supply any liquor to any person in any public place within three hundred yards of those premises unless the liquor is supplied or consumed upon licensed premises.

(2) A person who contravenes this section shall be guilty of an offence.

(3) It shall be a defence to a prosecution under this section if the defendant proves that he did not know and could not by the exercise of reasonable diligence have known that a dance was being held within three hundred yards of the place where the consumption or supply of liquor took place.

Interpretation of s. 138.

139. (1) In section 138 of this Act—

"dance" includes any gathering at which persons attend for the purpose of dancing, whether or not other amusements, games, or pastimes are carried on at such gathering :

"public place" includes—

- (a) any road, street, footway, bridge, court, alley, thoroughfare, park, park land, garden, square, reserve, seashore, or other place to which free access is permitted to the public, notwithstanding that it may be on private property ;
- (b) any building structure or erection which is in any public place as hereinbefore defined, and to which the public have free access ;
- (c) any doorway, porch, or other like open space which abuts on a road, street, or thoroughfare and to which the public have free access ;
- (d) any passage between the show windows of a shop, to which passage the public have free access ;

and

- (e) any vehicle standing in any such place as hereinbefore mentioned in this definition :

“public premises” means premises or place, enclosed or unenclosed, other than—

- (a) a dwellinghouse ordinarily used for residential purposes ;
 - (b) land adjoining and occupied with a dwelling-house ordinarily used for residential purposes ;
- or
- (c) premises in respect of which a licence is for the time being in force.

140. (1) If a person holding a licence—

- (a) knowingly employs or permits to be employed any prohibited person as overseer, manager or superintendent of any licensed premises ;

or

- (b) knowingly permits any prohibited person to appear or act as overseer, manager, or superintendent of any licensed premises, or in any way which may induce customers or the public to believe that he is overseer, manager, or superintendent of any licensed premises,

he shall be guilty of an offence.

(2) “Prohibited person” means a person who has forfeited or been deprived of a licence as being personally unfit or incompetent to hold a licence under this or any of the Acts hereby repealed, or who, from misconduct or bad character has been refused a certificate to entitle him to receive a licence.

Prohibition of employment of certain persons as managers of licensed premises.

PART V.

Exclusion of
unlicensed
persons from
interest in
profits, etc.,
of licensed
premises.

141. If any person holding a licence—

(1) admits any unlicensed person as or to be his partner ;
or

(2) directly or indirectly permits an unlicensed person
to participate in the profits of the business of his
licensed premises ;

or

(3) directly or indirectly agrees with any unlicensed
person to let him have any interest whatever in
the said premises, or the profits thereof ;

or

(4) remunerates or suffers any unlicensed person to be
remunerated for, or in any manner agrees that
he shall be remunerated for any services, or on
any account, in proportion to the profits of the
business carried on in the said premises or to the
quantity of liquors sold or retailed in or from the
said premises ;

or

(5) permits any person not duly authorized under this
Act to manage, superintend, or conduct the business
of the said premises ;

or

(6) whether residing in the said premises or not, permits
any unlicensed or unauthorized person to appear
to the public as, or to become virtually or in effect,
the keeper of the said premises,

the court shall—

(a) declare the licence of the said premises for the then
current year to be void, and the same shall thereupon
become and be absolutely void ;

or

(b) at the discretion of the court impose on the said
licensed person a penalty of not less than ten
dollars nor more than two hundred dollars :

Provided that this section shall not prohibit a *bona fide*
agreement between the holder of a wine licence and the keeper
of a confectioner's shop or refreshment room for the carrying
on of their respective trades in partnership on one and the
same licensed premises.

142. (1) Every person who—

- (a) mixes or causes or permits to be mixed with any liquor sold, or offered or exposed for sale by him, any deleterious ingredient ;

or

- (b) sells, or offers, or exposes, or has for sale any adulterated liquor, or liquor containing any ingredient deleterious to health ;

or

- (c) has on any premises where liquor is sold or exposed for sale any substance, matter, or thing of a deleterious character, which it may be reasonably inferred is kept for the purpose of adulterating or mixing with liquor,

Penalty on
sale of
adulterated
liquor.

shall be guilty of an offence, and liable for a first offence to a penalty of not less than forty dollars nor more than one hundred dollars, or to imprisonment for any term not exceeding three months, with or without hard labour ; and for the second or any subsequent offence, to a penalty of not less than one hundred dollars nor more than two hundred dollars, or to imprisonment for any term not exceeding six months, with or without hard labour, and also to be declared disqualified perpetually from applying for or obtaining a licence, or a renewal or a transfer of a licence under this Act.

(2) Any justice may, on complaint on oath made to him that there is reason to believe that any such liquor is adulterated, or contains any deleterious ingredient as aforesaid, or that any such substance, matter, or thing of a deleterious character is to be found upon any premises—

- (a) authorize the seizure of that liquor, substance, matter, or thing ;

- (b) cause the same, or a sample thereof, to be analysed by some competent person ;

and

- (c) order the forfeiture of the whole of the kind of liquor analysed and found to be adulterated or to contain any deleterious ingredient, and also of any substance, matter, or thing of a deleterious character found in the possession or on the premises of the person offending.

(3) The justice may order that the expense of and attending such seizure, analysis and forfeiture shall be a portion of the costs payable by any person convicted under this section.

(4) In every proceeding under this section proof of the fact that any liquor was adulterated, or contained any deleterious ingredient, or that any substance, matter, or thing of a deleterious character was found upon the premises shall be *prima facie* evidence that the person in whose possession the same was found, or who at the time occupied the premises whereon the same was found, did sell, or offer, or expose, or have for sale such liquor, or that such substance, matter or thing of a deleterious character was kept for adulterating or mixing with liquor.

(5) No person shall be liable to a penalty under this section if he satisfies the justices hearing the complaint that such liquor was when seized in the same condition as it was when it came into his possession by a *bona fide* purchase, and was not adulterated or mixed with any deleterious ingredient by him or any person acting under his authority or in his employ, or that such substance, matter, or thing was not kept for adulterating or mixing with liquor.

Closing of
houses against
riot.

143. (1) Any justice, if any riot or tumult happens, or is expected to take place, may order or direct that any person licensed under this Act, and keeping any house where the riot or tumult happens, or is expected to take place, shall close his house for any time which the said justice so orders or directs.

(2) Any person who does not obey any such order or direction shall be guilty of an offence.

Penalty for
evasion of
provisions
disallowing
consumption
of liquor
on premises
under certain
classes of
licences.

144. If any person holding a wholesale storekeeper's or retail storekeeper's licence, with intent to evade the provisions of this Act, takes, or carries, or authorizes, employs, permits, or suffers any person to take or carry any liquor out of or from the premises of the said licensed person for the purpose of being sold on his account or for his benefit, or of being drunk or consumed in any other premises whatever belonging to or hired, used, or occupied by him that liquor shall be deemed to have been drunk or consumed upon the licensed premises of such licensed person, and he shall be guilty of an offence.

Penalty for
drinking in
the house or
store of persons
holding certain
licences, or of
vignerons.

145. If any person who has purchased any liquor from any person holding a wholesale storekeeper's licence or retail storekeeper's licence, drinks liquor so purchased, or opens any bottle or other vessel containing liquor so purchased, in or about the house, or on the premises described in the licence granted to the said holder, he shall be guilty of an offence.

146. If any person holding a licence, sells or retails any liquor, except according to the tenor of and as authorized by his licence, he shall be guilty of an offence.

Penalty for selling liquor otherwise than as authorized by licence.

