



LIQUOR LICENSING ACT, 1985

No. 42 of 1985

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ANNO TRICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1985

No. 42 of 1985

An Act to regulate the sale, supply and consumption of liquor; to repeal the Licensing Act, 1967; and for other purposes.

[Assented to 2 May 1985]

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

PRELIMINARY

1. This Act may be cited as the "Liquor Licensing Act, 1985".

Short title.

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

Commencement.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

3. The Licensing Act, 1967, is repealed.

Repeal.

4. (1) In this Act, unless the contrary intention appears—

Interpretation.

"the appointed day" means the day on which the Licensing Act, 1967, is repealed by this Act:

"assessment period" means a period of 12 months commencing on the first day of July in one year and ending on the thirtieth day of June in the next:

"authorized trading hours", in relation to a licence, means the hours during which the sale of liquor is authorized by the licence:

"beer" means beer, ale, lager, stout or liquor of any other kind produced by brewing:

- “Boxing Day” means the day immediately following Christmas Day:
- “Category A licence” means a licence of any of the following classes:
- (a) hotel licence;
 - (b) retail liquor merchant’s licence;
 - (c) wholesale liquor merchant’s licence;
 - (d) entertainment venue licence;
 - (e) general facility licence:
- “Category B licence” means a licence of any of the following classes:
- (a) club licence;
 - (b) producer’s licence;
 - (c) residential licence;
 - (d) restaurant licence;
 - (e) limited licence:
- “the Commissioner” means the Liquor Licensing Commissioner:
- “council” means a municipal or district council:
- “the Court” means the Licensing Court of South Australia:
- “designated dining area”, in relation to licensed premises, means a part of the licensed premises designated in the licence as a dining area:
- “designated reception area”, in relation to licensed premises, means a part of the licensed premises designated in the licence as a reception area:
- “director” of a body corporate means a member of the board or committee of management of the body corporate:
- “Easter Saturday” means the Saturday immediately following Good Friday:
- “entertainment” means a dance, performance, exhibition or event (including a sporting contest) calculated to attract and entertain members of the public:
- “function” means a gathering, occasion or event at which it is proposed that liquor be sold or supplied to those present:
- “gross turnover”, in relation to a licence, means the gross proceeds derived by the licensee from the sale of liquor in pursuance of the licence:
- “inspector” means an inspector of licensed premises appointed for the purposes of this Act:
- “Judge” means the Licensing Court Judge or some other Judge invested with authority to exercise the jurisdiction of the Court:
- “licence” means a licence under this Act:
- “licence fee” includes a fee payable on surrender or revocation of a licence:
- “licence period”, in relation to a licence, means each calendar year during which, or during any part of which, the licence is in force:

“licensed person” or “licensee” means a person who holds a licence (including a temporary licence) under this Act and includes a person who is authorized under section 80 or 81 to carry on business in pursuance of a licence as if he were the licensee:

“licensed premises” means premises in respect of which a licence is in force (being premises identified and delimited in the licence):

“licensing authority” means—

(a) in relation to a matter that is, in pursuance of this Act, to be determined by the Court—the Court;

(b) in relation to any other matter—the Commissioner:

“the Licensing Court Judge” means a District Court Judge designated by proclamation as the Licensing Court Judge:

“liquor” means a beverage which at 20° Celsius contains more than 1.15 per cent alcohol by volume and includes any substance declared by regulation to be liquor for the purposes of this Act:

“liquor merchant” means—

(a) a person who holds a licence under this Act (except a person holding only a limited licence);

or

(b) a person who is authorized under the law of another State, or a Territory, of the Commonwealth to sell liquor:

“live entertainment” means—

(a) a dance;

or

(b) a performance at which the performers, or at least some of the performers, are present in person:

“low alcohol liquor” means liquor in which the concentration of alcohol does not exceed a level fixed by regulation:

“meal” means a genuine meal eaten by a person while seated at a table:

“packaged liquor” means liquor in sealed containers for consumption off licensed premises:

“party” to proceedings includes an intervenor or an objector:

“place of public entertainment” means a place of public entertainment within the meaning of the Places of Public Entertainment Act, 1913:

“premises” includes—

(a) land;

(b) a ship, train, vehicle or aeroplane;

(c) a part of premises:

“prescribed premises” means—

(a) licensed premises;

(b) regulated premises;

or

(c) premises of a kind declared by regulation to be prescribed premises,

and includes areas appurtenant to any such premises:

“reception” includes a convention, conference or similar function at which people gather in substantial numbers for a particular purpose (but of which the consumption of liquor is not the sole or predominant purpose):

“records” means—

(a) books, papers or documents;

(b) microfilm records;

(c) the contents (in an intelligible form) of records that are kept by a computer or other similar device;

or

(d) records of a kind declared by regulation to be records to which this definition applies:

“regulated premises” means unlicensed premises consisting of—

(a) a restaurant, cafe or shop;

(b) an amusement parlour or amusement arcade;

(c) a place of public entertainment (being a building or a roofed enclosure)—

(i) to which admission is gained by payment of an admission charge;

(ii) in which entertainment or refreshments are provided, or are available, at a charge;

or

(iii) that is otherwise being used for the purpose of financial gain;

or

(d) premises of a prescribed kind:

“related body corporate”, in relation to a body corporate, means a body corporate that is, within the meaning of the *Companies (South Australia) Code*, related to that body corporate:

“relevant assessment period”, in relation to a licence period, means the assessment period ending on the thirtieth day of June last preceding the commencement of that licence period:

“the repealed Act” means the Licensing Act, 1967, repealed by this Act:

“retail licence” means a licence of any of the following classes:

(a) hotel licence;

(b) retail liquor merchant’s licence;

(c) residential licence;

- (d) entertainment venue licence;
- (e) restaurant licence;
- (f) club licence (not being a restricted club licence);
- (g) general facility licence under which—
 - (i) the licensee purchases liquor required for the purposes of the licence from another licensee;
 - and
 - (ii) sells liquor in pursuance of the licence wholly or predominantly to unlicensed persons:

“to sell” includes—

- (a) to barter or exchange;
- (b) to offer or expose for sale, barter or exchange;
- (c) to supply, or offer to supply, in circumstances in which the supplier derives, or would derive, a direct or indirect pecuniary benefit;
- (d) to supply, or offer to supply, gratuitously but with a view to gaining or maintaining custom, or otherwise with a view to commercial gain:

“ship” includes a boat or vessel:

“spirits” means liquor of any kind produced by distillation:

“unlicensed person” means a person who does not hold a licence under this Act:

“unlicensed premises” means premises in respect of which a licence is not in force under this Act:

“wholesale licence” means a licence of any of the following classes:

- (a) wholesale liquor merchant’s licence;
- (b) producer’s licence;
- (c) general facility licence under which the licensee sells liquor wholly or predominantly to liquor merchants:

“wine” includes mead, cider, perry and any other fermented liquor produced from fruit, vegetables, berries or honey.

(2) For the purposes of this Act—

- (a) a person shall be regarded as a lodger in licensed premises at a particular time if, and only if—
 - (i) he has spent the previous night at the licensed premises or is booked to spend the next night (or the present night) at the licensed premises;
 - and
 - (ii) his name has been entered in the record of lodgers required to be kept by the licensee under this Act;

but

- (b) none of the following persons is a lodger:

- (i) the licensee or a member of the licensee's family;
- (ii) a manager of the licensed premises or a member of the manager's family;
- (iii) an employee of the licensee or a member of the employee's family.

(3) For the purposes of this Act, liquor shall not be regarded as having been provided by way of free sample if a charge is made—

(a) for admission to the premises in which the liquor is supplied;

or

(b) for entertainment or refreshments provided on those premises in circumstances in which the provision of entertainment or refreshments is related to the provision of liquor by way of sample, one being incidental or ancillary to the other.

(4) Where a provision of this Act operates by reference to a prescribed minimum quantity of liquor, that provision shall be deemed to allow for a tolerance not exceeding 2 per cent of the quantity so prescribed.

(5) For the purposes of this Act, a person occupies a position of authority in a body corporate if—

(a) he is a director of the body corporate;

(b) he exercises or exerts, or is in a position to exercise or exert, control or substantial influence over the body corporate in the conduct of its affairs;

(c) he manages, or is to manage, the business of the body corporate to be conducted in pursuance of a licence;

(d) where the body corporate is a proprietary company—he is a shareholder in the body corporate.

(6) A reference in any Act or instrument to the Superintendent of Licensed Premises or an Assistant Superintendent of Licensed Premises shall, where the context admits, be read as a reference to the Commissioner.

5. This Act does not apply to the sale of liquor—

(a) where the liquor is sold for medicinal purposes—

(i) by a registered pharmaceutical chemist;

or

(ii) by or on the prescription of a legally qualified medical practitioner or dentist;

(b) where the liquor is sold to a religious organization or a representative of a religious organization for sacramental or other similar religious purposes;

(c) where the liquor is supplied in the course of an educational course declared by the regulations to be an approved course for the purposes of this section;

(d) where the liquor is sold in Parliament House by the proper authority;

Non-application
of this Act to the
sale of liquor in
certain cases.

- (e) where the liquor is an allowance supplied by the master of a ship to a member of the ship's crew;
- or
- (f) where the sale is exempted by the regulations from the application of this Act.

PART II LICENSING AUTHORITIES

DIVISION I—THE COMMISSIONER AND HIS STAFF

6. (1) There shall be a commissioner entitled the "Liquor Licensing Commissioner". The Liquor Licensing Commissioner.

(2) The Commissioner is responsible to the Minister for the administration of this Act.

(3) The Commissioner—

(a) shall be appointed by the Governor;

and

(b) shall hold office subject to, and in accordance with, the Public Service Act, 1967.

7. (1) There shall be—

(a) such inspectors as are necessary to ensure—

(i) that licensed premises conform with proper standards of design and construction (and any conditions imposed under this Act) and that they are maintained in good repair and condition;

and

(ii) that the accounts of licensees are properly kept and that licence fees are properly assessed and recovered;

and

(b) such other officers as are necessary to assist the Commissioner in the administration of this Act.

(2) The inspectors and other officers referred to in subsection (1) shall be appointed, and shall hold office, subject to, and in accordance with, the Public Service Act, 1967.

8. (1) The Commissioner may delegate any of his powers or functions (under this Act or any other Act or instrument) to any person. Delegation.

(2) A delegation under this section—

(a) may be absolute or conditional;

(b) does not derogate from the power of the Commissioner to act personally in any matter;

and

(c) is revocable at will.

Commissioner may collaborate with other liquor licensing authorities.

9. The Commissioner may disclose information gained by him in the course of the administration of this Act to—

- (a) authorities vested with the administration of liquor licensing laws in other States and Territories of the Commonwealth;
- and
- (b) any other authorities that may require the information for the purpose of discharging duties of a public nature.

DIVISION II—THE LICENSING COURT OF SOUTH AUSTRALIA

Establishment of Court.

10. There shall be a court entitled the "Licensing Court of South Australia".

The Court to be a court of record.

11. The Court is a court of record.

Constitution of the Court.

12. (1) The Court shall be constituted of—

- (a) the Licensing Court Judge;
- or
- (b) some other District Court Judge who is invested with authority to exercise the jurisdiction of the Court.

(2) The Governor may, by proclamation—

- (a) designate a District Court Judge as the Licensing Court Judge;
- (b) invest such other District Court Judges as he thinks fit with authority to exercise the jurisdiction of the Court;
- (c) vary or revoke a proclamation under this section.

(3) A proclamation under subsection (2) (a) or (b) shall, if it so provides, lapse at the expiration of a specified period.

DIVISION III—DIVISION OF RESPONSIBILITIES BETWEEN THE COMMISSIONER AND THE COURT

Division of responsibilities between Commissioner and Court.

13. The powers and responsibilities vested in a licensing authority by this Act are divided between the Commissioner and the Court as follows:

- (a) the Court shall determine the following matters:
 - (i) an application for the grant or removal of a Category A licence;
 - (ii) an application for approval of a proposed alteration to licensed premises in respect of which a Category A licence is in force;
 - (iii) an application for variation or revocation of a condition of a Category A licence;
 - (iv) an application by a licensee who holds a hotel licence for a late night permit or for exemption from the obligation to provide accommodation;
 - (v) any other matter in respect of which the Court is invested with jurisdiction by some other provision of this Act or by a provision of the regulations;
- (b) all other matters shall, subject to this Act, be heard and determined by the Commissioner.

DIVISION IV—PROCEEDINGS BEFORE THE COMMISSIONER

14. In proceedings under this Act, the Commissioner—Proceedings
before the
Commissioner.

(a) shall act without undue formality;

and

(b) is not bound by the rules of evidence but may inform himself on any question that arises for his decision in such manner as he thinks fit.

15. (1) The Commissioner may—Powers of
Commissioner
with respect to
witnesses and
evidence.

(a) by summons, require any person to attend before the Commissioner at a time and place specified in the summons for the purpose of giving evidence relevant to proceedings before the Commissioner;

(b) by summons, require the production of records;

(c) inspect records produced before him, and take copies of, or extracts from, them;

(d) require any person appearing before him to take an oath or affirmation verifying evidence given, or to be given, to the Commissioner;

(e) require any person appearing before him to answer a question put to him by the Commissioner or some other person.

