



ANNO VICESIMO

ELIZABETHAE II REGINAE

A.D. 1971

No. 106 of 1971

An Act to amend the Licensing Act, 1967-1971; and to make an incidental amendment to the Judges' Pensions Act, 1971.

[Assented to 9th December, 1971]

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

Short titles.

1. (1) This Act may be cited as the "Licensing Act Amendment Act, 1971".

(2) The Licensing Act, 1967-1971, as amended by this Act, may be cited as the "Licensing Act, 1967-1971".

(3) The Licensing Act, 1967-1971, is hereinafter referred to as "the principal Act".

Amendment of
principal Act,
s. 5—
Constitution
of Court.

2. Section 5 of the principal Act is amended by striking out subsections (3) to (12) and inserting in lieu thereof the following subsections:—

(3) The Chairman shall have the rank and title of Judge of the court.

(4) The Chairman and Deputy Chairman of the court shall be persons who are eligible for appointment to judicial office under the provisions of the Local and District Criminal Courts Act, 1926-1971, and who have been appointed, respectively, Chairman and Deputy Chairman of the court by the Governor.

(5) The Chairman and the Deputy Chairman shall each be appointed to hold office until he attains the age of sixty-five years and neither shall be removed from office except upon an address of both Houses of Parliament.

(6) The Chairman shall be paid a salary at the rate of sixteen thousand five hundred dollars per annum and a Deputy Chairman who is appointed as such after the commencement of the Licensing Act Amendment Act, 1971, shall be paid a salary at the rate of fifteen thousand dollars per annum.

(7) The Chairman and Deputy Chairman shall, subject to this section, be appointed upon such terms and conditions as may be determined by the Governor.

(8) Where a person in the employment of the Government of the State is appointed Chairman or Deputy Chairman he shall retain any rights of recreation leave, sick leave, or long service leave that had accrued prior to his appointment, and his service in the employment of the Government shall be taken into account in determining his rights to any such leave under the terms and conditions of his appointment as Chairman or Deputy Chairman.

(9) It shall be lawful for the Chairman or Deputy Chairman to hold any part time appointment and to receive such additional remuneration in respect of that appointment as the Governor may determine.

(10) The Chairman and Deputy Chairman shall be paid such allowances in respect of travelling expenses as the Governor considers reasonable.

(11) The salaries of the Chairman and Deputy Chairman shall be paid out of the General Revenue of the State which is hereby to the necessary extent appropriated accordingly.

(12) The Governor may appoint such special magistrates as he thinks fit to be Licensing Court Magistrates.

(13) Three members of the court, of whom, one is the Chairman or Deputy Chairman, shall constitute a Full Bench of the court.

(14) Nothing in this section shall affect the continuity of status, or conditions of appointment, of a person appointed Chairman or Deputy Chairman of the court, or a Licensing Court Magistrate under this Act prior to the commencement of the Licensing Act Amendment Act, 1971.

Special
licences.

3. Section 18 of the principal Act is amended by inserting after subsection (2a) the following subsections:—

(2b) Notwithstanding any other provisions of this Act, but subject to this section, a licence may be granted by the court to any body or authority administering the Adelaide Festival of Arts authorizing it, subject to such conditions as the court thinks fit and specifies in the licence, to sell or supply liquor of any kind and in any quantities to the public at such times during the continuance of the Adelaide Festival of Arts and at such places as the court thinks fit and specifies in the licence.

(2c) Notwithstanding any other provision of this Act, but subject to this section, a licence may be granted to any body or authority in which the management and control of the Festival Theatre is vested authorizing it, subject to such conditions as the court thinks fit and specifies in the licence, to sell or supply liquor for consumption by persons upon the premises of the Festival Theatre during any period for which the Theatre is open to members of the public.

Amendment of
principal Act,
s. 23—
Wine licence.

4. Section 23 of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsections:—

(1) Except as otherwise provided in this section, a wine licence shall authorize the holder of the licence to sell and supply wine in any quantity in the premises specified in the licence (for consumption on the premises or otherwise) 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.

(1a) Where the court is satisfied that if an order were made under this subsection, substantial food would be available on the licensed premises for consumption by persons who might resort thereto and that the licensed premises, and the service provided by the licensee are of such a high standard that it is proper to extend the hours during which wine may be sold and supplied beyond six o'clock in the evening, the court may, by order, authorize the licensee to sell and supply wine during extended hours.