147. (1) Subject to section 68 of this Act if—

Offences in connection with sale of liquor on steamers.

(a) any master or commander of an unlicensed vessel, or any of the officers or crew of such a vessel directly or indirectly sells or permits to be sold within the State any liquor ;

or

(b) any master or commander of any of the officers or crew of a licensed vessel directly or indirectly sells or permits to be sold within the State any liquor contrary to the terms of and not as authorized by the licence,

the master, commander, officer or member of the crew so acting shall be guilty of an offence and liable for a first offence to a penalty of not less than one hundred dollars and not more than two hundred dollars or imprisonment for a term not exceeding six months, and for any subsequent offence to imprisonment for any term not exceeding one year.

(2) Every sale of liquor on board any such licensed or unlicensed vessel in the circumstances mentioned in this section shall be deemed a sale by the master or commander until the contrary is proved.

(3) "unlicensed vessel" means a steamer or vessel the master of which has not a packet licence in respect thereof.

"licensed vessel" means a steamer or vessel the master of which has a packet licence in respect thereof.

(4) No court shall have power to impose a fine in lieu of imprisonment for any such subsequent offence.

148. (1) 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 liable for a first offence, to a penalty of not less than one hundred dollars and not more than two hundred dollars, or to be imprisoned for a term not exceeding six months, and for any subsequent offence shall be imprisoned for a term not exceeding one year.

Retailing liquor without a licence.

(2) No court shall have power to impose a fine in lieu of imprisonment for any such subsequent offence.

Supply by
unlicensed
persons.

149. If any unlicensed person gives away or delivers any liquor to any person, under the pretence of such person being a customer for other things, or under any pretence whatever that unlicensed person shall be guilty of an offence under section 148 of this Act.

Penalty on
purchasing
liquor from
unlicensed
persons.

150. (1) Any person who, except as allowed by this Act, purchases, or attempts to purchase, any liquor from, or in or from the premises of, any person who does not hold a licence under this Act, shall be guilty of an offence.

(2) Except as allowed by this 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 authorized by his licence. Any person offending against this subsection shall be guilty of an offence.

Determination
of what is
retailing

151. The special magistrate or justices sitting at or on the hearing of any complaint under this Act for retailing without a licence or otherwise than according to the tenor of and as authorized by the licence of the person charged may determine the fact of retailing according to the circumstances of or attending each case, without direct evidence of money or value having been given for the liquor alleged to have been sold or retailed, or of any particular person having himself so sold or retailed.

Power to
seize liquor
unlawfully
carried about
or exposed for
sale.

152. (1) Any justice, member of the police force or inspector may seize and take away, or cause to be seized and taken away—

- (a) any liquor which he has reasonable cause to suspect to be carried about or exposed for sale in any place whatever by any person not licensed or authorized to sell the same there ;
- (b) the vessels containing any such liquor ;
- (c) the vessels and utensils used for drinking or measuring any such liquor ;
- (d) any motor vehicle, carriage, or other means of conveyance employed or reasonably suspected to be employed in carrying any such liquor.

(2) Any person who carries about or exposes for sale any liquor without a licence shall be guilty of an offence.

(3) The convicting court may adjudge the said liquor and any vessel or utensil containing it and any motor vehicle or carriage, or other means of conveyance employed for carrying it to be forfeited and may order the same to be sold; and the proceeds of the sale, after deducting the expenses of sale, shall be appropriated in the same manner as fines and penalties are by this Act directed to be appropriated.

Persons not to be supplied.

153. (1) Any person, who, on any licensed premises, sells or supplies, or permits to be sold or supplied or consumed, any liquor to any person under the age of twenty-one years, shall be guilty of an offence.

Prohibition of supply of liquor to person under twenty-one.

(2) It shall be a defence in any proceedings for an offence under subsection (1) of this section to prove—

(a) that the person charged had reasonable cause to believe that the person to whom the liquor was sold or supplied or by whom it was consumed was of or above the age of twenty-one years ;
and

(b) that the person to whom the liquor was sold or supplied was actually of or above the age of eighteen years.

(3) Any person under the age of twenty-one years who obtains or attempts to obtain from or to consume any liquor on any licensed premises shall be guilty of an offence.

154. (1) A licensee shall not employ any person under the age of twenty-one years to sell, supply or serve liquor in any bar-room excepting a child of the licensee.

Persons under twenty-one not to be employed in bar-room.

(2) Any licensee who fails to comply with this section shall be guilty of an offence and liable to a penalty of not less than ten dollars nor more than fifty dollars.

155. Any licensed person or any person in his employ who supplies, or permits to be supplied, any liquor to any person in a state of intoxication shall be guilty of an offence.

Prohibition of supply of liquor to intoxicated persons.

156. (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 the liquor, or any part thereof, is intended to be sold or supplied contrary to any provision of this Act, shall be guilty of an offence.

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 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 148 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 this Act ; and if those facts are proved to the satisfaction of the special magistrate or justices hearing the complaint, the onus shall be on the defendant to prove that he did not know, and had no reason to know, that the said liquor was intended to be sold or supplied as last mentioned.

Employment of Barmaids.

Restriction of
employment
of women to
serve liquor.

157. (1) No holder of a full publican's licence, limited publican's licence, wine licence or club licence shall allow any female other than his wife, his daughter, his sister, his step-daughter, his mother or his mother-in-law to sell, supply or serve any liquor at or in any bar-room unless there is in force at the time an industrial award, determination or agreement under any Commonwealth or State Act binding on the licensee providing that a female engaged in selling, supplying or serving liquor in or at a bar-room shall receive the same remuneration therefor as a male engaged in the same employment.

(2) For the purposes of this section a female shall not be deemed to sell supply or serve liquor at or in a bar-room by reason only of the fact that she obtains liquor in at or from a bar-room for persons who are not in or at a bar-room.

Times of Selling.

Times when
premises may
not be open
nor liquor
sold.

158. (1) Subject as hereinafter mentioned, no licensed person shall keep his licensed premises open for the sale of liquor, or shall sell or supply any liquor or shall permit any liquor to be consumed on his licensed premises upon any day or at any time or in any circumstances other than as authorized by his licence :

Provided that nothing in this section shall relate to the sale or supply to or consumption of liquor by the licensee, any member of his family living or staying on the premises, any servant of the licensee living or staying on the premises, or any *bona fide* lodger or by a *bona fide* traveller (which persons are in this Act called "excepted persons"), if the liquor is not drunk in any bar-room on the licensee's premises.

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.

(2) Every licensee who offends against any provision of this section shall be guilty of an offence.

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

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

(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 the licensed premises ;

or

(ii) any place in the said premises where liquor is kept for sale or 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 the said premises where liquor is kept for sale or is stored,

shall be open or unlocked 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.

(2) Any licensed person on whose premises any contravention of this section occurs shall be guilty of an offence.

(3) Notwithstanding anything in this Act, a licensee is hereby permitted to keep his bar-room open for thirty minutes immediately after the closing time on any day for the purposes of clearing such bar-room of the persons who are therein at the said closing time and of adjusting the goods and furniture therein: Provided that if on any day any liquor is sold or supplied after such closing time, or, after the expiration of fifteen minutes after such closing time is consumed in any such bar-room, the permission granted by this subsection shall not apply on that day ; and if any licensee is convicted of any offence against section 158 or this section, the convicting magistrate or justices may, in addition to any penalty imposed for that offence, declare that this subsection shall, for such time

as is declared by such magistrate or justices, not apply in favour of that licensee, and thereafter it shall not apply accordingly.

Closing on
Sundays.