(2) A person who—

(a) having been served with a summons to attend before the Commissioner fails, without reasonable excuse, to attend in obedience to the summons;

(b) having been served with a summons to produce records fails, without reasonable excuse, to comply with the summons;

or

(c) refuses to be sworn or to affirm, or to answer a relevant question when required to do so by the Commissioner,

shall be guilty of an offence and liable to a penalty not exceeding \$2 000.

16. (1) A party to proceedings before the Commissioner may appear in those proceedings—

Representation.

(a) personally;

(b) by counsel;

(c) if the party is a member of a genuine association formed to promote or protect the interests of a section of the liquor industry, or employees in the liquor industry—by an officer or employee of that association;

or

(d) if the party is a body corporate—by an officer or employee of the body corporate who has obtained leave of the Commissioner to appear on its behalf.

(2) The Commissioner of Police may be represented in proceedings before the Commissioner by a member of the police force.

Power of
Commissioner to
refer questions to
the Court.

17. The Commissioner may refer—

(a) any proceedings that, in the opinion of the Commissioner, involve questions of substantial importance;

or

(b) any question of law that arises in proceedings before him,

for hearing and determination by the Court.

Application for
review of
Commissioner's
decisions.

18. (1) Subject to subsection (2), a party to proceedings before the Commissioner who is dissatisfied with a decision made by the Commissioner in those proceedings may apply to the Court for a review of the Commissioner's decision.

(2) Where a decision of the Commissioner relates to a subject on which the Commissioner is invested by a provision of this Act with a discretion described in that provision as an absolute discretion, the decision, insofar as it was made in pursuance of that discretion, is not reviewable by the Court.

(3) An application for review of a decision of the Commissioner must be made within 1 month after the party receives notice of the decision or such longer period as the Court may allow.

(4) A review under this section shall be in the nature of a rehearing except where the review relates to the assessment or reassessment of a licence fee by the Commissioner, in which case the onus lies upon the applicant for the review to establish that the assessment or reassessment is incorrect.

(5) On a review under this section, the Court may—

(a) affirm, vary or quash the decision subject to the review;

(b) make any decision that should, in the opinion of the Court, have been made in the first instance;

and

(c) make any incidental or ancillary order.

DIVISION V—PROCEEDINGS BEFORE THE COURT

Proceedings
before the Court.

19. In proceedings under this Act, the Court—

(a) shall act without undue formality;

and

(b) is not bound by the rules of evidence but may inform itself on any matter that arises for its decision in such manner as it thinks fit.

Powers with
respect to
witnesses and
evidence.

20. (1) The Court may—

(a) by summons, require any person to attend before the Court at a time and place specified in the summons for the purpose of giving evidence relevant to proceedings before the Court;

(b) by summons, require the production of records;

(c) inspect records produced before it, and take copies of, or extracts from, them;

- (d) require any person appearing before it to take an oath or affirmation verifying evidence given, or to be given, to the Court;
- (e) require any person appearing before it to answer a question put to him by the Court or some person appearing before the Court.

(2) A person who—

- (a) having been served with a summons to attend before the Court fails, without reasonable excuse, to attend in obedience to the summons;
 - (b) having been served with a summons to produce records fails, without reasonable excuse, to comply with the summons;
- or
- (c) refuses to be sworn or to affirm, or to answer a relevant question when required to do so by the Court,

shall be guilty of an offence and liable to a penalty not exceeding \$2 000.

(3) A summons under this section may be issued on behalf of the Court, on the application of any party to proceedings before the Court, by—

- (a) a Judge;
- or
- (b) the Commissioner.

21. (1) A party to proceedings before the Court may appear in those proceedings— Representation.

- (a) personally;
 - (b) by counsel;
 - (c) if the party is a member of a genuine association formed to promote or protect the interests of a particular section of the liquor industry, or employees in the liquor industry—by an officer or employee of that association;
- or
- (d) if the party is a body corporate—by an officer or employee of the body corporate who has obtained leave of the Court to appear on the body corporate's behalf.

(2) The Commissioner of Police may be represented in proceedings before the Court by a member of the police force.

22. Where, in the opinion of the Court, proceedings have been brought frivolously or vexatiously, the Court may award costs against the person by whom the proceedings were brought. Power to award costs.

23. (1) Subject to subsection (2), a party to proceedings before the Court may, by leave of the Supreme Court, appeal against any order or decision of the Court. Appeal from orders and decisions of the Court.

(2) No appeal lies against an order or decision of the Court made on review of a decision of the Commissioner.

(3) An appeal must be instituted within the time, and in accordance with the procedure, prescribed by rules of the Supreme Court.

(4) An appeal under this section shall be heard and determined by the Full Court.

(5) On an appeal under this section, the Supreme Court may—

- (a) affirm, vary or quash the order or decision subject to the appeal;
- (b) make any order or decision that should, in the opinion of the Supreme Court, have been made in the first instance;
- (c) remit the subject matter of the appeal for further hearing by the Court;
- (d) make any incidental or ancillary order.

Case stated on question of law.

24. (1) The Court may state a case on a question of law to the Supreme Court.

(2) A question of law arising on a case stated under this section shall be determined by the Full Court.

PART III LICENCES

DIVISION I—LICENCE CLASSES

Licence classes.

25. Licences under this Act are of the following classes:

- (a) hotel licence;
- (b) residential licence;
- (c) restaurant licence;
- (d) entertainment venue licence;
- (e) club licence;
- (f) retail liquor merchant's licence;
- (g) wholesale liquor merchant's licence;
- (h) producer's licence;
- (i) general facility licence;
- (j) limited licence.

DIVISION II—HOTEL LICENCE

Hotel licence.

26. (1) Subject to this section, a hotel licence authorizes the licensee—

- (a) to sell liquor on the licensed premises for consumption on or off the licensed premises—
 - (i) on any day (not being Good Friday, Christmas Day or Sunday), between 5 a.m. and midnight;
 - (ii) on Sunday (not being Christmas Day or New Year's Eve), between 11 a.m. and 8 p.m.;
 - (iii) on Christmas Day, between 9 a.m. and 11 a.m.;
 - (iv) on New Year's Eve (being a Sunday), between 11 a.m. and midnight;

(v) on New Year's Day, between midnight and 2 a.m. (in addition to the trading hours permitted under subparagraph (i) or (ii) (as the case requires));

- (b) if a late night permit is in force in relation to the licensed premises—to sell liquor in a part of the licensed premises defined in the permit for consumption in that part of the licensed premises at any time between midnight and 5 a.m. on any day (except Monday, Good Friday, Easter Saturday, Christmas Day or Boxing Day), being a time at which live entertainment is being provided in that part of the licensed premises;
- (c) to sell liquor at any time on the licensed premises to a lodger for consumption on the licensed premises;
- (d) to sell liquor at any time on the licensed premises to a lodger for consumption off the licensed premises in quantities not exceeding such as might reasonably be consumed by the lodger on the day on which the liquor is supplied;
- (e) to sell liquor at any time to a diner for consumption with or ancillary to a meal provided by the licensee in a designated dining area;
- (f) to sell liquor at any time to a person attending a reception for consumption in a designated reception area.

(2) A licensee who is exempt from the obligation to provide accommodation is not authorized to sell liquor to a lodger under subsection (1) (c) or (d).

(3) A licensee is not authorized to sell liquor under subsection (1) (f) unless those attending the reception include lodgers.

(4) If the licensing authority is satisfied on the application of a licensee who holds a hotel licence—

(a) that the premises to which the licence relates are of an exceptionally high standard;

and

(b) that the grant of a late night permit in respect of the licensed premises is unlikely to result in undue offence, annoyance, disturbance, noise or inconvenience,

it may, by endorsement on the licence, grant a late night permit in respect of the licensed premises.

(5) The trading rights referred to in subsection (1) (b) are to be regarded as maximum trading rights that should not be granted as a matter of course and the licensing authority should therefore reduce those trading rights, in appropriate cases, by condition of the late night permit.

(6) A late night permit becomes part of the licence to which it relates and its conditions are conditions of the licence.

27. (1) Subject to this section, a hotel licence is subject to the following conditions:

Conditions of
hotel licence.

- (a) the licensee must keep the licensed premises open to the public for the sale of liquor on every day (except Good Friday, Christmas Day or Sunday) between 11 a.m. and 8 p.m.;

- (b) the licensee must provide accommodation for a member of the public on request;
 - (c) the licensee must provide a meal, at the request of a lodger, on any day between 8 a.m. and 9.30 a.m. or between 6 p.m. and 8 p.m.;
 - (d) the licensee must provide a meal, at the request of a member of the public, on any day (except Sunday) between noon and 2 p.m. or between 6 p.m. and 8 p.m.;
 - (e) the licensee must provide a meal, at the request of a member of the public, on a Sunday between noon and 2 p.m. or between 6 p.m. and 8 p.m. if the licensed premises are then open for the sale of liquor;
 - (f) if a late night permit is in force in relation to the licensed premises—the licensee must maintain the licensed premises (so far as they are covered by the late night permit) so as to ensure that they do not cease to be of an exceptionally high standard.
- (2) A licensee is not obliged by a condition under subsection (1) to provide a meal or accommodation at the request of a person if—
- (a) that person appears to be intoxicated;
 - (b) the licensee has reasonable cause to believe that that person cannot, or will not, pay for the meal or accommodation;
 - (c) the licensee has undertaken prior obligations to provide meals or accommodation and is unable, by reason of those obligations, to comply with the request;
- or
- (d) some other proper reason exists.
- (3) If the licensing authority is satisfied—
- (a) that there is no significant need for accommodation in the locality in which the premises to which a hotel licence applies are situated;
- or
- (b) that—
 - (i) adequate accommodation is available to the public in the locality in which premises to which a hotel licence applies are situated;
 - and
 - (ii) in view of the availability of that accommodation, no useful purpose is served by the imposition or continuance of an obligation to provide accommodation,
- the licensing authority may exempt the licensee from the obligation to provide accommodation.

DIVISION III—RESIDENTIAL LICENCE

28. (1) Subject to subsection (2), a residential licence authorizes the licensee to sell liquor on the licensed premises at any time—

- (a) to a lodger for consumption on the licensed premises;
- (b) to a lodger for consumption off the licensed premises in quantities not exceeding such as might reasonably be consumed by the lodger on the day on which the liquor is supplied;

- (c) to a diner for consumption in a designated dining area with or ancillary to a meal provided by the licensee;
- (d) to a person attending a reception for consumption in a designated reception area.

(2) A licensee is not authorized to sell liquor under subsection (1) (d) unless those attending the reception include lodgers.

29. (1) A residential licence is subject to the following conditions:

Obligations of residential licence.

- (a) the licensee must provide accommodation for a member of the public on request;
- (b) the licensee must provide a meal, at the request of a lodger, on any day between 8 a.m. and 9.30 a.m. or between 6 p.m. and 8 p.m.

(2) A licensee is not obliged by a condition under subsection (1) to provide a meal or accommodation at the request of a person if—

- (a) that person appears to be intoxicated;
- (b) the licensee has reasonable cause to believe that that person cannot, or will not, pay for the meal or accommodation;
- (c) the licensee has undertaken prior obligations to provide meals or accommodation and is unable, by reason of those obligations, to comply with the request;

or

- (d) some other proper reason exists.

DIVISION IV—RESTAURANT LICENCE

30. (1) Subject to subsection (2), a restaurant licence authorizes the licensee to sell liquor at any time to a diner for consumption on the licensed premises with or ancillary to a meal provided by the licensee.

Restaurant licence.

(2) A restaurant licence granted subject to the endorsement "B.Y.O." authorizes the consumption of liquor on the licensed premises with or ancillary to a meal provided by the licensee but not the sale of liquor.

31. A restaurant licence is subject to the following conditions:

Conditions of restaurant licence.

- (a) a condition that the business conducted at the licensed premises must consist primarily and predominantly of the regular supply of meals to the public;
- (b) a condition that liquor must not be consumed on the licensed premises except with or ancillary to a meal.

DIVISION V—ENTERTAINMENT VENUE LICENCE

32. (1) Subject to this section, an entertainment venue licence authorizes the licensee—

Entertainment venue licence.

- (a) to sell liquor at any time to a diner for consumption on the licensed premises, in a designated dining area, with or ancillary to a meal provided by the licensee;
- (b) to sell liquor on the licensed premises for consumption on the licensed premises at any time between 9 p.m. of one day and

5 a.m. of the next, being a time at which live entertainment is being provided on the licensed premises.

(2) The sale of liquor is not authorized under subsection (1) (b) at any time falling between—

- (a) 9 p.m. on Sunday and 5 a.m. on the following Monday;
- (b) 9 p.m. on Christmas Day and 5 a.m. on the following day;
- (c) 9 p.m. on Maundy Thursday and 5 a.m. on Good Friday;
- (d) 9 p.m. on Good Friday and 5 a.m. on Easter Saturday.

(3) The trading rights referred to in subsection (1) (b) are to be regarded as maximum trading rights that should not be granted as a matter of course, and the licensing authority should therefore reduce those trading rights, in appropriate cases, by condition of the licence.

Conditions governing grant, etc., of entertainment venue licence.

33. (1) An entertainment venue licence shall not be granted in respect of, or removed to, premises unless the licensing authority is satisfied—

- (a) that the premises are of an exceptionally high standard;
- and
- (b) that the grant or removal of the licence is unlikely to result in undue offence, annoyance, disturbance, noise or inconvenience.

