



ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

No. 139 of 1972

An Act to amend the Licensing Act, 1967-1972.

[Assented to 7th December, 1972]

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 (No. 2), 1972".

(2) The Licensing Act, 1967-1972, as amended by this Act, may be cited as the "Licensing Act, 1967-1972".

(3) The Licensing Act, 1967-1972, is hereinafter referred to as "the principal Act".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Amendment of principal Act, s. 18—
Special licences.

3. Section 18 of the principal Act is amended by striking out subsection (2c) and inserting in lieu thereof the following subsection:—

(2c) Notwithstanding any other provisions of this Act, but subject to this section, a licence may be granted by the court to any person nominated for the purpose by the Adelaide Festival Centre Trust, authorizing him, subject to such conditions as the court thinks fit and specifies in the licence, to sell or supply liquor for consumption on the premises of the Adelaide Festival Centre.

4. Section 23 of the principal Act is amended—

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

- (a) by striking out from paragraph (ab) of subsection (1b) the passage “by persons taking *bona fide* meals in the premises, with or ancillary to such meals” and inserting in lieu thereof the passage “with or ancillary to substantial food”;
- (b) by interposing the word “and” between paragraphs (ab) and (b);
- (c) by striking out from paragraph (b) of subsection (1b) the passage “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 inserting in lieu thereof the passage “for consumption with or ancillary to substantial food in such parts of the licensed premises as are fixed by the court for that purpose”;
- (d) by striking out paragraph (c) and the word “and” immediately preceding that paragraph;
- (e) by striking out subsections (1c) and (1d);
- (f) by striking out from paragraph (c) of subsection (1e) the passage “paragraph (ab), (b), or (c)” and inserting in lieu thereof the passage “paragraph (ab) or (b)”;
- (g) by striking out subsections (2), (3) and (4) and inserting in lieu thereof the following subsections:—

(2) No wine licence in force at the commencement of the Licensing Act Amendment Act (No. 2), 1972, shall be renewed unless an order has been made under subsection (1a) of this Act in relation to the licence.

(3) No new wine licence shall be granted after the commencement of the Licensing Act Amendment Act (No. 2), 1972, except in the following cases:—

- (a) where a wine licence is forfeited or surrendered, or is not renewed, the court may grant a new wine licence (which need not be granted to the holder of the former licence or in respect of the premises to which that licence related) in substitution for that former licence;

and

- (b) where the court is satisfied that the granting of a new wine licence would promote the sale of wines of good quality produced in the State, it may grant a wine licence in

respect of the premises of a genuine museum or art gallery situated in, or close to, an area of the State in which wine is produced.

(4) An applicant for a new licence under subsection (3) of this section must satisfy the court that an order should be made in respect of the licence under subsection (1a) of this section, and if the court decides to grant the licence, it must make such an order concurrently with the grant of the licence.

Amendment of
principal Act,
s. 27—
Club licence.

5. Section 27 of the principal Act is amended—

(a) by inserting after the passage “a full publican’s licence” in paragraph (b) of subsection (3) the passage “or a retail storekeeper’s licence”;

and

(b) by striking out from subsection (5) the passage “and at the expense”.

Amendment of
principal Act,
s. 32—
Cabaret
licence.

6. Section 32 of the principal Act is amended by inserting after subsection (2) the following subsection:—

(3) This section does not prohibit or restrict in any way, the sale or disposal of liquor in pursuance of a permit, certificate or other authority that may be granted to, or conferred upon, the holder of the licence under any other provision of this Act.

Amendment of
principal Act,
s. 34—
Payment of
fees.

7. Section 34 of the principal Act is amended by striking out subsection (2) and inserting in lieu thereof the following subsections:—

(2) A licence (other than a special licence) shall, subject to this Act and the provisions of the licence—

(a) take effect on the day on which it was granted by the court;

and

(b) remain in force until the first day of April next ensuing after the date on which it was granted or last renewed.

(3) Where the renewal of a licence would, if the Licensing Act Amendment Act (No. 2), 1972, had not been enacted,

have fallen due on or after the date on which that Act came into operation but before the first day of April, 1973, the renewal of that licence shall fall due on the first day of April, 1973.

(4) Where the renewal of a licence would, if the Licensing Act Amendment Act (No. 2), 1972, had not been enacted have fallen due on or after the first day of April, 1973, the renewal of that licence shall fall due on the first day of April, 1973, and the licence, if not renewed, shall have no force or effect thereafter.

(5) Where the term of a licence is extended or reduced by virtue of the operation of subsection (3) or subsection (4) of this section, the licence fee shall be increased or reduced by the proportion that the number of days for which the term of the licence has been extended, or by which the term of the licence has been reduced, bears to the total number of days in the term for which the licence would have remained in operation if the Licensing Act Amendment Act (No. 2), 1972, had not been enacted.

(6) The court may, upon the application of the Superintendent of Licensed Premises, give such directions as it thinks fit (which directions may apply to licensees generally, any class of licensees, or any particular licensee) regarding the payment of a licence fee, or licence fees affected by the operation of subsection (5) of this section.