160. Subject to section 168, no person holding a full publican's licence or limited publican's or restaurant licence shall be compelled to open his premises during any hour on Sunday.

Register of
lodgers.

161. (1) Every holder of a full publican's licence or limited publican's licence or of a licence granted to a club which provides lodging for its members shall keep on his licensed premises a book to be called the "Register of Lodgers". Such book shall be in the form prescribed by the rules of court and contain such particulars as are so prescribed.

(2) The Register of Lodgers kept on any licensed premises shall be open to inspection at any time, upon demand, by an inspector or any member of the police force.

(3) 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 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, or assigned to him on that day or night, be *prima facie* evidence as against the holder of the licence, and *prima facie* evidence as against the said person, in any proceedings under this Act that the said person was not a *bona fide* lodger in the premises when he was so found.

(4) Any holder of any full publican's licence or limited publican's licence or of a licence granted to a club which provides lodging for its members who—

(a) neglects or fails to keep a register of lodgers as provided by this section ;

or

(b) neglects or fails to enter, or cause to be entered, in the register any of the particulars prescribed ;

or

(c) makes, or causes to be made, in the register any false or misleading entry in respect of any of the particulars required by this section to be entered therein ;

or

(d) enters or causes to be entered in the register the name of any person who is not at the time when the entry is made a *bona fide* lodger ;

or

(e) refuses or fails on demand by an inspector or any member of the police force to produce for inspection the Register of Lodgers,
shall be guilty of an offence.

162. No person shall for the purposes of this Act be deemed to be a *bona fide* lodger in licensed premises unless—

Definition of
bona fide
lodger.

(a) he is a regular boarder in the premises ;

or

(b) he lodged therein on the night immediately preceding the day whereon an offence is alleged to have been committed ;

or

(c) if the offence is alleged to have been committed between any hour of any night and five o'clock in the following morning, he lodged therein on the night immediately preceding that night ;

or

(d) he has ordered and been assigned a bedroom in the licensed premises for his lodging during the night ensuing upon the day of his arrival, or he arrives in the night for the purpose of lodging during that night and the fact has been entered in the Register of Lodgers for his lodging during that night.

163. Any person who by falsely representing himself to be a *bona fide* lodger within the meaning of section 162, buys, or obtains, or attempts to buy or obtain at any licensed premises any liquor during any day or time during which the sale of liquor is prohibited by law shall be guilty of an offence.

Penalty for
obtaining or
attempting to
obtain liquor
by false
representation.

164. (1) It shall be lawful for the holder of a full publican's licence or a limited publican's licence or of a licence granted to a club which provides lodging for its members, to supply liquor on his licensed premises to a non-excepted person : Provided that—

Supply of
liquor at
expense of
guests.

(a) the liquor is supplied at the expense of a *bona fide* lodger ;

(b) the liquor is consumed on the premises in the presence of such lodger ;

(c) a written order for the liquor is given by such lodger and it is not paid for in cash but the cost thereof is entered on the account of the lodger with the holder of the licence ;

(d) not more than six non-excepted persons are so supplied at any one time ;

and

(e) the liquor is not supplied to any person in contravention of any provision of sections 153, 155 and 156 of this Act.

(2) Any person who for the purpose of procuring the supply of liquor under subsection (1) of this section makes any false statement shall be guilty of an offence.

(3) It shall be a defence to a charge under paragraph (a) or (b) of section 165 of this Act if it is proved that the liquor to which that charge applies was supplied to the defendant in accordance with this section.

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

165. Any person other than an excepted person who during any day or time during which the sale of liquor is prohibited by law—

(a) purchases or obtains or attempts to purchase or obtain liquor from any licensed premises ;

(b) is found drinking liquor in any licensed premises ;
or

(c) is present in any bar-room on any licensed premises or in any place on licensed premises where liquor is kept for sale or stored,

shall be guilty of an offence.

Evasion of law as to sale, etc., of liquor on premises.

166. In any proceedings under this Act against the holder of a licence for selling or supplying or permitting the sale or supply of liquor, or the drinking or consumption of liquor on his premises, it shall be no defence to prove that the said holder himself took, or carried, or employed, or authorized or suffered any other person to take or carry such liquor out of or from such premises for the purpose of being sold or supplied for the holder's benefit or profit, or on his account, and of being drunk or consumed in any other house, or in any tent, shed, or other building of any kind whatsoever, belonging to or hired or used or in the occupation of the holder, or in any public place or public thoroughfare ; but in all such cases the liquor shall be deemed to have been sold or supplied by the holder on his licensed premises, and to have been drunk or consumed by the purchasers thereof or the persons to whom supplied on the premises of the holder, and with his privity and consent.

Permits for liquor tasting.

167. Notwithstanding anything contained in this Act the court may grant a permit authorizing the consumption of liquor in respect of any premises or portion thereof in manner herein-after provided and subject to the conditions hereinafter set forth, namely :—

- (a) Prior application in the prescribed form shall be made in writing to the clerk seven clear days before the day on which the application is to be made :
- (b) Such application shall be accompanied by the written consent of the owner and of the occupier of the premises and the written consent (or objection) of the Commissioner of Police or of the officer of the police force in charge of the station nearest to the premises in respect of which the permit is sought :
- (c) The permit shall be granted on the occasion of a gathering which is, in the opinion of the court, to be held on suitable premises and for the purpose of instructing the public in the moderate use of liquor :
- (d) The permit shall be granted in respect of such specified days as the court fixes and shall be in force during such times during those days as are specified in the permit :
- (e) The permit may be granted subject to such terms and conditions as are fixed by the court :
- (f) A permit shall not be granted authorizing the consumption of liquor produced and manufactured outside the Commonwealth unless the court is satisfied that liquor produced and manufactured in the Commonwealth is to be supplied on the same occasion or occasions :
- (g) All liquor consumed at the gathering shall be supplied free of charge :
- (h) No charge shall be made against any person attending the gathering for admission to, entertainment at, or refreshments of any kind supplied or consumed at, the gathering :
- (i) A permit shall not be granted in respect of licensed premises if in the opinion of the court the holding of the proposed gathering would unduly interfere with the accommodation required by law to be supplied in respect of those licensed premises :
- (j) No person shall whilst a permit is in force under this section supply or permit to be supplied any liquor to any person under the age of twenty-one years on the premises in respect of which the permit is in force :
- (k) A person who contravenes any provision of this section shall be guilty of an offence :

- (l) Except to the extent expressly provided by this section, nothing in this section shall authorize or excuse the doing or omission of anything contrary in any way to any provision of this Act.

Duty to supply
food and
lodging.

168. (1) Subject to this section, the holder of a full publican's licence or limited publican's licence or a restaurant licence if requested to supply any person with meals or in the case of a full publican's licence or limited publican's licence, lodging, shall comply with that request :

Provided that the holder of a full publican's licence or limited publican's or restaurant licence shall not be required by this subsection to supply meals or (as the case may be) lodging—

- (a) to a person of bad reputation or an intoxicated person ;
- (b) if he has reasonable cause to believe that the person to be supplied is unable to pay, or will not pay for any meals or lodging supplied ;
- (c) if at the time when the request is made the holder of the licence has already entered into engagements or arrangements with other persons by reason of which his premises are or will be so fully occupied as to render it impracticable to comply with the request ;
- (d) if for any other cause, not due to want of diligence on the part of the holder of the licence or to his failure to comply with this Act, he is unable to comply with the request :

Provided also that the holder of a full publican's licence shall not be required by this subsection to supply any meal except between the hours of eight o'clock and nine-thirty o'clock in the morning, twelve o'clock and two o'clock in the afternoon, and six o'clock and nine o'clock in the evening and the holder of a limited publican's licence or restaurant licence shall not be required by this subsection to supply any meal except between the hours of twelve o'clock noon and two o'clock in the afternoon and six o'clock and nine o'clock in the evening or in any case such other hours as the court fixes in respect of any licence :

Provided further that the holder of a full publican's licence shall not be required to supply any meals where the terms of his licence do not authorize the sale and supply of liquor with or ancillary to meals, nor shall the holder of a full publican's licence be required to supply any lodging where the terms of his licence do not include the sale and disposal of liquor to a resident lodger at any time.