(2) An entertainment venue licence is subject to the following conditions:

- (a) a condition that the licensee must maintain the premises so as to ensure that they do not cease to be of an exceptionally high standard;

and

- (b) a condition that liquor must not be consumed on the licensed premises except—

- (i) in a designated dining area, with or ancillary to a meal provided by the licensee;

or

- (ii) at a time when live entertainment is being provided on the licensed premises and liquor may be lawfully sold in pursuance of the licence by virtue of that fact.

DIVISION VI—CLUB LICENCE

Club licence.

34. (1) A club licence authorizes the sale of liquor, during periods specified in the licence, to a member of the club or a visitor in the company of a member for consumption on the licensed premises.

(2) Club licences are divided into 2 categories, namely—

- (a) restricted club licences—that is to say, club licences that are subject to a condition requiring that all liquor acquired for sale or supply in pursuance of the licence be purchased from a licensee who holds either a hotel licence or retail liquor merchant's licence;

and

- (b) unrestricted club licences—that is to say, club licences that are subject to no such condition.

(3) Where, under the condition referred to in subsection (2) (a), liquor is to be purchased from a licensee who holds a hotel licence or a retail liquor merchant's licence, the liquor must be purchased from a licensee who is a member of a group of such licensees nominated by the licensing authority in relation to the club licence.

(4) The group of licensees constituted for the purposes of subsection (3) shall consist of those who hold hotel licences or retail liquor merchants' licences in respect of premises in the vicinity of the club premises or, where there is no such licensee or so few that the club's choice of supplier would be unreasonably restricted if confined to them alone, the group shall consist of such licensees as are nominated for the purpose by the licensing authority.

(5) Notwithstanding subsection (1)—

(a) a club licence held by any of the following clubs, namely:

- (i) the Adelaide Club;
- (ii) the Adelaide Bowling Club;
- (iii) the Adelaide Democratic Club;
- (iv) the Naval Military and Air Force Club of South Australia;
- (v) the Royal Adelaide Golf Club;
- (vi) the South Australian Club,

authorizes the sale of liquor to a member of the club or a visitor in the presence of a member at any time;

(b) where a club held a licence under the repealed Act authorizing the club to sell liquor to a member for consumption off the premises of the club, a club licence held by the club under this Act shall confer the same authorization;

(c) where the licensing authority is satisfied that the members of a club cannot, without great inconvenience, obtain supplies of packaged liquor from a source other than the club and makes an endorsement on the licence to that effect, the licence shall authorize the sale of liquor to members of the club for consumption off the premises of the club.

35. A club licence is subject to the following conditions:

Conditions as to
visitors.

- (a) liquor must not be supplied to a visitor unless the visitor is in the company of a member who has entered the name of the visitor in a book kept for the purpose and has signed his name opposite the name of the visitor;
- (b) no member of the club may, on any one day, introduce more than 5 visitors to the club premises (or such lesser number as may be fixed by the licensing authority);
- (c) the club must ensure that its rules, as approved by the licensing authority, are observed;

and

- (d) (i) in the case of a restricted club licence—the club must have, at times when the sale of liquor is authorized by the licence, a right to occupy the licensed premises to the exclusion of others;
- (ii) in the case of an unrestricted club licence—the club must have an exclusive right to occupy the licensed premises.

Eligibility to hold club licence.

36. (1) Subject to subsection (2), a club licence shall not be granted except to a club that is an incorporated association under the Associations Incorporation Act, 1956.

(2) If, in the opinion of the licensing authority, the grant of a restricted club licence to an unincorporated club is appropriate in view of the size or nature of the club, then—

(a) such a licence may be granted to the club;

and

(b) the licence shall, in that event, be held, on behalf of the club, by a trustee appointed for the purpose.

(3) A licence granted to a club on an application for a club licence must be, in the first instance, a restricted club licence, and a club is not eligible to be granted such a licence unless—

(a) it has been in existence and has been actively pursuing its objects for a period of at least 12 months;

(b) it has, at the times when the right to sell liquor in pursuance of the licence is sought, a right to occupy the premises in respect of which the licence is sought to the exclusion of others;

and

(c) its rules have been approved by the licensing authority.

(4) A club is not eligible to have a restricted club licence converted into an unrestricted club licence unless—

(a) it has held the restricted club licence for a period of at least 12 months;

(b) it has an exclusive right to occupy the licensed premises;

(c) the gross amount expended on the purchase of liquor during the last assessment period exceeded \$30 000 or such other sum as may be prescribed;

and

(d) its rules have been approved by the licensing authority as being appropriate to a club holding an unrestricted licence.

(5) The licensing authority shall not approve the rules of a club for the purposes of this section unless it is satisfied—

(a) that the rules make proper provision for the management of the affairs of the club by a committee of management elected by the general body of members;

(b) that the rules provide for regular meetings of the general body of members and of the committee of management;

(c) that the rules contain appropriate conditions governing admission to membership of the club and, in particular—

(i) that a person may not become an ordinary member of the club unless he is duly nominated and proper notice of the nomination is given to the ordinary members of the club;

and

- (ii) where the rules provide for honorary or temporary membership—that the classes of persons entitled to such membership are not unduly large, having regard to the nature and objects of the club;
- (d) that the rules provide for payment of an annual, half-yearly or quarterly subscription by the ordinary members of the club;
- (e) that the rules provide for—
 - (i) proper records to be kept of the proceedings of the club; and
 - (ii) proper accounts to be kept of its financial affairs.

DIVISION VII—RETAIL LIQUOR MERCHANT'S LICENCE

37. (1) A retail liquor merchant's licence authorizes the licensee to sell liquor on the licensed premises for consumption off the licensed premises—

Retail liquor merchant's licence.

- (a) on any day (not being Good Friday, Christmas Day or Sunday) between 9 a.m. and 6 p.m. or, if the day is one on which late trading is permitted, between 9 a.m. and 9 p.m.;
- (b) on Sunday (not being Christmas Day) between 11 a.m. and 6 p.m.

(2) If there are, in the opinion of the licensing authority, special reasons for doing so, it may substitute for the trading hours referred to in subsection (1) (a) such other trading hours (not exceeding 9 hours per day or 12 hours for a day on which late trading is permitted) as the licensing authority thinks fit.

(3) For the purposes of this section, late trading is permitted on a particular day if—

- (a) in the case of licensed premises situated in a shopping district constituted under the Shop Trading Hours Act, 1977—shops (not being exempt shops as defined in that Act) are permitted under that Act to remain open for business until 9 p.m. or later;
- or
- (b) in the case of licensed premises not situated in a shopping district constituted under that Act—the day is a particular day of the week on which late trading is authorized by the licensing authority.

38. (1) Subject to subsection (2), a retail liquor merchant's licence shall not be granted in respect of, or removed to, premises unless the licensing authority is satisfied that the public demand for liquor in the locality in which the premises are situated cannot be met by other existing facilities for the sale of liquor.

Conditions affecting the grant or removal of a retail liquor merchant's licence.

(2) Subsection (1) does not apply to the removal of a retail liquor merchant's licence to premises situated not more than 500 metres from the premises from which its removal is sought.

(3) Subject to subsection (5), a retail liquor merchant's licence shall not be granted in respect of, or removed to, premises unless the premises—

- (a) are devoted entirely to the business conducted in pursuance of the licence;

and

- (b) are physically separate from premises used for other commercial purposes,

and it is a condition of a retail liquor merchant's licence that the premises shall not cease to be devoted entirely to the business conducted in pursuance of the licence or to be physically separate from premises used for other commercial purposes.

(4) Premises shall be regarded as entirely devoted to the business conducted in pursuance of a retail liquor merchant's licence notwithstanding that goods other than liquor are sold at the premises if the sale of such goods is ancillary to the sale of liquor and the goods are of a kind normally available from retail liquor merchants.

(5) The licensing authority may grant an exemption from subsection (3) in respect of premises if, in the opinion of the authority—

- (a) the demand for packaged liquor in the locality in which the premises are situated is not sufficient to justify the establishment of separate premises;

or

- (b) some other proper reason exists for granting the exemption.

DIVISION VIII—WHOLESALE LIQUOR MERCHANT'S LICENCE

Wholesale liquor merchant's licence.

39. A wholesale liquor merchant's licence authorizes the licensee—

- (a) to sell liquor, at any time, on the licensed premises for consumption off the licensed premises;

and

- (b) to supply liquor, at any time, by way of free sample, for consumption by prospective customers on a part of the licensed premises approved for the purpose by the licensing authority.

Conditions of wholesale liquor merchant's licence.

40. (1) A wholesale liquor merchant's licence is subject to the following conditions:

- (a) liquor must not be sold to a purchaser in an aggregate quantity of less than 4.5 litres;

and

- (b) at least 90 per cent of the licensee's gross turnover from the sale of liquor in each assessment period must be derived from the sale of liquor to liquor merchants.

(2) For the purposes of subsection (1) (b), any amount derived by a licensee who holds a wholesale liquor merchant's licence from the sale of liquor to his own employees shall not be taken into account in calculating gross turnover.

DIVISION IX—PRODUCER'S LICENCE

Producer's licence.

41. (1) Subject to subsection (2), a producer's licence authorizes the licensee—

- (a) to sell liquor produced by the licensee, at any time, on the licensed premises for consumption off the licensed premises;

(b) if the conditions of the licence expressly so permit—to sell liquor produced by the licensee, at any time, to a diner for consumption in a designated dining area with or ancillary to a meal;

and

(c) subject to any condition of the licence to the contrary, to supply liquor produced by the licensee, at any time, by way of sample, for consumption on a part of the licensed premises approved for the purpose by the licensing authority.

(2) A producer's licence does not authorize the sale or supply of liquor on Good Friday.

(3) Subject to any authorization to the contrary given by the licensing authority in relation to a specific occasion or occasions, liquor supplied under subsection (1) (c) must be supplied by way of free sample.

(4) Liquor shall be regarded as having been produced by a particular person—

(a) in the case of beer—if it was brewed by that person;

(b) in the case of spirits—if it was distilled by that person;

(c) in the case of wine—

(i) if it was fermented by that person;

or

(ii) if it was produced by blending and—

(A) a substantial proportion of the wine used for the purpose of the blending was fermented by that person;

and

(B) all the wine used for the purpose of the blending was fermented from produce grown or produced in Australia.

(5) In determining whether wine was fermented by a particular person, fermentation of the wine after final bottling shall be disregarded.

42. The premises in respect of which a producer's licence is granted must be—

(a) premises used by the licensee for the production of liquor;

or

(b) premises adjacent to such premises.

Premises in respect of which producer's licence may be granted.

DIVISION X—GENERAL FACILITY LICENCE

43. A general facility licence authorizes the licensee to sell liquor on the licensed premises—

General facility licence.

(a) at such times as are specified in the licence;

and

(b) subject to such conditions as are specified in the licence.

Circumstances in which general facility licence may be granted.

44. (1) Subject to subsection (2), a general facility licence may be granted where special trading conditions are, in the opinion of the licensing authority, necessary for any one or more of the following purposes:

- (a) to provide adequately for the needs of those attracted to premises that, in the opinion of the licensing authority, are or will prove to be a substantial tourist attraction;
- (b) to provide adequately for the needs of those attending receptions;
- (c) to provide adequately for the needs of patrons of a cinema or other theatre at which cinematographic or theatrical entertainment of a high standard is provided;
- (d) to provide adequately for the needs of passengers in a ship, train, vehicle or aeroplane;
- (e) to enable a mining or construction company or authority that is undertaking a project in a remote area to provide adequately for the needs of its employees working in that area;
- (f) to enable the following sporting authorities to provide adequately for the needs of those attending sporting events and other functions at the following sporting grounds:
 - (i) the South Australian National Football League—in respect of Football Park;
 - (ii) the South Australian Cricket Association—in respect of Adelaide Oval;
 - (iii) the South Australian Jockey Club—in respect of Morphettville Race Course;
- (g) to enhance the use of premises that are of national, historic or architectural significance and have at some time in the past been licensed as a hotel;
- (h) to enable tertiary educational institutions to provide adequately for the needs of students, staff and visitors.

(2) A general facility licence shall not be granted if, in the opinion of the licensing authority, some other licence would be reasonably adequate for the purposes for which the general facility licence is sought.

(3) Before granting an application for the grant or removal of a general facility licence, or for variation of a condition affecting the trading rights conferred by such a licence, the licensing authority shall take into account the probable effect of the grant, removal or variation on the trade conducted from other licensed premises in the relevant locality.

DIVISION XI—LIMITED LICENCE

Limited licence.

45. (1) A limited licence authorizes the sale or consumption of liquor—

- (a) at such times and on such occasion or occasions as may be specified in the licence;
 - (b) at such places as may be defined or described in the licence;
- and
- (c) subject to such conditions as may be specified in the licence.

(2) Separate limited licences are required in respect of separate functions unless the functions are interrelated so as to form a series.

(3) The period over which a limited licence is to be in force must not exceed 1 month.

46. (1) Subject to this section, a limited licence may be granted—

Circumstances in which limited licence may be granted.