(7) Where there is a reduction in a licence fee under subsection (5) of this section, the court may, in the exercise of its powers under subsection (6) of this section, direct that any amount overpaid by the licensee be applied in reduction of the licence fee, or instalment, that will become due and payable upon the renewal of the licence.

(8) Any direction under this section shall be binding on the licensees to which the direction relates.

8. Section 37 of the principal Act is amended by striking out from subsection (4) the passage “(except in the case of packet licences)”.

Amendment of
principal Act,
s. 37—
Fees.

9. Section 38 of the principal Act is amended by striking out subsection (6).

Amendment of
principal Act,
s. 38—
Court to fix
percentage fee.

10. Section 49 of the principal Act is amended—

Amendment of
principal Act,
s. 49—

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

Effect of
non-payment
of licence fee.

(1) Where a licensee elects to pay the licence fee annually—

(a) in the case of a licence granted after the commencement of the Licensing Act Amendment Act (No. 2), 1972, the licence fee shall be payable on the day on which the licence is granted and thereafter on the first day of April in each ensuing year;

and

(b) in the case of a licence granted before the commencement of the Licensing Act Amendment Act (No. 2), 1972, the licence fee shall, subject to any direction of the court made pursuant to this Act, be due and payable on the first day of April in each year.

(1a) Where a licensee elects to pay the licence fee in quarterly instalments—

(a) in the case of a licence granted after the commencement of the Licensing Act Amendment Act (No. 2), 1972, the first instalment shall be due and payable on the day on which the licence is granted and subsequent instalments shall be due and payable on the first day of each ensuing quarter;

and

(b) in the case of a licence granted before the commencement of the Licensing Act Amendment Act (No. 2), 1972, the instalments shall, subject to any direction of the court made pursuant to this Act, be due and payable on the first day of each quarter.

(1b) In this section—

“quarter” means—

(a) the period commencing on the first day of January and ending on the thirty-first day of March in any year;

(b) the period commencing on the first day of April and ending on the thirtieth day of June in any year;

(c) the period commencing on the first day of July and ending on the thirtieth day of September in any year;

and

(d) the period commencing on the first day of October and ending on the thirty-first day of December in any year.

(1c) An applicant who is granted a licence by the court shall be considered unlicensed until he has paid to the clerk the licence fee, or instalment of licence fee, that is due and payable on the day on which the licence is granted.

(1d) Where a licence fee or instalment has not been paid within two months after the day on which it became due and payable, the clerk may, by notice in writing, demand payment of the licence fee and if it is not paid within fourteen days of the date of the demand, the licence shall, by force of this subsection, be forfeited.;

and

(b) by striking out from subsection (2) the passage "fee of instalment" and inserting in lieu thereof the passage "fee or instalment".

11. Section 66 of the principal Act is amended by striking out from subsection (1a) the passage "or a restaurant licence" and inserting in lieu thereof the passage ", a restaurant licence, a wine licence, or a cabaret licence".

Amendment of
principal Act,
s. 66—
Permits.

12. Section 68 of the principal Act is amended—

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

Amendment of
principal Act,
s. 68—
Certificate for
supply of
liquor on
vessel.

(1) Where the court is satisfied that it is proper to do so, it may grant to the owner, agent, charterer, or master of any vessel that plies in South Australian waters a certificate in the form prescribed by the rules of court authorizing him to sell and supply liquor to passengers on the vessel.

(1a) The fee prescribed by the rules of court shall be payable for any such certificate.;

(b) by striking out paragraph (c) of subsection (3) and the word "or" immediately preceding that paragraph;

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

(4) The certificate must stipulate the hours within which liquor may be sold or supplied in pursuance of the certificate and shall be subject to such other terms and conditions as the court thinks fit to include in the certificate.

(5) Where the court is satisfied that the standard of service provided by the holder of a certificate under this section is of an exceptionally high standard, it may authorize him to purchase liquor for the purposes of the certificate by wholesale.

(6) Where an authority has been granted under subsection (5) of this section, the sale of liquor to that person for the purposes of the certificate shall be deemed to be a sale of liquor to a licensed person.

Amendment of
principal Act,
s. 87—
Licensing of
clubs.

13. Section 87 of the principal Act is amended by striking out subsection (2a) and inserting in lieu thereof the following subsection:—

(2a) A club licence—

(a) shall not authorize the sale or supply of liquor to a visitor unless the name of the visitor has been entered in a book kept for the purpose and the member at whose invitation the visitor is present in the club premises has signed his name opposite the name of the visitor in that book;

and

(b) shall not authorize the sale or supply of liquor to a visitor for consumption otherwise than in the licensed portion of the club premises.

14. Section 118 of the principal Act is amended—

Amendment of
principal Act,
s. 118—
Duty to
display names,
etc.

(a) by cancelling the amendments (if any) made to subsection (1a) or subsection (2) by the Licensing Act Amendment Act, 1972;

(b) by inserting after the passage “‘Licensed Dealer in Australian Wines’ ” in paragraph (b) of subsection (1a) the passage “or ‘Licensed Dealer in Wines’ ”;

and

(c) by striking out from subsection (1a) the passage “three inches” and inserting in lieu thereof the passage “eighty millimetres”.

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

M. L. OLIPHANT, Governor