(2) A request shall be deemed to be made to a holder of a licence if it was made to him personally, or to any person apparently in charge of his licensed premises, or to any person on the licensed premises who appears to have authority to receive requests for the supply of meals or lodging.

(3) A person who contravenes this section shall be guilty of an offence.

169. (1) 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—

Penalty for persons unlawfully present on licensed premises.

(a) adjoins any bar-room on such premises or any place therein where liquor is kept for sale or is stored ;

and

(b) has any door or other entrance or means of any kind by which admission can be gained to such bar-room or place ;

or

(c) 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 guilty of an offence and liable for a first offence to a penalty of not less than ten dollars and for every subsequent offence to a penalty of not less than twenty dollars, unless he satisfies the special magistrate or justices that his presence in the said room or part was not for the purpose of purchasing or obtaining or attempting to purchase or obtain liquor otherwise than as allowed by this Act.

(2) Any person other than an excepted person who is present on any licensed premises at any time except a time when the sale of liquor is allowed by this Act or within thirty minutes thereafter shall be guilty of an offence 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 otherwise than as allowed by this Act.

170. In any proceeding for an offence against section 158 or section 165 or section 169 of this Act, any person present in the licensed premises shall, until the contrary is proved, be deemed not to be an excepted person.

Presumption that persons present on premises not excepted persons.

171. (1) If any person, whether an excepted person or not, carries away or causes to be carried away liquor in any vessel from any licensed premises during any day or at any time during which the sale of liquor is prohibited by law, he shall be guilty of an offence.

Penalty for carrying liquor from licensed premises during prohibited times.

(2) No child under the age of sixteen years shall be convicted of an offence against this section if it is proved to the satisfaction of the special magistrate or justices that the child was ordered or requested by some other person to obtain or carry liquor as aforesaid.

(3) Any member of the police force or inspector may without any warrant stop and detain any person seen coming out of any licensed premises during any day or any time during which the sale of liquor is prohibited by law, and may search that person and seize and carry away any vessel found in his possession and which the said member or inspector has reasonable cause to believe contains liquor.

(4) Any person who resists or obstructs any member of the police force or inspector in the exercise of his powers under this section shall be guilty of an offence.

(5) Nothing in this subsection shall apply to the carrying away, by the licensee of the premises, or a *bona fide* lodger or traveller, of liquor which is reasonably required for the consumption of such licensee, lodger, or traveller, on the day on which such liquor is so carried away.

Penalty on licensee when liquor delivered to persons outside licensed premises after hours.

172. (1) If any liquor is conveyed by any person from any licensed premises to any person outside those licensed premises during any day or time during which the sale of liquor is prohibited by law, the holder of the licence in respect of those licensed premises shall be guilty of an offence, unless the holder of the licence proves to the satisfaction of the special magistrate or justices hearing the case that the liquor was conveyed as aforesaid—

(a) contrary to the will of the holder of the licence, or if he was not at the time on the licensed premises, contrary to the will of the person at that time in charge thereof, and that the holder of the licence or the person in charge, as the case may be, took all reasonable steps to prevent the person conveying the liquor from doing so ;

or

(b) without the knowledge of the holder of the licence, or if he was not at the time on the licensed premises, without the knowledge of the person at that time in charge thereof and that the holder of the licence or the person in charge, as the case may be, exercised all practicable diligence to prevent the person conveying the liquor as aforesaid from doing so.

(2) In this section the term “convey” includes to transmit by hand or otherwise, with or without any change of bodily position on the part of the person conveying.

173. In any proceedings for an offence against any of the provisions of this Act—

Provisions as to proof of liquor, and separate offences.

(a) any liquid shall, until the contrary is proved, be deemed to be liquor;

and

(b) every separate sale or supplying shall be a separate offence.

174. (1) Any member of the police force or inspector may demand from any person found on or seen coming out of any licensed premises during any day or time during which the sale of liquor is prohibited by law the name and address of that person, and if he has reasonable ground to suppose that the name or address so given is false, may require that person to produce evidence of the correctness of the name or address given by him.

Powers of police with respect to persons on licensed premises at prohibited times.

(2) If any such person, on demand being made as aforesaid, refuses or neglects to give his name or address, or fails, without reasonable cause, to produce any such evidence as aforesaid, the member of the police force or inspector may without any warrant apprehend the said person forthwith, and shall bring him before any special magistrate or two justices as soon as practicable to be dealt with according to law.

(3) Every such person who, on demand being made as aforesaid, refuses or neglects to give his name or address, or fails, without reasonable cause, to produce any such evidence as aforesaid, or gives a false name or address, or produces false evidence with respect to his name or address, shall be guilty of an offence.

175. (1) Any licensee on whose licensed premises any person is found, or out of whose licensed premises any person is seen coming at any time except during a time when the sale of liquor is allowed by this Act or within thirty minutes thereafter shall be guilty of an offence unless he proves to the satisfaction of the special magistrate or justices hearing the case, that the said person—

Liability of licensee when person unlawfully on premises outside hours.

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

or

(b) 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 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 the said person from entering the premises and to remove him therefrom ;

or

- (c) was on the 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 the said person from entering or being on the premises.

(2) If a licensee charged with an offence against this section, which offence is alleged to have been committed between the hours of ten o'clock in the evening and eleven o'clock at night, proves to the satisfaction of the special magistrate or justices hearing the case that he has at all times—

- (a) kept the front door of his licensed premises unlocked and capable of being readily opened ;

and

- (b) afforded to members of the police force desiring to enter and inspect his licensed premises all reasonable facilities for so doing,

he shall be deemed to be charged with an offence against section 176.

Liability of licensee when person unlawfully on premises outside hours.

176. Any licensee upon whose licensed premises any person is found, or out of whose licensed premises any person is seen coming at any time except a time when the sale of liquor is allowed by this Act or within thirty minutes thereafter, shall be guilty of an offence, if it is proved to the satisfaction of the special magistrate or justices hearing the case, that the said 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 the magistrate or justices that he was on the premises against the will of the licensee or person in charge.

Purposes contrary to provisions of Act.

177. If any person is on licensed premises for the purpose of drinking, or obtaining possession or custody of, or carrying away liquor previously bought or supplied or given to him or any other person, this shall be deemed a purpose contrary to the provisions of this Act within the meaning of sections 175 and 176.

178. (1) The Governor may appoint a Superintendent of Licensed Premises and such inspectors of licensed premises as he thinks fit.

Appointment of Superintendent of Licensed Premises and inspectors.

(2) The Superintendent of Licensed Premises shall be entitled to object to, or to be heard on the hearing of any application to the court or to furnish a report and make submissions or recommendations upon any application or any matter relating to or arising in connection with any application, including the fixing of fees for licences or permits.

(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.

179. It shall be the duty of the Superintendent of Licensed Premises assisted by such inspectors—

Duties of inspectors.