- (a) where special trading conditions are, in the opinion of the licensing authority, necessary to provide for the needs of those attracted to a particular locality by a festival, exhibition, show or other event that is of historic, traditional or cultural significance or that significantly promotes tourism;
- (b) where, in the opinion of the licensing authority, the grant of such a licence is desirable in order to extend, on a temporary basis, the trading rights of a licensee who holds some other licence;
- (c) where, in the opinion of the licensing authority, the grant of such a licence is desirable in order to permit the sale of liquor by auction;
- (d) where, in the opinion of the licensing authority, the grant of such a licence is desirable to enable a genuine club or association to supply liquor at a function arranged by it and to recoup the cost of the liquor by imposing an admission charge on those attending the function;
- (e) where, in the opinion of the licensing authority, the grant of such a licence is desirable in order to authorize the sale or supply of liquor on regulated premises;
- (f) where, in the opinion of the licensing authority, the grant of such a licence is otherwise desirable in order to meet a temporary need for facilities for the sale of liquor;
- (g) where, in the opinion of the licensing authority, the grant of such a licence is desirable in order to authorize the consumption of liquor on regulated premises;
- (h) where, in the opinion of the licensing authority, the grant of such a licence is desirable in order to authorize the supply of liquor by way of free sample.

(2) A limited licence shall not be granted if, in the opinion of the licensing authority, some other licence (not being a general facility licence) would be reasonably adequate for the purposes for which the limited licence is sought.

(3) A limited licence shall not be granted under subsection (1) (a), (e) or (f) except—

(a) to the holder of a hotel licence;

or

(b) to a person who satisfies the licensing authority—

(i) that he has available to him sufficient facilities and expertise to enable him to operate under the limited licence in a proper manner;

and

(ii) that he will take adequate measures to ensure that trading is not conducted in a manner detrimental to the public interest.

(4) A limited licence shall not be granted unless the licensing authority is satisfied that the area in which the sale or consumption of liquor is to be authorized by the licensee may lawfully be used for that purpose.

Grant of limited licence to licensee.

47. (1) A limited licence granted to a licensee who holds a licence of some other class shall not authorize—

(a) the sale of liquor of a kind that cannot be sold in pursuance of the principal licence;

or

(b) the sale of liquor to a class of persons to whom liquor cannot be sold in pursuance of the principal licence.

(2) Where a limited licence is granted to the holder of a hotel licence authorizing him to sell liquor at a function organized by some other person or body, the licensing authority may approve an arrangement under which the licensee is to pay a proportion of the gross receipts obtained by him from the sale of liquor in pursuance of the limited licence to the person or body by which the function was arranged.

Refusal of limited licence where grant would tend to establish undesirable pattern.

48. (1) The licensing authority may refuse an application for a limited licence if—

(a) the licence is sought in respect of a function organized by a particular person or group;

(b) limited licences have been granted in respect of previous functions organized by the same person or group;

and

(c) the licensing authority is of the opinion that the grant of a further limited licence would tend to establish an undesirable pattern.

(2) This section does not limit the discretion of the licensing authority to grant or refuse an application for a limited licence.

DIVISION XII—CONDITIONS OF LICENCES

General condition as to liquor sold for off premises consumption.

49. (1) Subject to subsection (2), a licence that authorizes the sale of liquor for consumption off the licensed premises is subject to conditions that liquor so sold—

(a) must be delivered to the purchaser in sealed containers;

and

(b) must not be consumed on the licensed premises.

(2) No breach of the condition referred to in subsection (1) (b) occurs if—

(a) the licence authorizes the sale of liquor for consumption on the licensed premises;

and

(b) the liquor, although sold for consumption off the licensed premises, is consumed in circumstances in which it could lawfully have been consumed if sold in pursuance of that authorization.

(3) It is a condition of a wholesale liquor merchant's licence or a retail liquor merchant's licence that liquor sold in pursuance of the licence must not be consumed in proximity to the licensed premises.

50. (1) The licensing authority may impose such licence conditions (in addition to those prescribed by this Act) as it thinks fit, including—

Power of licensing authority to impose conditions.

- (a) conditions that the licensing authority thinks desirable in order to ensure that the noise emanating from the licensed premises is not excessive;
- (b) conditions that the licensing authority thinks desirable in order to minimize the offence, annoyance, disturbance or inconvenience that might be suffered by those who reside, work or worship in the vicinity of the licensed premises in consequence of activities on the licensed premises, or the conduct of those making their way to or from the licensed premises;
- (c) conditions that the licensing authority thinks desirable to ensure that the safety, health or welfare of persons who may resort to the licensed premises is not at risk;
- (d) conditions that the licensing authority thinks desirable to prevent improper arrangements or practices calculated to reduce licence fees.

(2) A condition may be imposed under subsection (1) or a condition previously imposed may be varied or revoked—

- (a) on the grant, removal or transfer of the licence;
- (b) on the grant of—
 - (i) an application for approval of proposed alterations to the licensed premises;
 - (ii) an application for redefinition of the licensed premises;
 - or
 - (iii) an application for an authorization to sell and supply liquor in an area adjacent to the licensed premises;
- (c) on the grant of a late night permit;
- (d) on the grant of consent to the holding of entertainment on the licensed premises;
- (e) on a finding by the licensing authority that there is substance in a complaint lodged under this Act against the licensee;
- (f) on an application for the imposition of such a condition by the licensee.

(3) A condition may be imposed, at any time, under subsection (1) or a condition previously imposed may be varied or revoked—

- (a) by the Commissioner on the application of the Commissioner of Police;
- or
- (b) by the Court on the application of—
 - (i) the Commissioner;

or

(ii) the Commissioner of Police.

(4) Notwithstanding any other provision of this Act, a condition may be imposed under this section—

- (a) limiting the kinds of liquor that may be sold in pursuance of a licence;
- (b) limiting the times at which liquor, or liquor of a particular kind, may be sold in pursuance of a licence;
- (c) otherwise limiting the authority conferred by a licence;
- (d) in the case of a licence in respect of premises situated west of 133° of longitude—
 - (i) varying the times at which liquor may be sold in pursuance of the licence, or the licensed premises are required to be kept open for the sale of liquor;

and

(ii) modifying the application of this Act in relation to the licence and the licensed premises.

(5) A condition may be imposed under this section—

- (a) by including the condition in the licence;
- or
- (b) by serving on the licensee written notice of the condition.

DIVISION XIII—GENERAL PROVISIONS

Plurality of licences.

51. (1) Subject to subsection (2), a person may hold any number of licences.

(2) A person who holds a wholesale liquor merchant's licence shall not simultaneously hold any of the following licences:

- (a) a hotel licence;
- (b) a retail liquor merchant's licence;
- (c) a general facility licence.

(3) Where a body corporate holds a wholesale liquor merchant's licence, a related body corporate shall not simultaneously hold any of the following licences:

- (a) a hotel licence;
- (b) a retail liquor merchant's licence;
- (c) a general facility licence,

unless the Court is satisfied that the conditions of the respective licences are such as to prevent arrangements or practices calculated to reduce licence fees.

(4) A person who holds a licence in contravention of this section is guilty of an offence.

Licence may be held jointly.

52. (1) A licence may be held jointly by two or more persons.

(2) Where a licence is held jointly by two or more persons, those persons are jointly and severally liable to any civil or criminal liability that attaches to the licensee under this Act.

53. (1) Subject to this section, two or more licences shall not be granted in respect of the same premises.

Limitation on grant of licences in respect of the same premises.

(2) Two or more licences may be granted in respect of separate parts of the same premises.

(3) Two or more restricted club licences may be granted in respect of the same premises provided that the trading hours authorized under the licences do not coincide or overlap.

(4) This section does not prevent the grant of a limited licence in respect of premises, or a part of premises, in respect of which some other licence is in force.

54. Unless the Commissioner of Police gives his consent in writing, a member of the police force shall not—

Members of police force not to hold licence, etc.

(a) hold a licence;

(b) occupy a position of authority in a body corporate that holds a licence;

(c) be an officer of a club by or on behalf of which a club licence is held;

or

(d) be a manager of licensed premises.

55. (1) Subject to subsection (2), a minor shall not—

Minors not to hold licence, etc.

(a) hold a licence;

or

(b) occupy a position of authority in a body corporate that holds a licence.

(2) This section does not prevent a minor from being a shareholder in a proprietary company that holds a licence.

PART IV

APPLICATIONS, INTERVENTION AND OBJECTIONS

DIVISION I—FORMAL REQUIREMENTS

56. (1) An application to a licensing authority—

Form of application.

(a) must be made in the prescribed manner and form and within any prescribed time limitation;

and

(b) must be accompanied by the prescribed fee.

(2) An applicant or other person who makes a false or deliberately misleading statement in, or in support of, an application is guilty of an offence.

Certain applications to be accompanied by plans of premises.

57. (1) An application for a licence (not being a limited licence), or for the removal of a licence, must be accompanied by plans of the premises in respect of which the licence is sought.

(2) An applicant for the grant or removal of a licence may, at any time before the grant or removal of the licence takes effect, submit for the approval of the licensing authority an alteration to the plans.

(3) An application may be made under subsection (2) whether or not a certificate has been issued under section 64 or 68 in respect of the premises to which the plans relate.

(4) An application for—

(a) approval of a proposed alteration to, or redefinition of, licensed premises;

or

(b) authorization to sell liquor in an area adjacent to licensed premises, must be accompanied by plans of the alteration, redefinition or adjacent area (as the case may require).

(5) An applicant for a limited licence must, if the licensing authority so requires, submit plans of any premises in which the sale or consumption of liquor is to be authorized by the licence.

(6) Plans that are to be submitted under this section must be in the prescribed form.

Certain applications to be advertised.

58. (1) An application of any of the following classes must be advertised:

(a) an application for the grant of a licence (not being a limited licence);

(b) an application for the transfer of a licence;

(c) an application for the removal of a licence;

(d) an application by a licensee holding a hotel licence for—

(i) exemption from the obligation to provide accommodation;

or

(ii) a late night permit;

(e) an application for conversion of a temporary licence into an ordinary licence by revocation of the condition by virtue of which the licence is a temporary licence.

(2) An application of any of the following classes must, if the licensing authority so requires, be advertised:

(a) an application for the grant of a limited licence;

(b) an application for approval of a proposed alteration to, or redefinition of, licensed premises;

(c) an application for approval of an alteration to the plans of premises in respect of which a new licence is sought, or to which the removal of an existing licence is sought;

(d) an application for the alteration of trading hours;

- (e) an application for variation or revocation of a condition attached to a licence (including an application for conversion of a restricted club licence into an unrestricted club licence);
 - (f) an application for variation or revocation of a condition attached to a certificate under this Part;
 - (g) an application for authorization to sell liquor in an area adjacent to licensed premises;
 - (h) an application for consent to the provision of entertainment on licensed premises or in an area appurtenant to licensed premises.
- (3) Where an application is required by or under this section to be advertised—
- (a) notice of the application, in the prescribed form, must be published by the applicant—
 - (i) in 2 newspapers circulating generally throughout the State; and
 - (ii) in the *Gazette*,
 at least 28 days before the date fixed for the hearing of the application;
- and
- (b) for the period of 28 days immediately preceding the date fixed for the hearing of the application, the applicant must keep a notice of the application, in the prescribed form, posted in a prominent position—
 - (i) on the premises to which the application relates; or
 - (ii) if the premises have not been constructed—on the land on which it is proposed to construct the premises,
 so as to be clearly visible to, and legible by, persons passing the premises or land on foot.
- (4) The licensing authority may, in an appropriate case, dispense with a requirement of subsection (3).

DIVISION II—GENERAL POWERS AND DISCRETIONS OF LICENSING AUTHORITY

59. (1) Subject to this Act, the licensing authority has an unqualified discretion to grant or refuse an application under this Act on any ground, or for any reason, that the licensing authority considers sufficient.

Discretion of licensing authority to grant or refuse application.

(2) The licensing authority should not grant an application as a matter of course without proper inquiry into its merits (whether or not there are objections to the application).

(3) The licensing authority may, on such conditions (if any) as it thinks fit, waive compliance with formal requirements relating to an application.

60. Where the licensing authority is to determine whether a person is a fit and proper person to hold a licence, or to occupy a position of authority in a body corporate that holds a licence, the creditworthiness of that person shall be taken to be a relevant aspect of character to which consideration should be given.

Creditworthiness to be taken into account when determining whether a person is fit and proper to hold licence.

DIVISION III—APPLICATION FOR NEW LICENCE

Applicant must be fit and proper person.

61. An applicant for a licence must satisfy the licensing authority by such evidence as it may require—

(a) that he is a fit and proper person to hold the licence;

and

(b) where the applicant is a body corporate—that each person who occupies a position of authority in the body corporate is a fit and proper person to occupy such a position in a body corporate holding a licence of the class sought in the application.

Requirements as to premises.

62. (1) An applicant for a licence (not being a limited licence) must satisfy the licensing authority by such evidence as it may require—

(a) that the premises in respect of which the licence is sought are, or, in the case of premises not yet constructed, will be, of sufficient standard for the purpose of properly carrying on business in pursuance of the licence;

and

(b) that the grant of the licence is unlikely to result in undue offence, annoyance, disturbance or inconvenience to those who reside, work or worship in the vicinity of the licensed premises.

(2) An application for the grant of a licence (not being a limited licence) in respect of premises or proposed premises shall not be granted unless the licensing authority is satisfied—

(a) that any approvals, consents or exemptions that are required under the law relating to planning to permit the use of the premises or proposed premises for the sale of liquor have been obtained;

and

(b) that any approvals, consents or exemptions that are required by law for the carrying out of building work that is to be carried out before the licence takes effect have been obtained.

(3) An applicant for a limited licence must, if the licensing authority so requires, produce evidence establishing that the premises in which liquor is to be sold or consumed under the licence are suitable for that purpose.

Grant of Category A licence must be justified by public need.

63. (1) An applicant for a Category A licence must satisfy the licensing authority by such evidence as it may require that, having regard to the licensed premises already existing in the locality in which the premises or proposed premises to which the application relates are, or are proposed to be, situated, the licence is necessary in order to provide for the needs of the public in that locality.