(1b) Where an order authorizing the licensee to sell and supply wine during extended hours is made pursuant to subsection (1a) of this section, the licence shall authorize the holder of the licence to sell and supply wine in the licensed premises—

(a) on any day (other than Sunday, Good Friday and Christmas Day) between the hours of nine o'clock in the morning and ten o'clock in the evening, for consumption in the licensed premises or otherwise;

(b) on Sunday, Good Friday and Christmas Day between the hours of twelve o'clock noon and a quarter to eleven o'clock in the evening for consumption in such parts of the licensed premises as are fixed by the court by persons taking *bona fide* meals, with or ancillary to such meals;

and

(c) where a permit (referred to in this section as a "supper permit") is in force, on any day (other than Sunday, Good Friday and Christmas Day) between the hours of ten o'clock in the evening and half past eleven o'clock in the evening for consumption in such parts of the licensed premises as are fixed by the court between the hours of ten o'clock in the evening and half past eleven o'clock in the evening with or ancillary to substantial food.

(1c) The court may, upon application by the licensee (or the applicant for a new licence) and on payment of the fee prescribed by the rules of court, grant a supper permit subject to such terms and conditions and in respect of such parts of the licensed premises as it thinks fit.

(1d) 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 in the permit, being a date not later than one year from the date of the grant of the permit and may, on the application of the licensee and payment of the fee prescribed by the rules of court, be renewed concurrently with the licence.

(1e) No offence is committed by any person by reason only of the fact that—

(a) he consumes wine upon the licensed premises within the hours during which wine may be sold or supplied under the licence in

accordance with paragraph (a) of subsection (1b) of this section, or within a period of fifteen minutes thereafter;

(b) he takes wine from the licensed premises within the hours during which wine may be sold or supplied under the licence in accordance with paragraph (a) of subsection (1b) of this section, or within a period of thirty minutes thereafter;

or

(c) he consumes wine on the licensed premises within the hours during which wine may be sold or supplied under the licence in accordance with paragraph (b) or (c) of subsection (1b) of this section or within a period of thirty minutes thereafter,

if the wine was sold or supplied within the hours during which wine may be sold or supplied under the licence.;

and

(b) by inserting after subsection (4) the following subsections:—

(5) This section does not, of its own force, affect the authority conferred by, or the terms and conditions of, a wine licence that was in force immediately before the commencement of this Act, but an order may be made by the court under subsection (1a) of this section in respect of any such licence, and the authority conferred by the licence shall thereupon be modified accordingly.

(6) The provisions of section 168 of this Act shall apply *mutatis mutandis* to the holder of a wine licence in respect of whom an order has been made under subsection (1a) of this section in the same manner as they apply to the holder of a restaurant licence.

(7) In this section—

“wine” includes mead, cider and perry.

Amendment of
principal Act,
s. 82—
Power of
company to
hold licence.

5. Section 82 of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) Subject to this Act, and any law affecting the legal capacity of a company, it shall be lawful for a company incorporated under the law of this State, or any other State or Territory of the Commonwealth—

(a) to hold any licence or licences under this Act;

or

(b) to hold in partnership with any other company or companies so incorporated, or any natural person or persons, any licence or licences under this Act.;

(b) by inserting after subsection (2) the following subsection:—

(2a) A person who is the manager of licensed premises on behalf of a company shall not be the manager of any other licensed premises.;

and

(c) by inserting after subsection (3) the following subsections:—

(3a) Where a company is the licensee in respect of any licensed premises, and the approved manager ceases for a period of more than fourteen days to be the manager of those licensed premises, the court may, upon the application of the Superintendent of Licensed Premises, or of its own motion, declare the licence to be forfeited, and the licence shall thereupon cease to be of any force or effect.

(3b) For the purposes of subsection (3a) of this section the "approved manager" is the manager whose name is stated in the licence or a manager who is approved in writing by the court in place of that manager or of a manager previously so approved.

6. (1) Section 4 of the Judges' Pensions Act, 1971, is amended by striking out paragraph (d) of the definition of "Judge" and inserting in lieu thereof the following paragraph:—

Amendment of
Judges'
Pensions Act,
1971.

(d) a chairman or deputy chairman of the Licensing Court of South Australia first appointed as such after the commencement of this Act.;

(2) The Judges' Pensions Act, 1971, as amended by this Act, may be cited as the "Judges' Pensions Act, 1971".

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

M. L. OLIPHANT, Governor