- (a) to ascertain by personal inspection the mode in which the licensed premises are conducted and managed ;
- (b) to ascertain by personal inspection the state, condition, nature, and extent of accommodation of such premises ;
- (c) to keep a record of all convictions against all licensees of such premises ;
- (d) to see that the provisions of this Act are duly observed and followed by every person holding a licence thereunder ;
- (e) to report upon all or any licensed premises, with regard to the conduct and management of the same, and of the business carried on therein, and to the accommodation thereof ;
- (f) whenever directed by the court so to do either generally or in a specific case to inspect and examine any books records documents or accounts relating to quantities of liquor purchased or sold for or in respect of any licensed premises or for sale pursuant to any certificates of approval granted under sections 65 and 71 and the amounts paid or payable therefor.

180. (1) Subject to this section every inspector may at any time—

Powers of inspectors to search for and seize suspected liquor.

- (a) enter the premises of, or any premises occupied or used by, any person (in this section referred to as

the vendor) selling, or keeping, or offering, or exposing for sale any liquor ;

- (b) search such premises for the purpose of ascertaining whether the vendor has in or upon them any substance, matter, or thing of a deleterious character which it may reasonably be inferred is kept for the purpose of adulterating or mixing with the liquor sold, or kept, or offered, or exposed for sale, or has for sale any adulterated liquor, or liquor containing any deleterious ingredient, or any liquor whatever not authorized to be sold by the licence or permit (if any) held by him ;
- (c) seize and take away any liquor whatsoever which he has reasonable grounds for believing to be adulterated, or to contain any deleterious ingredient, or to be not authorized to be sold as aforesaid, or to be unfit for human beings to drink, and also any substance, matter, or thing which he has reasonable grounds for believing to be of a deleterious character, and which he discovers on the premises of the vendor ;
- (d) either on such premises or elsewhere, submit any liquor, substance, matter, or thing seized, or any sample thereof, to any test or analysis which he considers necessary for determining whether that liquor, substance, matter, or thing seized, or any ingredient, or is authorized to be sold by such licence or permit as aforesaid, or is fit for human beings to drink, or whether that substance, matter, or thing is of a deleterious character.

(2) Every person upon whose premises, or upon the premises occupied or used by whom, any adulterated liquor, or liquor containing any injurious ingredient, or unfit for human beings to drink, or not authorized by such licence or permit as aforesaid to be sold, or any substance, matter, or thing of a deleterious character which it may reasonably be inferred is kept for the purpose of adulterating or mixing with the liquor sold, or kept, or offered, or exposed for sale, is found (of all which several matters the fact of such liquor, substance, matter, or thing being found on such premises shall be *prima facie* evidence) shall be guilty of an offence and liable to the like penalties, imprisonment, and disqualification as are provided in section 142.

(3) All liquor of the like kind to that seized, and all substances, matters, and things of a deleterious character found upon the premises shall be confiscated upon the order of the convicting magistrate or justices.

(4) No inspector shall enter any private room in the actual use or occupation of any *bona fide* lodger, or of any person holding a licence unless—

(a) he has first given reasonable notice of his intention to that lodger or licensed person, or, in the case of the absence of either of them, to the person appearing to have charge of the licensed premises ;

or

(b) he has the assent of such lodger or licensed person, or of the person appearing to be in charge of such premises as aforesaid.

(5) An inspector making any seizure under this section, if requested by the vendor at the time of seizure, shall in his presence—

(a) set aside in a separate vessel or vessels, for analysis, a sample of the liquor, substance, matter, or thing seized ;

(b) annex to every such vessel the name and address of the vendor ;

(c) with such seal or seals (if any) as the vendor furnishes, secure such vessel, name, and address, in such manner that the vessel cannot be opened, or the name and address taken off, without breaking such seal or seals ;

(d) leave with the vendor a vessel containing a corresponding sample, and the name and address of the vendor secured thereto by such inspector, with his own seal in manner aforesaid.

(6) No evidence on the analysis of the sample so sealed shall be receivable on the hearing of any complaint under this section, unless, previous to the opening of the vessel containing such sample, reasonable notice has been given by the inspector to the vendor or by the vendor to the inspector (as the case may require) of the time and place at which it is intended to open such samples for analysis, in order that the vendor or inspector may, if he thinks fit, attend and inspect the condition of the seals attached to such vessel.

181. (1) Every licensee of any licensed premises shall at all times keep the licensed premises in good repair and sufficiently well furnished for the accommodation of travellers and other persons using the same, and every part thereof thoroughly cleansed and disinfected.

Duty to keep
licensed
premises
repair and
clean.

(2) The court may, upon the recommendation of the Superintendent of Licensed Premises, cause notice to be served upon

a licensee requiring the licensee to put his licensed premises into such repair or have the premises so furnished or cleansed or disinfected as specified in the notice and within such time as is specified in the notice.

(3) If the licensee fails to comply with any such notice within the time so specified, he shall be guilty of an offence.

(4) The special magistrate or justices before whom any such holder is convicted under this section, or the court, after such a conviction, may direct the licensed premises to be closed until the notice is complied with; and thereafter and until the Superintendent of Licensed Premises has signified by notice in writing delivered to the holder that he is satisfied with the state of the premises, or until the special magistrate or justices who made the direction, or the court, directs that the said premises may be re-opened, the said premises shall for all purposes under this Act be regarded as unlicensed and the said holder as not licensed in respect thereof.

Penalty on
obstructing
inspectors.

182. Any person who—

- (a) refuses to permit any inspector to make any search ;
- or
- (b) hinders or delays any such search ;
- or
- (c) obstructs or hinders any inspector in the performance of any of his duties under this Act, or the execution of any of the powers by this Act vested in or conferred upon him,

shall be guilty of an offence.

Authority of
inspectors and
proof of
appointment.

183. Any inspector without further or other authority than this Act may execute the duties of his office in every part of the State, and it shall not be necessary for any inspector in any proceedings to prove his appointment as such inspector.

Power of
authorized
persons to
enter licensed
premises.

184. (1) Any inspector, or officer of the police force of rank not lower than inspector, or any member of the police force authorized in writing by any such officer of the police force, may demand entrance at any time into any licensed premises, or any bar-room, or other part thereof, or any appurtenances thereof, or any premises adjoining and occupied with such licensed premises or appurtenances, at any time, by day or night, and if admittance is refused or delayed for such time as makes it appear that wilful delay was intended, the licensee and any person to whom such demand was made shall be guilty of an offence.

(2) If on demand made as aforesaid admittance is refused or delayed for such time as last aforesaid, the inspector, officer, or member may break into and employ force to enter the licensed premises, bar-room or other part, or appurtenances or other premises as aforesaid.

(3) Such breaking and entry shall not affect the liability of the licensee and the person to whom such demand was made.

(4) The authority of a member of the police force, referred to in subsection (1) of this section, may be limited to one or more specified occasions, or one or more specified localities, or one or more specified premises, or may authorize the member to act generally as in the subsection mentioned without limitation as to occasion, locality, or premises, or may be limited in any manner deemed proper by the officer giving the authority.

185. (1) Any inspector or any member of the police force who is of opinion 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 authorized by the licence granted in respect thereof, may at any time by day or night, with such (if any) assistants as he considers necessary—

Power to
search
premises
when sale
of liquor
suspected.

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

(b) if necessary break open the doors or other means of access to the said 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 the said house, place, or premises, and the vessels containing liquor.