(2) A reference in this section to licensed premises already existing in a locality extends to premises in that locality, or premises proposed for that locality, in respect of which a licence is to be granted, or to which a licence is to be removed, in pursuance of a certificate under this Part.

Certificate in respect of proposed premises.

64. (1) Where—

(a) an application is made for a licence in respect of premises that are, at the date of the application, uncompleted;

and

- (b) the licensing authority is satisfied that, if the premises are completed in accordance with the plans submitted by the applicant, a licence of the class sought in the application should be granted to the applicant in respect of those premises,

the licensing authority may grant to the applicant a certificate stating that it is so satisfied.

(2) A certificate under subsection (1)—

- (a) may be granted on such conditions as the licensing authority thinks fit;

and

- (b) may include a statement of conditions to which, in the opinion of the licensing authority, the licence should be subject.

(3) Where—

- (a) a certificate has been granted under subsection (1);

and

- (b) the holder of the certificate satisfies the licensing authority—

- (i) that the conditions (if any) on which the certificate was granted have been complied with;

and

- (ii) that the premises have been completed in accordance with plans approved by the licensing authority,

a licence of the class specified in the certificate shall be granted to the holder of the certificate in respect of the premises.

(4) On the grant of a licence under subsection (3), the conditions (if any) stated in the certificate under subsection (2) (b) shall become conditions of the licence.

(5) A certificate under this section shall, for the purposes of the provisions of this Act relating to the transfer of a licence, be deemed to be a licence.

DIVISION IV—REMOVAL OF LICENCE

65. A limited licence is not capable of being removed.

Limited licence
not removable.

66. (1) An applicant for the removal of a licence must satisfy the licensing authority by such evidence as it may require—

Requirements as
to premises.

- (a) that the premises to which removal of the licence is sought are, or, in the case of premises not yet constructed, will be, of sufficient standard for the purpose of properly carrying on business in pursuance of the licence;

and

- (b) that the removal of the licence is unlikely to result in undue offence, annoyance, disturbance or inconvenience to those who reside, work or worship in the vicinity of the licensed premises.

(2) An application for the removal of a licence to premises or proposed premises shall not be granted unless the licensing authority is satisfied—

(a) that any approvals, consents or exemptions that are required under the law relating to planning to permit the use of the premises or proposed premises for the sale of liquor have been obtained;

and

(b) that any approvals, consents or exemptions that are required by law for the carrying out of building work that is to be carried out before the removal of the licence takes effect have been obtained.

Removal of
Category A
licence must be
justified by public
need.

67. (1) An applicant for the removal of a Category A licence must satisfy the licensing authority by such evidence as it may require that, having regard to the licensed premises already existing in the locality in which the premises or proposed premises to which removal of the licence is sought are, or are proposed to be, situated, a licence of the class to which the application relates is necessary in order to provide for the needs of the public in that locality.

(2) A reference in this section to licensed premises already existing in a locality extends to premises in that locality, or premises proposed for that locality, in respect of which a licence is to be granted, or to which a licence is to be removed, in pursuance of a certificate under this Part.

Certificate in
respect of
proposed
premises.

68. (1) Where—

(a) an application is made for the removal of a licence to premises that are, at the date of the application, uncompleted;

and

(b) the licensing authority is satisfied that, if the premises are completed in accordance with the plans submitted by the applicant, the licence should be removed to those premises,

the licensing authority may grant to the applicant a certificate stating that it is so satisfied.

(2) A certificate under subsection (1)—

(a) may be granted on such conditions as the licensing authority thinks fit;

and

(b) may include a statement of conditions to which, in the opinion of the licensing authority, the licence should be subject on its removal.

(3) Where—

(a) a certificate has been granted under subsection (1);

and

(b) the holder of the certificate satisfies the licensing authority—

(i) that the conditions (if any) on which the certificate was granted have been complied with;

and

(ii) that the premises have been completed in accordance with plans approved by the licensing authority,

the licence shall be removed to the new premises.

(4) On the removal of a licence under subsection (3), the conditions (if any) stated in the certificate under subsection (2) (b) shall become conditions of the licence.

DIVISION V—TRANSFER OF LICENCES

69. The following licences are not transferable:

- (a) a club licence;
- (b) a limited licence.

Club and limited licences not transferable.

70. (1) An applicant for the transfer of a licence must satisfy the licensing authority by such evidence as it may require—

- (a) that he is a fit and proper person to hold the licence;
- and

- (b) where the applicant is a body corporate—that each person who occupies a position of authority in the body corporate is a fit and proper person to occupy such a position in a body corporate holding a licence of the class to which the application relates.

Applicant for transfer must be fit and proper person.

(2) An application for the transfer of a licence must be accompanied by the prescribed documents.

71. (1) A licensee shall not sell or assign his rights to carry on business in pursuance of the licence unless the transfer of the licence to the purchaser or assignee has been approved by the licensing authority.

Limitation on sale or assignment of rights under licence.

(2) This section does not prevent a licensee from entering into a contract for the sale or assignment of his rights to carry on business in pursuance of the licence, being a contract that is subject to a condition precedent under which the sale will not take effect unless and until the transfer or assignment of the licence to the purchaser or assignee has been approved by the licensing authority.

72. (1) Subject to subsection (2), where a licence is transferred, the transferee succeeds to the liabilities of the transferor under this Act.

Transferee to succeed to certain of transferor's liabilities and rights.

(2) Where a licence fee is underassessed by virtue of incorrect information provided by a licensee, a transferee of the licence is not liable to pay—

- (a) an amount by which the licence fee was underassessed, being an amount payable in respect of a licence period or portion of a licence period antecedent to the date of transfer;

nor

- (b) any pecuniary penalty imposed in respect of the underassessment.

(3) Where a producer's licence is transferred, the transferee may sell, in pursuance of the licence, liquor produced by the transferor before the date of the transfer as if it had been produced by the transferee.

DIVISION VI—VOLUNTARY SUSPENSION AND REVOCATION OF LICENCES

Suspension and
revocation of
licences.

73. (1) The Commissioner may, on the application of a licensee, suspend the licence held by that licensee for such period as the Commissioner thinks fit.

(2) The Commissioner may, of his own motion, revoke a licence if it appears that the licensee has ceased to carry on business in pursuance of the licence.

Surrender of
licence.

74. (1) A licensee may, by notice in writing to the Commissioner, surrender his licence and the licence shall, on receipt by the Commissioner of the notice, become void and of no effect.

(2) The surrender of a licence does not affect liabilities incurred by the licensee under this Act up to the date of surrender.

DIVISION VII—ALTERATION AND REDEFINITION OF LICENSED PREMISES

Alteration and
redefinition of
licensed premises.

75. (1) The licensing authority may, on the application of a licensee—

(a) approve a proposed alteration to the licensed premises;

or

(b) redefine the licensed premises as defined in the licence.

(2) An application for approval of an alteration to licensed premises shall not be granted unless the licensing authority is satisfied that all other approvals, consents or exemptions required by law have been obtained.

(3) If licensed premises are altered without approval under this section, the licensee shall be guilty of an offence.

DIVISION VIII—EXTENSION OF TRADING AREA

Extension of
trading area.

76. (1) The licensing authority may, on application by a licensee, by endorsement on the licence, extend the authority conferred by the licence so that the licensee is authorized to sell liquor in an area adjacent to the licensed premises for consumption in that area.

(2) An application may be made under subsection (1) only by a licensee who holds—

(a) a hotel licence;

(b) a residential licence;

(c) a restaurant licence;

(d) an entertainment venue licence;

or

(e) a general facility licence.

(3) Where an application is granted under this section, the adjacent area in which the licensee is authorized to sell liquor shall, at times when the sale of liquor is authorized, be deemed to form part of the licensed premises.

(4) An application shall not be granted under this section unless—

(a) the licensing authority is satisfied that the object of the application could not be more appropriately achieved by redefinition of the licensed premises or the grant of a limited licence;

- (b) the licensee will, at times when the sale of liquor in the adjacent area is authorized, be entitled to use that area for that purpose;
- and
- (c) the council in whose area the licensed premises are situated approves the application.

DIVISION IX—VARIATION OF NON-STATUTORY CONDITIONS OF LICENCE

77. (1) The licensing authority may, on the application of a licensee—
- (a) vary trading hours previously fixed by the licensing authority in relation to the licence;
- (b) vary or revoke a condition of the licence.
- (2) Nothing in this section authorizes the licensing authority to vary or revoke a condition fixed or imposed by this Act.

Variation of non-statutory conditions of licence.

DIVISION X—APPROVAL OF MANAGEMENT AND CONTROL

78. (1) The licensing authority may, on the application of a licensee, approve a natural person as manager of the business conducted in pursuance of the licence.
- (2) The licensing authority may, on the application of a person who seeks to assume a position of authority in a body corporate that holds a licence, approve the assumption by that person of that position in the body corporate.

Approval of management and control.

DIVISION XI—LESSOR'S CONSENT

79. (1) Subject to this section—
- (a) the licensing authority shall not grant an application—
- (i) for a new licence;
- (ii) in relation to a hotel licence—for exemption from the obligation to provide accommodation;
- (iii) for approval of proposed alterations to the licensed premises,
- if the licensed premises or proposed licensed premises are occupied, or are to be occupied, in pursuance of a lease and the lessor has not consented to the application or, if the lessor is not the owner, either the lessor or the owner has not consented to the application;
- (b) the licensing authority shall not grant an application for the removal of a licence if the premises to which the licence is sought to be removed are held under lease and the lessor has not consented to the application or, if the lessor is not the owner, either the lessor or the owner has not consented to the application;
- (c) the licensing authority shall not grant an application for transfer of a licence if the licensed premises are occupied in pursuance of a lease and the lessor has not consented to the application.

Consent of lessor or owner of premises required in relation to certain applications.

(2) The licensing authority may dispense with a consent required under this section if, in its opinion, the consent has been capriciously or unreasonably withheld.

(3) A reference in this section to the lessor of premises is, in relation to premises held from the Crown under lease or licence, a reference to the Crown.

DIVISION XII—DEVOLUTION OF LICENSEE'S RIGHTS

Devolution of licensee's rights in certain cases.

80. (1) Subject to subsection (3), where a licensee dies—

(a) the executor of his will or the administrator of his estate;

or

(b) a relative of the deceased acting with the permission of the licensing authority,

may, until the expiration of 1 month from the date of death of the licensee or such longer period as may be approved by the licensing authority, carry on business in pursuance of the licence as if he were the licensee.

(2) Subject to subsection (3), where a licensee becomes physically or mentally incapable of carrying on business in pursuance of his licence—

(a) a person authorized or appointed by law to administer his affairs;

or

(b) a relative of the licensee acting with the permission of the licensing authority,

may, until the expiration of 1 month from the commencement of the incapacity or such longer period as may be approved by the licensing authority, carry on business in pursuance of the licence as if he were the licensee.

(3) Where a licence is held jointly and one of the licensees dies, or becomes physically or mentally incapable of carrying on business in pursuance of the licence, the remaining licensee or licensees shall be treated, for the purposes of this Act, as the sole licensee or licensees.

(4) Where a licensee ceases to occupy the licensed premises to which his licence relates, a landlord or mortgagee acting with the permission of the licensing authority may, for a period of 1 month or such longer period as may be approved by the licensing authority, carry on business in pursuance of the licence as if he were the licensee.

(5) Where a licence is surrendered or revoked, the licensing authority may, on the application of a landlord, mortgagee or other person who satisfies the authority that he stands to suffer loss in consequence of the surrender or revocation, grant him a temporary licence—

(a) of the same class, and subject to the same conditions, as the licence that was surrendered or revoked;

but

(b) subject to a condition that the licence shall expire at the expiration of a term fixed by the licensing authority not exceeding 6 months.

(6) An approval, permission or temporary licence may be granted under this section by the licensing authority—

(a) on the application of the person seeking it without hearing or inviting representations from any other person;

and

(b) on such conditions as the licensing authority thinks fit.

(7) A temporary licence granted under this section may be converted into an ordinary licence by revocation of the condition referred to in subsection (5) (b) but an application for revocation of such a condition shall not be granted unless the licensing authority is satisfied by such evidence as it may require—

(a) that the person who is to hold the licence on revocation of the condition is a fit and proper person to hold a licence of the relevant class;

and

(b) where that person is a body corporate—that each person who occupies a position of authority in the body corporate is a fit and proper person to occupy such a position in a body corporate holding a licence of that class.

(8) A fee of an amount fixed by the Commissioner is payable in respect of—

(a) a temporary licence under this section;

or

(b) the conversion of a temporary licence into an ordinary licence under this section.

(9) This section does not apply in respect of a club licence or a limited licence.

81. (1) Where a licensee becomes bankrupt or insolvent, the official receiver may carry on business in pursuance of the licence as if he were the licensee. Bankruptcy or winding up of licensee.

(2) Where a licensee, being a body corporate, is being wound up, a person vested by law with power to administer the affairs of the body corporate may carry on business in pursuance of the licence as if he were the licensee.

(3) This section does not apply in respect of a club licence or a limited licence.

82. A person who exercises rights in pursuance of this Division (otherwise than in pursuance of the prior permission of the licensing authority) must, within 7 days after commencing to do so, give notice in writing of that fact to the Commissioner. Notice to be given of exercise of rights under this Division.