(2) If the owner of any liquor and vessels so seized—

(a) within seven days of the seizure applies to the court of summary jurisdiction nearest to the house, place or premises wherein they were seized, for the return of that liquor and those vessels ;

and

(b) satisfies such court—

(i) that he became possessed of the liquor and vessels lawfully ;

and

(ii) that the liquor was not in such house place or premises for the purpose of being unlawfully disposed of,

then the court shall order the liquor and vessels to be returned to the owner.

(3) If the owner does not apply under subsection (2) of this section, the liquor and vessels shall, without any order in that behalf, be forfeited to the Crown.

(4) If the owner applies under subsection (2) of this section, but fails to satisfy the court as to the matters specified in that subsection, the court shall order the liquor and vessels to be forfeited to the Crown.

(5) Every application under subsection (2) of this section shall be made in writing to the clerk of the court of summary jurisdiction, who shall fix a date for the hearing of such application and shall give notice thereof to the applicant and to the officer in charge of the police station nearest to the house, place or premises wherein the liquor and vessels are seized.

(6) All liquor and vessels forfeited to the Crown pursuant to this section shall be disposed of in such manner as the Commissioner of Police directs.

Removal of Devices.

Power of
court to order
removal
of device
calculated to
facilitate
breach of
Licensing Acts.

186. (1) The court may, upon the recommendation of any inspector of licensed premises or of any member of the police force of rank not lower than sergeant, cause notice to be served upon the licensee of any licensed premises to attend before the said court to show cause why he should not remove from his licensed premises any contrivance, device, or thing whatsoever, which, in the opinion of the person making the recommendation, might be used by the licensee or by any other person to facilitate a breach by any person of any of the provisions of this Act.

(2) If the licensee fails to show cause to the satisfaction of the said court, then the said court may order the removal of the contrivance, device, or thing within such time as specified by the said court.

(3) Any licensee of any licensed premises who—

(a) refuses or neglects or fails to remove from his licensed premises within the time specified by the court any such contrivance, device, or thing pursuant to subsection (1) of this section ;

or

- (b) restores or replaces, whether in the same place or elsewhere on the said premises any such contrivance, device, or thing, or any contrivance, device, or thing substantially the same, after having removed the same when so ordered as aforesaid,

shall be guilty of an offence.

187. (1) If—

Telephones
on licensed
premises.

- (a) there is upon any licensed premises any telephone not directly and solely connected with a public telephone exchange ;

and

- (b) there is not in force an order of the court permitting that telephone to be on those licensed premises,

the licensee shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars, and an additional penalty of two dollars for every day on which the offence continues.

(2) The court may at any time make or revoke any order permitting any such telephone to be on any licensed premises.

Licensing of Hotel Brokers.

188. (1) After the expiration of twelve months after the commencement of this Act, a person (whether an individual or a corporation) shall not carry on business, or by any means whatsoever hold himself out, as an hotel broker or act as an hotel broker unless he is the holder of an hotel broker's licence granted by the court.

Licensing of
hotel brokers.

(2) The conditions upon which a licence pursuant to this section may be granted by the court shall be as prescribed by the regulations.

(3) In this section "hotel broker" means a person whose business is to act as agent in respect of the sale or other disposal or the purchase or other acquisition of premises the subject of any licence.

(4) The Governor may make regulations prescribing the form and duration of licences to be issued to hotel brokers, the mode of application for such licences, the terms and conditions upon which and the circumstances in which such licences may be granted, held, suspended, cancelled, altered, extended or replaced, and the fees payable in respect thereof and prescribing the qualifications, standards and other requirements required of applicants for such licences.

Prices Act,
1948-1967.

Amendment
of s. 43.

Enactment of
new s. 22f.

Minimum
prices for
liquor.

189. The Prices Act, 1948-1967, is amended—

(a) by inserting after the word “maximum” in subsection (2) of section 43 thereof the passage “or minimum”;

and

(b) by enacting and inserting therein after section 22e the following section :—

22f. (1) Without limiting any other power conferred on the Minister by this Act, the Minister may, subject to this section, by order fix and declare the minimum retail price of any type or kind of liquor within the meaning of the Licensing Act, 1967.

(2) The power conferred on the Minister by subsection (1) of this section shall include power to fix different minimum retail prices of the same type or kind of liquor according to the quantity, manner, conditions and locality in or under which the liquor is sold.

(3) Notwithstanding subsections (4) and (5) of this section and the fact that the minimum retail price of any type or kind of liquor has been fixed by the Minister under this section, it shall not be unlawful for the holder of a full publican's licence or the holder of a retail storekeeper's licence to sell liquor of that type or kind to any club whose licence is subject to the condition referred to in paragraph (b) of subsection (3) of section 27 of the Licensing Act, 1967, or to any club that is the holder of a permit granted under section 67 of that Act, nor for any such club to buy such liquor from the holder of a full publican's licence or a retail storekeeper's licence, at a discount the rate of which does not exceed the appropriate rate fixed under subsection (8) of this section by the association referred to in that subsection.

(4) A person shall not sell or supply or offer for sale or to supply by retail any type or kind of liquor at a lower price than the minimum retail price of that type or kind fixed by the Minister under this section.

(5) A person shall not buy or obtain by retail or offer to buy or obtain by retail from any person authorized under the Licensing Act, 1967, to sell liquor by retail any type or kind of liquor at a

lower price than the minimum retail price of that type or kind fixed by the Minister under this section.

(6) The Minister may on the application of any association that, in the opinion of the Minister, is fairly representative of the liquor industry, approve of that association for the purposes of this section.

(7) Notice of such approval shall be published in the *Gazette*.

(8) Any association so approved may, with the consent of the Minister, by notice published in the *Gazette*—

(a) fix the proposed minimum retail price of any type or kind of liquor according to the quantity, manner, conditions and locality in or under which the liquor is sold ;

and

(b) fix the rate or rates at which discounts referred to in subsection (3) of this section may be granted for the purpose of that subsection.

(9) The Minister shall not fix the minimum retail price of any liquor under subsection (1) of this section unless he is satisfied that any proposed minimum retail price fixed by an association under subsection (8) of this section is not being observed.

(10) Subsections (4) and (5) of this section do not apply to or in relation to—

(a) any sale or supply or any offer for sale or supply by the holder of a distiller's storekeeper's licence referred to in section 25 or a vigneron's licence referred to in section 26 of the Licensing Act, 1967, of any liquor authorized to be sold or disposed of by that licence ;

or

(b) any purchase or obtaining of liquor, or any offer to buy or obtain any liquor from the holder of such a licence where the sale or disposal of such liquor is authorized by that licence.

PART VI.

PART VI.

TIED HOUSES AND ONEROUS LEASES.

Tied houses.

190. (1) It shall not be lawful without the consent of the court 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, in which security or charge there is any agreement express or implied on the part of the borrower to have, take, or purchase liquor.

(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 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 executed after the twenty-sixth day of March, one thousand nine hundred and sixteen, but not to any document, agreement, condition, proviso, or stipulation which merely extends a security or charge for the payment of money lent before that day, and not for any further advance, or which does not contain any agreement express or implied on the part of the borrower to have, take, or purchase liquor.

(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.

Time for
application
as to tied
houses.

191. An application for the consent of the court under section 190 of this Act may be made, in manner prescribed by the rules of court at such time and place as are fixed and notified by the court in manner so prescribed.

PART VII.

PART VII.

HISTORIC INNS.

Historic Inns.

192.—

- (a) Upon the application of any owner of any premises which are or have been licensed premises under this Act or the Acts repealed by this Act the Governor may by proclamation declare such premises to be an historic inn if he is satisfied that the premises or any substantial part thereof are or is of national, special historic or architectural interest and should be preserved for the benefit of the public generally. Upon any such proclamation being made and notwithstanding anything contained in this Act, the Governor may, subject to such conditions as he thinks fit—
- (i) sanction and authorize the issue by the court of a licence for the sale of liquor at an historic inn which is not already licensed under this Act ;
- and
- (ii) exempt any historic inn, the owner and licensee thereof from any of the provisions of this Act ;
- (b) Subject to any conditions imposed by the Governor and exemptions as aforesaid the provisions of this Act relating to full publican's licences, the holders thereof, licensed premises and persons resorting thereto, shall, in respect of any licence issued in respect of an historic inn, apply to and in respect of any such licence, the holder thereof, the premises in respect of which such licence is issued and persons resorting thereto :
- (c) The Governor may, before declaring any premises to be an historic inn under this section, refer the matter to the court for inquiry and report. Any preservation society shall be entitled to be heard and represented before the court on any such reference :
- (d) In this section, "preservation society" includes The National Trust of South Australia, the Royal Australian Historical Society, the Royal Australian Institute of Architects, South Australian Chapter, and any other body specified by the Minister in a notice published in the *Gazette*.
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PART VIII.

PART VIII.

LEGAL PROCEEDINGS AND EVIDENCE.

Enforcement
of orders for
payment.

193. The payment of any money ordered by the court to be paid under the authority of this Act may be enforced upon the order of the court, in like manner as an order of a justice made under the provisions of the Justices Act, 1921-1965 ; or, at the discretion of the court, by the committal of the offender to prison for a period not exceeding three calendar months, unless payment thereof be sooner made.

Penalty on
witness duly
summoned not
appearing.

194. (1) Any person duly summoned to attend and give evidence in the matter of any application for the grant, renewal, transfer, or removal of any licence or permit, and to whom payment or a tender of payment of his expenses at the rate mentioned in this section has been made, and who refuses or neglects, without sufficient cause, to attend, and also every person present at the hearing, whether so summoned or not, who is required to give evidence in such matter, and who refuses to be sworn and give evidence, shall be liable to pay such fine not exceeding one hundred dollars as the court imposes.

(2) The whole or any part of any such fine shall, at the discretion of the court, be applicable towards indemnifying the party injured by such refusal or neglect.

(3) The rate of payment for expenses shall be in accordance with the scale of fees and expenses payable to witnesses in the Supreme Court.

Production
of licences
on hearing
of charges.

195. (1) Whenever any licensed person is charged with any offence under this Act he shall produce his licence, certificate, permit, or order to the special magistrate or justices hearing the charge, and if the licensed person is convicted of any offence on the hearing the special magistrate or justices shall indorse a memorandum of that conviction on the licence, certificate, permit, or order.

(2) Any licensed person who upon the hearing of such a charge refuses or neglects to produce his licence, certificate, permit, or order shall be guilty of an offence.

Summary
procedure.

196. Every proceeding under this Act for omissions, defaults, neglects, acts, or offences, to which forfeitures, fines, imprisonments, or other penalties attach shall, except where otherwise provided, be heard and determined in a summary way by any special magistrate or two justices, under the provisions of the Justices Act, 1921-1965.

197. Every person guilty of an offence under any provision of this Act for which offence no penalty is therein expressly provided shall be liable to penalties as follows :—

General
penalty.

(a) for a first offence, not less than fifty dollars and not more than two hundred dollars ;

and

(b) for a subsequent offence not less than one hundred dollars and not more than four hundred dollars.

198. (1) Except where otherwise expressly provided, and subject to the provisions of this section, any summons, complaint, or other proceeding whatsoever, and any notice of application, or other document whatsoever, required by this Act to be served upon or delivered or given to any person, shall be deemed to have been duly served upon or delivered or given to such person if and when served upon or delivered or given to or left with him personally, or left with some person for him at his last known or most usual place of abode. Service, delivery, or giving in all cases provided for in this section may be proved either orally or by affidavit sworn before any Commissioner for taking Affidavits in the Supreme Court or any justice.

Service of
process,
notices, and
documents.

(2) Any notice of objection to the grant, renewal, transfer, or removal of a licence, or any other notice whatsoever shall, for the purposes of this Act, be deemed to have been duly delivered or given to and received by the person to whom addressed if posted in a prepaid registered letter or packet, addressed to the person to whom it is required by this Act to be delivered or given at his usual or last known place of abode ; and such notice shall be deemed to have been delivered or given to and received by such person at the time when the letter or packet containing it would be delivered to such person in the ordinary course of post, or if postal matter is not usually delivered at the said place of abode, then at the time when the said letter or packet would in the ordinary course of post be received by such person.

199. Any complaint under this Act shall be held sufficient if it gives the accused a reasonably clear and intelligible statement of the offence with which he is charged, and no conviction or warrant of commitment shall be held void, invalid, or be quashed for any defect in substance or in form ; and the special magistrate or justices shall, at or before the hearing, amend any complaint which in their opinion is defective or ought to be amended, upon such terms (if any) as to costs, adjournment, or otherwise as they think fit ; and any special

Power to
amend.

magistrate may amend any conviction or warrant of commitment at any time after the same has been signed, and before it has been executed.

Prosecution and punishment of aiders and abettors in the commission of offences.

200. Every person who aids, abets, counsels, or procures the commission of any offence under this Act, which is punishable on summary conviction, shall be liable to be proceeded against and convicted for the same offence, either together with the principal offender or before or after his conviction, and shall be liable on conviction to the same penalty, forfeiture, and punishment as the principal offender is by law liable.

Notices appearing in *Gazette* to be *prima facie* evidence.

201. For the purposes of this Act every order, proclamation, notice, or other notification appearing in the *Gazette* relating to the court, any member or clerk or other officer of the court, any inspector, member of the police force, or other officer or person, or any licence, certificate, permit, order, or other matter shall be *prima facie* evidence in all judicial and other proceedings of the matters mentioned in such order, proclamation, notice, or notification.

Presumption that defendant unlicensed in certain cases.

202. In all proceedings against any person for selling, or permitting to be sold, any liquor without a licence, that person shall, for all purposes connected with those proceedings, be deemed unlicensed, unless he at the hearing of the case produces his licence, certificate, permit, or order to the special magistrate or justices, or furnishes other satisfactory proof of his being licensed.

Proof that person or premises licensed.

203. (1) Any person alleged in any complaint under this Act to be a licensed person shall, for all purposes connected with and in all proceedings under or upon the complaint, be deemed to be a licensed person, and to be licensed in respect of the premises (if any) in respect of which he is, in the complaint, alleged to be licensed, unless he at the hearing of the complaint satisfies the special magistrate or justices to the contrary.

(2) Any premises alleged in any complaint under this Act to be licensed premises shall, for all purposes connected with and in all proceedings under or upon such complaint, be deemed to be licensed premises, unless at the hearing of such complaint the special magistrate or justices are satisfied to the contrary.

Proof of sale of liquor.

204. (1) The fact that any person who does not hold a licence—

(a) keeps up any sign, writing, or other mark on or near to his house or premises, or has his house or premises

fitted up with a bar or other place containing bottles, casks, or other utensils openly displayed so as to imply or give reasonable cause to believe that the house or premises is or are licensed for the sale of any liquor, or that any liquor is sold or served therein ;

or

- (b) has in his house or premises a quantity of liquor more than is reasonably required for the use of the persons residing therein,

shall be *prima facie* evidence of the unlawful sale of liquor by that person.