DIVISION XIII—RIGHTS OF INTERVENTION AND OBJECTION

83. (1) The Commissioner of Police may intervene in proceedings before a licensing authority under this Act for the purpose of introducing evidence, or making representations— Rights of intervention.

(a) on the question of whether a party to the proceedings is a fit and proper person to hold a licence under this Act;

(b) on the question of whether the grant of a particular licence is likely to lead to public disorder or disturbance.

(2) A council in whose area licensed premises or premises proposed to be licensed are situated may intervene in proceedings before a licensing authority for the purpose of introducing evidence, or making representations—

(a) on the question of whether the premises are suitable premises to be, or to continue to be, licensed;

or

(b) on the question of whether a proposed alteration to the premises should be approved.

(3) An inspector holding office under the Places of Public Entertainment Act, 1913, may intervene in proceedings before a licensing authority for the purpose of introducing evidence, or making representations, on any question relating to the safety or suitability of premises for the purposes of entertainment.

(4) The Commissioner may intervene in proceedings before the Court under this Act for the purpose of introducing evidence, or making representations, on any question before the Court.

Rights of intervention in relation to application for club licence.

84. On an application for a club licence, any person who has, in the opinion of the licensing authority, a proper interest in the matter may intervene in the proceedings for the purpose of calling or giving evidence, or making representations—

(a) on the question of the trading hours during which the sale of liquor should be authorized by the licence;

and

(b) on the question of the conditions to which the licence, if granted, should be subject.

General right of objection.

85. (1) Where an application has been advertised under this Part, any person may, by notice in the prescribed form lodged with the licensing authority at least 7 days before the day appointed for the hearing of the application, object to the application.

(2) A copy of the notice of objection must be served by the objector on the applicant at least 7 days before the day appointed for the hearing of the application.

(3) An objection may be made on behalf of an unincorporated association under this section by an agent duly appointed for the purpose.

(4) An objection may be made on one or more of the following grounds:

(a) that the grant of the application would be contrary to this Act;

(b) in the case of an application for the grant or removal of a Category A licence—that the grant of the application is not necessary in order to provide for the needs of the public in the area in which the premises or proposed premises to which the application relates are situated;

(c) in the case of an application by a natural person for the grant or transfer of a licence, or for the conversion of a temporary

licence into an ordinary licence—that the applicant is of bad reputation or character or is otherwise not a fit and proper person to be licensed;

- (d) in the case of an application by a body corporate for the grant or transfer of a licence, or for the conversion of a temporary licence into an ordinary licence—that the applicant is not a fit and proper person to be licensed or that a person who occupies a position of authority in the body corporate is of bad reputation or character or is otherwise not a fit and proper person to hold such a position in a body corporate that holds a licence;
- (e) in the case of an application for the grant or removal of a licence—that the position, nature or quality of the premises renders them unsuitable to be licensed, or to be licensed under a licence of the kind to which the application relates;
- (f) that the grant of the application will disturb the quiet, or otherwise detract from the amenity, of the locality in which the premises or proposed premises to which the application relates are situated.

86. (1) A lessor of licensed premises may object to an application for removal of a licence from those premises to some other premises if it is a term of the lease to which he is a party that his consent is required for such an application and his consent has not been obtained in accordance with the lease.

Lessor's special right of objection.

(2) A lessor of licensed premises may object to an application for approval of alterations to the licensed premises if the licensee has agreed in writing that the lessor's consent is required for such an application and the lessor's consent has not been obtained.

(3) A right of objection conferred by this section is exercisable by a lessor whether the licensee derives his interest in the premises directly from him or from a sublessor.

PART V

LICENCE FEES

DIVISION I—FEES

87. (1) A licence fee is payable under this Act in respect of each licence period of a wholesale or retail licence.

Licence fee.

(2) Subject to this section, the amount of the fee is—

- (a) in relation to a retail licence—11 per cent of the gross amount paid or payable for liquor (not being low alcohol liquor) purchased during the relevant assessment period;
- (b) in relation to a wholesale licence (not being a producer's licence)—11 per cent of the gross amount paid or payable otherwise than by liquor merchants for the sale of liquor (not being low alcohol liquor) during the relevant assessment period;
- (c) in relation to a producer's licence—8.8 per cent of the gross amount paid or payable otherwise than by liquor merchants

for the sale of liquor (not being low alcohol liquor) during the relevant assessment period.

(3) The fee for a restricted club licence shall be fixed by the Commissioner in accordance with a scale prescribed by regulation and the fee for a limited licence shall be fixed by regulation.

(4) Where a restricted club licence is converted into an unrestricted club licence, a licence fee shall be assessed and payable as if the conversion were the grant of a new licence.

(5) Notwithstanding any other provision of this Act, the licensing authority may include in a general facility licence a condition setting out the basis on which a licence fee for that licence is to be assessed, and, where such a condition is included, the fee shall be assessed in accordance with that condition.

(6) In determining the basis on which the fee for a general facility licence is to be assessed, the licensing authority must ensure, as far as practicable, that the basis of assessment is not more favourable to the licensee than the basis of assessment that would apply if the licensee's business were conducted in pursuance of a licence or other licences of another class, or other classes.

(7) In assessing for the purposes of this Act the gross amount paid or payable for the purchase of liquor by a licensee—

- (a) excise duty and sales tax paid or payable under the law of the Commonwealth shall be taken into account;
- (b) an amount paid or payable by the holder of a retail licence for the purchase of liquor shall be taken into account notwithstanding that the liquor was purchased for resale in pursuance of a separate limited licence by the licensee and not in pursuance of the licence in respect of which the fee is being assessed;
- (c) the cost of bottling and packaging the liquor shall be taken into account as part of the cost of the liquor;
- (d) any separate charges for freight and delivery shall, to the extent that the Commissioner considers those charges reasonable, not be taken into account as part of the cost of purchase;
- (e) where the licence has been transferred, any amount paid by the transferee for the purchase of liquor from the transferor in the course of the transfer of the business conducted in pursuance of the licence shall not be taken into account;
- (f) an amount paid or payable to the holder of a wholesale licence for liquor produced in Australia that is delivered by the licensee to a purchaser outside Australia shall not be taken into account;
- (g) an amount paid or payable by a club that holds an unrestricted club licence for the purchase of liquor from a licensee who holds a hotel licence or a retail liquor merchant's licence shall not be taken into account.

(8) For the purpose of assessing a licence fee for a wholesale licence—

- (a) liquor sold at auction in pursuance of a limited licence;
- (b) liquor otherwise sold in pursuance of a limited licence;

(c) liquor sold to a person who holds a limited licence and no other licence;

and

(d) liquor of a particular type sold to a person who holds a licence but not one that authorizes the sale of liquor of that type,

shall be conclusively presumed not to have been sold to a liquor merchant.

(9) Notwithstanding the foregoing provisions of this section, if a licence fee would, but for this subsection, be less than the prescribed minimum fee, a licence fee equal to the prescribed minimum fee shall be payable.

88. (1) Where a licence is granted during the course of a licence period, a licence fee is payable in respect of the remainder of the licence period and that fee shall be calculated in accordance with the following formula:

Licence fee where licence granted during the course of a licence period.

$$F = \frac{A}{365} \times B$$

where—

F is the amount of the fee payable

A is the number of days remaining in the licence period

B is the amount of the fee that would have been payable in respect of the licence period if the licence had been in force for the whole of the licence period.

(2) The licence fee in respect of a licence period during the course of which the licence was granted is payable as follows:

(a) if there is, on the date of the grant of the licence, only one-quarter or less remaining in the licence period—the fee is payable in a single instalment on the grant of the licence;

(b) if there is, on the date of the grant of the licence, more than one-quarter remaining in the licence period—the fee is payable in equal instalments, the first being payable on the grant of the licence and the subsequent instalment or instalments being payable on or before the first day of the remaining quarter or each of the remaining quarters (as the case may require).

(3) A new licence shall not come into force until the first instalment of the licence fee has been paid.

89. (1) Where a licensee surrenders his licence, or a licence is revoked on the ground that the licensee has ceased to carry on business in pursuance of the licence, the former licensee shall, if the Commissioner so determines, be liable to pay a fee equal to—

Fee payable on surrender or abandonment of licence.

(a) the licence fee that would have been payable in respect of the next licence period if the licence had remained in force but no business had been transacted in pursuance of the licence after the date of its surrender or revocation,

less

(b) the amount of the licence fee assessed in respect of the current licence period.

(2) A liability to pay a fee shall not be imposed on a former licensee under this section unless the Commissioner is of the opinion that, if the licence had remained in force, there would have been an increase in the licence fee reflecting a change in trading practices on the part of the licensee (occurring either during or prior to the licence period in the course of which the licence was surrendered or revoked).

(3) A fee payable under this section may be recovered as a debt due to the Crown from the former licensee.

(4) The Commissioner may, in his absolute discretion, remit a fee payable under this section in whole or in part.

Payment of
licence fee.

90. (1) A licence fee is payable in full on the first day of the licence period in respect of which it is payable but may be paid in equal quarterly instalments on or before the first day of January, the first day of April, the first day of July and the first day of October in the licence period.

(2) Where a quarterly instalment, or any part of a quarterly instalment, is outstanding for 14 days after the day on which it is to be paid, the licensee shall incur a fine of 10 per cent of the outstanding amount.

(3) If the Commissioner is satisfied that there is proper cause to do so, he may, in his absolute discretion, remit a fine under subsection (2) wholly or in part.

Deferment of
payment of
licence fee.

91. (1) Where a licence has been suspended on the application of the licensee, the Commissioner may, in his absolute discretion, defer payment of the licence fee or an instalment of the licence fee.

(2) Where a licence is suspended, no fine is incurred by reason of failure to pay a quarterly instalment within 14 days of the day on which it becomes payable.

DIVISION II—ASSESSMENT OF FEES

Commissioner to
assess and
determine licence
fees.

92. The Commissioner shall assess and determine all licence fees (except those fixed by regulation) under this Act.

Estimate by
Commissioner on
grant of retail or
wholesale licence.

93. (1) Where a retail or wholesale licence is granted, the licence fee shall be assessed on the basis of an estimate made by the Commissioner—

(a) in relation to a retail licence—of the gross amount that would have been paid or payable for liquor (not being low alcohol liquor) purchased during the relevant assessment period for the purposes of the licence, if the licence had been in force during that assessment period;

(b) in relation to a wholesale licence—of the gross amount that would have been paid or payable otherwise than by liquor merchants for the sale of liquor (not being low alcohol liquor) during the relevant assessment period, if the licence had been in force during that assessment period.

(2) For the purpose of the estimate, the Commissioner shall assume that business of the same nature as the business to be conducted in pursuance of the licence had been conducted on the licensed premises during the relevant assessment period.

Power to estimate
licence fee where
information
inadequate.

94. (1) Where—

(a) a licensee fails to furnish a return in accordance with this Act;
or

(b) the information provided by a licensee is, in the opinion of the Commissioner, insufficient to enable him to fix a licence fee,

the Commissioner may assess and determine the fee on such basis as he thinks fit.

(2) Where the Commissioner is of the opinion—

(a) that a licence fee, as assessed in accordance with the preceding provisions of this Part, is affected by an agreement, arrangement or understanding between the licensee and some other person;

and

(b) that the licence fee, as so assessed, is less than would have been payable if no such agreement, arrangement or understanding existed,

the Commissioner may assess and determine the fee on such basis as he thinks fit.

95. (1) The Commissioner may of his own motion or on the application of a licensee reassess a licence fee—

Reassessment of licence fees.

(a) if he is satisfied that some error or misestimation was made in the original assessment;

(b) if the original assessment was made on the basis of information later found to be false or incomplete;

or

(c) if the original assessment was made on the basis of an estimate made on the assumption that the business to be conducted in pursuance of the licence would be of a particular nature or scale and that assumption has proved to be incorrect.

(2) A reassessment may be made under this section at any time within four years after the date of the original assessment.

96. (1) Where the Commissioner assesses a licence fee and the licensee applies to the Court for a review of the assessment, the fee as assessed by the Commissioner is payable in accordance with this Act notwithstanding the review.

Review of Commissioner's assessment.

(2) If on a review of the Commissioner's assessment of a licence fee the assessment is altered by the Court, a due adjustment shall be made and any amount overpaid shall be refunded to the licensee and any amount underpaid may be recovered as arrears.

DIVISION III—RECOVERY OF LICENCE FEES

97. A licence fee payable under this Act, or a penalty for failure to pay a fee or instalment of a fee when it becomes due, may be recovered as a debt due to the Crown.

Recovery by civil process.

98. (1) Where a licence fee or penalty payable by a licensee under this Act is not paid on or before the date fixed for payment under this Act, the

Suspension of licence on non-payment of licence fee.

Commissioner may serve on the licensee a letter of demand in respect of that licence fee or penalty.

(2) If the amount to which the letter of demand relates is not paid within 14 days of the date of the letter, the Commissioner may suspend the licence until that amount is paid.

Penalty for providing incorrect information.

99. (1) The Court may, on the application of the Commissioner, impose a pecuniary penalty on a licensee or former licensee if the Court is satisfied that a licence fee has been underassessed by reason of incorrect information provided by the licensee or former licensee or by reason of a failure on the part of the licensee or former licensee to provide information as required by or under this Act.

(2) The amount of the penalty shall be an amount that represents, in the opinion of the Court, the amount by which the fee was underassessed.

(3) The imposition of a penalty on a person under this section does not derogate from the liability of that person to pay the licence fee in accordance with the correct assessment.

(4) A penalty imposed under this section may be recovered as a debt due to the Crown.

Order for payment of money.

100. (1) The Court may, on the application of the Commissioner, make an order against a licensee or former licensee for payment of any amount that is payable by him under this Part.

(2) Where an order is made under subsection (1) against a body corporate and—

(a) the body corporate is dissolved;

or

(b) the amount referred to in the order is not paid within 14 days after service of a copy of the order on the body corporate,

the order may be enforced against—

(c) a director of the body corporate or former body corporate;

or

(d) a related body corporate or a director of a related body corporate.

DIVISION IV—RECORDS AND RETURNS

Records of liquor transactions.

101. (1) A licensee shall keep records of all transactions entered into by him and involving the sale or purchase of liquor.

(2) The records—

(a) must be in the prescribed form;

(b) must contain the prescribed information;

and

(c) must be made up as soon as practicable after the transactions to which they relate.

(3) A person who is required by this section to keep records must retain those records in this State for 6 years after the date on which they were compiled.

(4) A person who fails to keep or retain records as required by this section is guilty of an offence.

102. (1) A licensee who holds a retail licence or a restricted club licence shall within 2 months after the expiration of each assessment period lodge with the Commissioner a return—

- (a) stating the gross amount paid or payable for liquor purchased during the assessment period for the purposes of the licence;
- (b) stating the names and addresses of suppliers from whom the liquor was purchased and the aggregate amount paid or payable to each supplier;
- (c) where the licensee holds a hotel licence or a retail liquor merchant's licence, stating—
 - (i) the names of licensees holding club licences who purchased liquor from the licensee during the assessment period;
 - and
 - (ii) the amounts paid or payable to the licensee by each such holder of a club licence in respect of liquor so purchased;

and

(d) containing such other information as may be prescribed.

(2) A licensee who holds a wholesale licence shall within 2 months after the expiration of each assessment period lodge with the Commissioner a return—

- (a) stating the gross amount paid or payable to the licensee in respect of liquor sold during the assessment period;
- (b) stating what proportion of that gross amount was paid or payable in respect of sales to liquor merchants and what proportion was paid or payable in respect of other sales;
- (c) stating the names and addresses of suppliers from whom the licensee purchased liquor during the assessment period;
- (d) stating the names and addresses of liquor merchants to whom liquor was sold during the assessment period;

and

(e) containing such other information as may be prescribed.

(3) An auctioneer who sells liquor in pursuance of a limited licence during a financial year shall within 2 months after the expiration of that financial year lodge with the Commissioner a return—

- (a) stating the name and address of each person on whose behalf liquor was sold;
- (b) stating the name and address of each person by whom liquor was purchased at auction and the aggregate amount of that person's purchases;
- (c) stating the aggregate amount payable to each person on whose behalf liquor was auctioned;

and

(d) containing such other information as may be prescribed.

(4) A licensee who holds a general facility licence shall within 2 months after the expiration of each assessment period lodge with the Commissioner a return—

(a) containing such information as the licensee is required to include in the return under the conditions of the licence;

and

(b) containing such other information as may be prescribed.

(5) A licensee shall, if so required by the Commissioner, lodge returns with the Commissioner containing such information as the Commissioner may require—

(a) relating to transactions involving the sale or purchase of liquor;

or

(b) relating to any other matters, specified by the Commissioner, that may be relevant to the assessment or recovery of licence fees.

(6) Where returns are required under subsection (5), they shall be lodged at such times, or periodic intervals, as may be specified by the Commissioner.

(7) If a licensee—

(a) fails to lodge a return as required by or under this section;

or

(b) includes in such a return information that is false or misleading in a material particular,

the licensee is guilty of an offence.

DIVISION V—INQUIRIES INTO CERTAIN ARRANGEMENTS

Inquiries into
certain
arrangements.

103. The Court shall, on the application of the Commissioner, and may, of its own motion, conduct an inquiry to determine whether an agreement, arrangement or understanding exists between licensees or between a licensee and any other person, the object or effect of which is to reduce a licence fee payable by any licensee.

PART VI

CONDUCT OF LICENSED BUSINESS

DIVISION I—SUPERVISION AND MANAGEMENT

Supervision and
management of
licensee's
business.

104. (1) The business conducted in pursuance of a licence must be personally supervised and managed by—

(a) the licensee himself;

or

(b) a manager (being a natural person) approved by the licensing authority.

(2) A person who supervises and manages the business conducted in pursuance of a licence must not simultaneously act as supervisor or manager

of the business conducted in pursuance of any other licence (except a limited licence).

(3) If the business conducted in pursuance of a licence is not supervised and managed as required by this section for a period exceeding 14 days, the licensee is guilty of an offence.

105. (1) A person shall not assume a position of authority in a body corporate that holds a licence (other than a limited licence) without the approval of the licensing authority. Approval of corporate management and control.

(2) A person who contravenes subsection (1) is guilty of an offence.

DIVISION II—PROFIT SHARING

106. (1) Subject to this Act, if a licensee—

Prohibition of profit sharing.

- (a) enters into partnership with an unlicensed person in relation to the business carried on in pursuance of the licence;
- (b) enters into any agreement or arrangement under which an unlicensed person may participate in the proceeds of the business carried on in pursuance of the licence;
- (c) remunerates an unlicensed person by reference to the proceeds or profits obtained from the business carried on in pursuance of the licence or by reference to the quantity of liquor sold;
- (d) permits an unlicensed person (not being an approved manager of the premises) to conduct, superintend or manage the business carried on at licensed premises in pursuance of the licence;
- (e) permits an unlicensed person to hold himself out to the public as the licensee,

the licensee is guilty of an offence.

(2) The Court may, on the application of an interested person, approve an agreement or arrangement that—

(a) is likely to assist the tourist industry or is otherwise in the public interest;

and

(b) does not adversely affect the rights and reasonable expectations of persons presently in employment.

(3) Where an agreement or arrangement approved under subsection (2) provides for a body corporate to conduct, superintend or manage the business conducted in pursuance of a licence, that business must nevertheless be conducted under the personal supervision and management of a natural person approved by the licensing authority.

(4) Subsection (1) does not apply with respect to—

(a) an agreement or arrangement approved under subsection (2) or any other provision of this Act, or anything done in pursuance of any such approved agreement or arrangement;

or

(b) any contractual provision for the remuneration of an employee of a licensee (not being such a provision that confers on the

employee a right to a share of the profits of the business conducted in pursuance of the licence or provides that the remuneration of the employee is to vary by reference to the quantity of liquor sold).

(5) For the purposes of subsection (2)—

“interested person” includes an association formed to protect or further the interests of—

(a) the liquor industry or a particular section of the liquor industry;

or

(b) employees in the liquor industry or a particular section of the liquor industry.

Contracts for
provision of
services.

107. (1) Subject to subsection (2), nothing in this Division prevents a licensed club from entering into a contract for the provision of services to, or for the benefit of, the members of the club.

(2) A licensed club may only exercise its right to sell liquor in pursuance of the licence through the instrumentality of members, officers or employees of the club.

DIVISION III—SUPPLY OF LIQUOR TO LODGERS

Supply of liquor
to lodgers.

108. (1) The following conditions must be observed in relation to liquor supplied to a lodger for consumption on licensed premises in pursuance of a licence authorizing the sale of liquor to lodgers:

(a) the liquor must be consumed by the lodger personally or by a guest of the lodger in the presence of the lodger and at the lodger's expense;

(b) there must be no more than 6 adult guests of the lodger present at the time the liquor is consumed;

(c) liquor must not be supplied to, or consumed by, a minor.

(2) If any of the conditions prescribed by subsection (1) is contravened, the licensee and the lodger shall each be guilty of an offence.

(3) This section does not apply in respect of the consumption of liquor by a lodger in premises in respect of which a hotel licence or a general facility licence is in force at times when the sale of liquor to the general public is authorized by the licence.

Record of lodgers.

109. (1) A licensee who holds a hotel licence, a residential licence or a general facility licence that authorizes the sale of liquor to lodgers shall keep a record of all lodgers for whom accommodation is provided at the licensed premises.

(2) The record must be in writing and must contain—

(a) the name and address of the lodger;

and

(b) any other prescribed information.

DIVISION IV—REMOVAL AND CONSUMPTION OF LIQUOR

110. (1) Subject to this Division—

- (a) if a licensee is not authorized under his licence to sell liquor for consumption off the licensed premises, a person who takes liquor away from the licensed premises is guilty of an offence;
- (b) if a licensee is authorized under his licence to sell liquor for consumption off the licensed premises during certain authorized trading hours, a person who takes liquor away from the licensed premises more than 30 minutes after the expiration of the relevant trading hours is guilty of an offence.

Restriction on taking liquor from licensed premises.

111. (1) Subject to this Division, if at a particular time a licensee is not entitled under his licence to sell liquor to a particular person, that person is not then entitled—

- (a) to purchase or consume liquor on the licensed premises;
- (b) to be in possession of liquor on the licensed premises;
- or
- (c) to take liquor from the licensed premises,

Restriction on consumption of liquor in, and taking liquor from, licensed premises.

and, if he does so, he is guilty of an offence.

(2) A person who is on licensed premises for the purpose of purchasing or consuming liquor contrary to subsection (1) (a) is guilty of an offence.

(3) In any proceedings for an offence against subsection (2) in which it is proved that the defendant was on licensed premises at a time when he was not entitled to purchase or consume liquor, the onus shall lie upon him to prove that he was not there for the purpose of purchasing or consuming liquor in contravention of subsection (1) (a).

(4) No offence is committed by a person under this section—

(a) by reason of the fact that, within 15 minutes of the conclusion of the relevant authorized trading hours—

(i) he consumes;

or

(ii) he has in his possession on licensed premises,

liquor lawfully sold by the licensee for consumption on the licensed premises;

or

(b) by reason of the fact that, within 30 minutes of the conclusion of the relevant authorized trading hours—

(i) he has in his possession on licensed premises;

or

(ii) he takes from licensed premises,

liquor lawfully sold by the licensee for consumption off the licensed premises.

(5) No offence is committed under this section by reason of the consumption, on licensed premises by a guest of a lodger, of liquor supplied in the presence, and at the expense, of the lodger.

(6) No offence is committed under this section by reason of the consumption of liquor on licensed premises by a person who is resident on the licensed premises, being—

(a) the licensee or a member of the licensee's family;

or

(b) the manager of the licensed premises or a member of the manager's family.

(7) No offence is committed under this section by reason of the consumption of liquor on licensed premises by an employee of the licensee.

Liquor may be brought onto, and removed from, licensed premises in certain cases.

112. Where a licence authorizes—

(a) the sale of liquor for consumption on the licensed premises with or ancillary to a meal provided by the licensee;

or

(b) the consumption of liquor on the licensed premises with or ancillary to a meal provided by the licensee,

then, notwithstanding any other provision of this Act, it is lawful for a person—

(c) to bring liquor onto the licensed premises, with the consent of the licensee, intending to consume it with or ancillary to a meal provided by the licensee on the licensed premises;

and

(d) subsequently to take the unconsumed portion of the liquor from the licensed premises.

DIVISION V—ENTERTAINMENT

Entertainment on licensed premises.

113. (1) A licensee shall not use any part of the licensed premises, or any area appurtenant to the licensed premises, for the purpose of providing entertainment without the consent of the licensing authority.

(2) The licensing authority may grant its consent under subsection (1) subject to such conditions as it thinks necessary or desirable.

(3) Any conditions imposed under subsection (2) shall have effect as conditions of the licence and shall operate according to their terms whether or not entertainment is being provided in accordance with the consent of the licensing authority.

(4) A licensee who contravenes subsection (1) is guilty of an offence.

DIVISION VI—NOISE

Complaint about noise, etc., emanating from licensed premises.

114. (1) Where—

(a) any activity on, or the noise emanating from, licensed premises;

or

(b) the behaviour of persons making their way to or from licensed premises,

is unduly offensive, annoying, disturbing or inconvenient to any person who resides, works or worships in the vicinity of the licensed premises, a complaint may be lodged with the Commissioner under this section.

- (2) A complaint under this section may be lodged by—
- (a) a member of the police force;
 - (b) the council for the area in which the licensed premises are situated;
 - (c) any person claiming to be adversely affected by the subject matter of the complaint.
- (3) A complaint shall not be made under subsection (2) (c) unless—
- (a) the complainant is authorized to make the complaint by at least 10 persons who reside, work or worship in the vicinity of the licensed premises;
- or
- (b) the Commissioner is satisfied that the nature or gravity of the complaint is such that it should be admitted notwithstanding that it is not authorized in accordance with paragraph (a).
- (4) Where a complaint is lodged with the Commissioner under this section, the Commissioner shall endeavour to resolve the subject matter of the complaint by conciliation and, if the matter is settled by conciliation, the Commissioner may make an order against the licensee reflecting the terms of the settlement.
- (5) If the Commissioner fails to settle the subject matter of the complaint by conciliation, he shall refer the complaint to the Court.
- (6) Where a complaint is referred to the Court under subsection (5), the Court may, after giving the complainant, the licensee and any other person whom the Court thinks fit to hear an opportunity to be heard, make such order against the licensee as will, in the opinion of the Court, resolve the subject matter of the complaint.
- (7) If a proposal for settlement of the subject matter of the complaint is made in the course of proceedings before the Commissioner, evidence of the proposal is inadmissible in proceedings before the Court.