(2) In all cases where liquor is carried about from one place to another the burden of proving that the liquor was not so carried or exposed for sale or that the person charged is within the exceptions in this Act set out shall be cast on the persons carrying or exposing the liquor.

205. (1) In proving the sale or consumption of liquor for the purpose of any proceeding relative to any offence under this Act, it shall not be necessary to show that any money or other consideration actually passed, or that any liquor was actually consumed, if the special magistrate or justices sitting at or on the hearing of the complaint are satisfied that a transaction in the nature of a sale of liquor actually took place, or that any consumption of liquor was about to take place.

Evidence of sale or consumption of liquor.

(2) The delivery to any person of liquor by a licensed or unlicensed person, or by the owner or occupier of any licensed or unlicensed house, place, or premises, or by his servant or any other person in the licensed or unlicensed house, place, or premises shall be *prima facie* evidence of the supply of liquor by the holder of the licence, or by the person delivering the liquor.

Delivery of liquor to be *prima facie* evidence of supply.

(3) The delivery to any person of liquor by a licensed or unlicensed person, or by the owner or occupier of any licensed or unlicensed house, place, or premises, or by his servant or any other person in the licensed or unlicensed house, place, or premises, shall be deemed to be sufficient evidence of the sale of liquor by the holder of the licence, or by the person delivering the liquor, or of the consumption of liquor by the person to whom delivered, so as to support a conviction, unless evidence to the contrary to the satisfaction of the special magistrate or justices is given.

(4) Where in any complaint it is alleged that liquor has been sold, or supplied, or consumed, on the premises specified in the complaint, the presence thereon of two or more persons shall be *prima facie* evidence of such sale, supply, or consumption (according to the nature of the charge): Provided that if the said premises are licensed premises this subsection shall not apply unless one or more of the said persons is not an excepted person.

Members of
police force,
etc., not
accomplices.

206. No member of the police force or inspector who purchases liquor, and no person who purchases liquor at the request of a member of the police force or an inspector, shall be deemed an accomplice or guilty of an offence against this Act where any complaint has been laid for such an offence, nor shall the evidence of any such member of the police force, inspector, or person be deemed, on the hearing of a complaint, to be the evidence of an accomplice.

Power of
court to act
on evidence
of accomplices
without
corroboration.

207. (1) The special magistrate or justices sitting at or on the hearing of any complaint under this Act may, if in the circumstances of the case they deem it proper, convict the person accused upon the uncorroborated evidence of an accomplice; nor shall he or they acquit the person accused merely on the ground that the only evidence against him is the uncorroborated evidence of an accomplice, unless, in the circumstances of the case, he or they suspect the truth of that evidence.

(2) There shall be no appeal from any conviction merely on the ground that the only evidence against the accused was the uncorroborated evidence of an accomplice.

Duty to
answer
incriminating
questions.

208. (1) No witness in any proceedings for an offence under this Act shall be excused from answering any relevant question notwithstanding that the answer thereto would or might tend to show him to be an accomplice or accessory with, or an aider or abettor of, the person being tried, in the offence for which he is being tried, or otherwise to incriminate him.

(2) If any person who gives evidence as required by this section satisfies the special magistrate or justices that he has made true, faithful, and complete discovery to the best of his knowledge as to all things on which he is examined, he shall at his request be furnished by the special magistrate or justices with a certificate to that effect, and shall thereafter be free from all criminal prosecutions and proceedings and all penal actions in respect of all matters of which he has so given evidence.

209. All moneys received for licences, certificates, or permits, or for penalties, or as fees under or by virtue of this Act, shall be paid into the General Revenue of the State : Provided that any fines or penalties may, notwithstanding any provisions of this Act, be remitted by the Governor either wholly or in part.

Application
of licence
moneys,
penalties,
fines,
forfeitures,
and fees.

210. (1) All actions, prosecutions, and other proceedings against any person for anything done in pursuance of this Act shall be commenced within three months after the act complained of was committed, and not otherwise.

Protection
to officers.

(2) Notice in writing of such action, prosecution, or other proceeding, and the cause thereof, shall be given to the defendant or person prosecuted or proceeded against, one month at least before the commencement of the action, prosecution, or proceeding ; and the defendant or person prosecuted or proceeded against in any such action, prosecution, or proceeding may plead the general issue and give this Act and the special matter in evidence at any trial.

(3) The plaintiff shall not recover in such action if tender of sufficient amends is made before action brought, or if after action brought the defendant pays into court sufficient amends, but in such last named case the plaintiff shall recover his costs of suit up to the time of payment into court ; and if a verdict passes for the defendant, or the plaintiff becomes nonsuit or discontinues, the defendant shall recover full costs as between solicitor and client, and have his remedy for the same in the usual way.

PART IX.

REGULATIONS AND FORMS.

Regulations.

211. (1) The Governor may from time to time make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act, and may by regulation prescribe penalties not exceeding one hundred dollars for breach of the same or any other regulation.

(2) The power to make regulations under subsection (1) of this section shall, without limiting the generality of the provisions of that subsection, include power to make regulations prescribing the measurements and capacities of glasses or other containers in which liquor shall be sold or supplied for consumption on the premises in which such liquor is sold or supplied and the names and descriptions of such glasses or containers and for the marking and identification of such glasses and containers and for prohibiting the sale or supply of liquor for consumption as aforesaid otherwise than in such glasses or containers as may be prescribed.

(3) In any proceedings in any court, or before any special magistrate or justices, or any tribunal or person, the production of the *Gazette* containing any regulations purporting to be made under the provisions of this Act shall be *prima facie* evidence that the same, as therein printed, have been duly made and published under this Act and are in force.

(4) Any penalty provided as aforesaid by such regulations may be recovered before any special magistrate or two justices.

Forms.

212. (1) It shall be sufficient in all cases to use such of the forms provided by regulation or rules of court as in this section mentioned, as are applicable.

(2) Any form may be varied to suit the circumstances of the case, and no variation in any form used shall invalidate the form, provided that the substance and effect thereof is not altered except so far as an alteration is rendered necessary by any amendment of this Act or any other law.

(3) By regulations or rules of court made under this Act any form provided may be altered and new forms may be provided in substitution for, or in addition to, or for other purposes than those for which any of the forms are provided.

213. All salaries, fees, and allowances required or permitted by this Act, or by regulation under this Act, to be paid in respect of anything done under this Act or any such regulation, shall be paid out of moneys to be provided by Parliament.

Salaries, etc.,
to be paid out
of moneys
provided by
Parliament.

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

EDRIC BASTYAN, Governor.

THE SCHEDULE.

ACTS REPEALED.

Innkeepers Act, 1888-1935.

Licensing Act, 1932-1936.

Lottery and Gaming and Licensing Acts Amendment Act, 1933, Part II.

Licensing Act, 1933.

Licensing Act, 1935.

So much of the Statute Law Revision Act, 1936, as relates to the Licensing Act, 1932.

So much of the South Australian Railways Commissioner's Act, 1936, as amends the Licensing Act, 1932.

Licensing Act Amendment Act, 1945.

Licensing Act Amendment Act, 1949.

Licensing Act Amendment Act, 1953.

Licensing Act Amendment Act, 1954.

So much of the Statute Law Revision Act, 1957, as relates to the Licensing Act, 1932-1936.

Licensing Act Amendment Act, 1960.

Licensing Act Amendment Act, 1963.

Licensing Act Amendment Act, 1964.

So much of the Statute Law Revision Act, 1965, as relates to the Licensing Act, 1932-1964.

Licensing Act Amendment Act, 1966.