DIVISION VII—EMPLOYMENT OF MINORS

115. If a minor (not being a child of the licensee or of a manager of the licensed premises) is employed to sell, supply or serve liquor on licensed premises, the licensee is guilty of an offence.

Minors not to be employed to serve liquor in licensed premises.

DIVISION VIII—MISCELLANEOUS REQUIREMENTS

116. (1) A licensee (not being a licensee who holds only a limited licence) shall display, at or near the front entrance to the licensed premises, a notice in the prescribed form setting out—

Name of licensee, etc., to be displayed.

- (a) the name of the licensee;
 - (b) if the licensed premises are not managed by the licensee personally—the name of the manager;
 - (c) the class of the licence;
- and
- (d) if the licence is a restaurant licence subject to the endorsement “B.Y.O.”—an indication that the licence is subject to that endorsement.

(2) A licensee who fails to comply with this section is guilty of an offence.

Copy of licence to be kept on licensed premises.

117. (1) A licensee shall cause a copy of the licence, showing all conditions of, and endorsements on, the licence to be kept on the licensed premises at all times.

(2) The licensee, or a manager of the business conducted in pursuance of the licence shall, if so required by an inspector or a member of the police force, produce the copy of the licence for inspection.

(3) A person who fails, without reasonable excuse, to comply with subsection (1), or a requirement under subsection (2), is guilty of an offence.

PART VII

MINORS

Sale or supply of liquor to minors.

118. (1) Where liquor is sold or supplied to a minor on licensed premises, the licensee, the manager of the licensed premises, and the person by whom the liquor is sold or supplied are each guilty of an offence.

(2) It is a defence to a charge of an offence against subsection (1) for the defendant to prove—

(a) if the defendant is the person by whom the liquor was sold or supplied—that he believed on reasonable grounds that the person to whom it was supplied was of or above the age of 18 years and that person was actually of or above the age of 17 years;

or

(b) if the defendant is the licensee or the manager of the licensed premises and did not personally sell or supply the liquor—

(i) that the business was not conducted in such a way as to entice minors to the part of the premises in which the liquor was sold or supplied;

and

(ii) that he exercised proper diligence to prevent the sale or supply of liquor in contravention of subsection (1).

(3) A licensee who permits a minor to consume liquor on the licensed premises is guilty of an offence.

(4) Where a person, acting at the request of a minor, purchases liquor on behalf of the minor on licensed premises, that person and the minor are each guilty of an offence.

(5) This section does not apply to the gratuitous supply of liquor to, or the consumption of liquor by, a minor who—

(a) is a child of—

(i) the licensee;

(ii) a manager of the licensed premises;

or

(iii) an employee of the licensee;

and

(b) is resident on the licensed premises.

(6) In this section—

“licensed premises” includes areas appurtenant to the licensed premises.

119. (1) A licensee may, with the approval of the licensing authority, declare any part of the licensed premises (not being a dining room or bedroom) to be out of bounds to minors. Areas of licensed premises may be declared out of bounds to minors.

(2) Where a part of licensed premises is declared out of bounds to minors, a notice of that fact, in the prescribed form, must be erected at each entrance to that part of the licensed premises.

(3) If a minor (not being a child of the licensee or a manager of the licensed premises) enters a part of licensed premises that has been declared to be out of bounds to minors, and in respect of which notices have been erected, under this section, the licensee, an employee of the licensee, or a member of the police force may require him to leave, and, if the minor fails to do so, may exercise reasonable force to remove him.

(4) An approval may be granted under subsection (1) on such conditions as the licensing authority thinks fit.

120. (1) A licensee shall cause to be displayed in a prominent position in each part of the licensed premises to which access is permitted to minors by the licensee a notice in the prescribed form— Notice to be erected.

(a) stating—

(i) the minimum age at which liquor may be consumed in the licensed premises;

(ii) that persons suspected of being under the minimum age may be required to provide evidence of their age;

(iii) that minors are prohibited from obtaining or consuming liquor on the licensed premises;

(iv) the penalties for the unlawful obtaining or consumption of liquor on licensed premises by a minor;

and

(b) including such other information as may be prescribed.

(2) A licensee who fails to comply with this section is guilty of an offence.

121. (1) A minor who obtains or consumes liquor in prescribed premises is guilty of an offence. Offences relating to minors.

(2) A person who supplies liquor to a minor in prescribed premises is guilty of an offence.

(3) This section does not apply to the gratuitous supply of liquor to, or the obtaining or consumption of liquor by, a minor who—

(a) is a child of—

- (i) the occupier of the prescribed premises;
- (ii) the manager of the prescribed premises;
- or
- (iii) an employee of the occupier of the prescribed premises;

and

(b) is resident on the prescribed premises.

Evidence of age
may be required.

122. (1) Where an authorized person suspects on reasonable grounds that a person on prescribed premises may be under the age of 18 years, he may require that person to state his true age.

(2) Where an authorized person suspects on reasonable grounds that an age stated by a person in response to a requirement under subsection (1) is false, he may require that person to produce evidence of his age to the satisfaction of the authorized person.

(3) A person who—

(a) fails, without reasonable excuse, to comply with a requirement under this section;

or

(b) makes a false statement, or produces false evidence, in response to such a requirement,

is guilty of an offence.

(4) In this section—

“authorized person” means—

(a) the occupier of the prescribed premises or an employee of the occupier;

(b) a manager of the prescribed premises;

or

(c) a member of the police force.

Power to require
minors to leave
licensed premises.

123. (1) Where an authorized person suspects on reasonable grounds that a person on licensed premises—

(a) is under the age of 18 years;

and

(b) is on the licensed premises for the purpose of consuming liquor in contravention of this Act,

the authorized person may require that person to leave the licensed premises.

(2) If a person fails to comply forthwith with a requirement under subsection (1), an authorized person may remove him from the licensed premises, using such force as may be reasonably necessary for the purpose.

(3) If a person re-enters licensed premises within 24 hours of being required to leave, or being removed from, the licensed premises under this section—

(a) he is guilty of an offence;

and

(b) an authorized person may remove him from the licensed premises, using such force as may be reasonably necessary for the purpose.

(4) In this section—

“authorized person” means—

(a) the licensee or an employee of the licensee;

(b) a manager of the licensed premises;

or

(c) a member of the police force.

PART VIII

DISCIPLINARY ACTION

124. (1) The Court may, on a complaint lodged under this section, take disciplinary action against a licensee. Grounds for disciplinary action.

(2) The complaint must allege that proper cause for disciplinary action exists and set out the grounds on which that allegation is made.

(3) There shall be proper cause for disciplinary action against a licensee if—

(a) the business conducted in pursuance of the licence is not properly conducted in accordance with the licence;

(b) the licensed premises are not properly managed in accordance with this Act;

(c) the licensed premises have fallen into disrepair or are otherwise in an unsatisfactory condition;

(d) the licensee is an unsuitable person to hold a licence under this Act;

(e) the licensee has contravened or failed to comply with a condition of the licence;

(f) the licensee has been convicted of an indictable offence or an offence against this Act;

(g) a person is convicted of unlawful gaming in respect of events that took place on the licensed premises;

(h) the safety, health or welfare of persons who resort to the licensed premises is endangered by an act or neglect of the licensee;

(i) a contravention or failure to comply with an industrial award or agreement occurs in the course of the business conducted on the licensed premises.

(4) A complaint under this section may be lodged with the Court—

(a) by the Commissioner;

(b) in the case of a complaint founded on subsection (3) (a), (b), (d), (e), (f), (g) or (h)—by the Commissioner of Police;

(c) in the case of a complaint founded on subsection (3) (a), (b), (c), (e) or (h)—by the council in whose area the licensed premises are situated.

or

(d) in the case of a complaint founded on subsection (3) (i)—by any person aggrieved by the subject matter of the complaint.

(5) Notice of a complaint under this section and of the time and place appointed for the hearing of the complaint must be served on the licensee.

Disciplinary powers exercisable by the Court.

125. (1) Where, on a complaint under this Part, the Court is satisfied, on the balance of probabilities, that proper cause for disciplinary action against a licensee exists, it may exercise any of the following powers:

(a) it may reprimand the licensee;

(b) it may add to, or alter, the conditions of the licence;

(c) it may suspend the licence for a specified period, or until further order;

or

(d) it may revoke the licence.

(2) Where a licensee is convicted of an offence against section 118 and a complaint is lodged against him on that ground, the court shall take disciplinary action against the licensee under subsection (1).

(3) Notwithstanding any other provision of this Act, a condition may be imposed under subsection (1) (b)—

(a) limiting the kinds of liquor that may be sold in pursuance of the licence;

(b) limiting the times at which liquor, or liquor of a particular kind, may be sold in pursuance of the licence;

or

(c) otherwise limiting the authority conferred by the licence.

PART IX

ENFORCEMENT

DIVISION I—POWERS OF ENTRY, ETC.

Powers of authorized officers.

126. (1) An authorized officer may, at any reasonable time—

(a) enter licensed premises;

(b) inspect licensed premises;

(c) require any person who has in his possession books of account, or other records, relevant to a business conducted in pursuance of a licence, or to transactions involving the sale or purchase of liquor, to produce those books of account or other records for inspection;

(d) require any person who is in a position to provide information relating to the sale, purchase or supply of liquor to answer any question put to him by the authorized officer on that subject.

(2) An authorized officer may—

(a) examine books of account or other records produced under this section;

(b) make copies of, or take extracts from, any such books of account or other records;

and

(c) retain the books of account or other records for such reasonable period as may be necessary for the purposes referred to above.

(3) A person who—

(a) hinders an authorized officer in the exercise of powers conferred by this section;

(b) fails, without reasonable excuse, to comply with a requirement of an authorized officer under this section;

(c) fails, without reasonable excuse, to answer, to the best of his knowledge, information and belief, a question put to him by an authorized officer,

is guilty of an offence.

(4) Subject to subsection (5), a person may decline to answer a question put to him under this section if the answer would tend to incriminate him of an offence.

(5) Where a question put to a person under this section is relevant to the assessment of a licence fee, a person is not excused from answering the question on the ground that the answer to the question would tend to incriminate him of an offence but, where a person objects to answering a question on that ground, the answer is not admissible in evidence in criminal proceedings (except proceedings for an offence against this section).

(6) In this section—

“authorized officer” means—

(a) the Commissioner;

(b) an inspector;

or

(c) a member of the police force.

127. (1) Where a member of the police force suspects on reasonable grounds—

(a) that an offence against this Act is being committed on licensed premises;

or

(b) that there is on licensed or other premises evidence of an offence against this Act,

he may enter and search the premises, using such force as may be necessary for the purpose.

(2) A member of the police force may confiscate liquor that he suspects on reasonable grounds to have been illegally purchased or obtained.

Power to enter and search premises and confiscate liquor.

DIVISION II—POWER TO REMOVE

Power to remove persons guilty of offensive behaviour on licensed premises.

128. (1) An authorized person may remove from licensed premises, using such force as may be necessary for the purpose—

(a) any person who is behaving in an offensive manner;

or

(b) any intoxicated person.

(2) A member of the police force shall, at the request of a licensee or a manager of licensed premises, exercise the power conferred by subsection (1) to remove from licensed premises a person who is behaving in an offensive manner or is intoxicated.

(3) A person removed from licensed premises under subsection (1) who re-enters the licensed premises within 24 hours of being removed from them is guilty of an offence.

(4) A member of the police force may arrest, without warrant, any person who commits an offence against subsection (3).

(5) In this section—

“authorized person” means—

(a) the licensee or an employee of the licensee;

(b) a manager of the licensed premises;

or

(c) a member of the police force.

PART X

MISCELLANEOUS

DIVISION I—UNLAWFUL SALE OR SUPPLY OF LIQUOR

Unlawful sale or supply of liquor.

129. (1) A person who sells liquor without being licensed under this Act to do so is guilty of an offence and liable to a penalty not exceeding \$10 000.

(2) A licensee who sells liquor otherwise than in accordance with the authorization conferred by the licence is guilty of an offence.

(3) A licensee who supplies liquor to a person in or in the vicinity of his licensed premises in circumstances in which he would not be authorized to sell liquor to that person is guilty of an offence.

(4) If a condition of a licence is not complied with—

(a) the licensee is guilty of an offence;

and

(b) if the condition regulates the consumption of liquor, the licensee and the person by whom the liquor is consumed are each guilty of an offence.

(5) A person who sells liquor by auction without a limited licence authorizing him to do so is guilty of an offence.

DIVISION II—UNLAWFUL CONSUMPTION OF LIQUOR

130. (1) A person who consumes liquor on regulated premises is guilty of an offence. Consumption on regulated premises.

(2) A person who supplies liquor on or in the vicinity of regulated premises for consumption on the regulated premises is guilty of an offence.

131. (1) Where—

(a) a prescribed entertainment is held on unlicensed premises;

and

(b) the organizers of the entertainment have stipulated, in a manner calculated to come to the attention of those attending the entertainment, that no liquor is to be consumed on, or brought onto, the premises during the entertainment,

a person who consumes liquor on the premises, or within 200 metres of the premises, during a period commencing 30 minutes before the entertainment commences and ending 30 minutes after it concludes, is guilty of an offence.

(2) This section does not prevent the consumption of liquor on licensed premises.

(3) It is a defence to a charge of an offence against this section for the defendant to prove—

(a) that he had not come to the place in which he is alleged to have consumed liquor in contravention of this section for the purpose of attending or participating in the entertainment or for any other purpose connected with the entertainment;

and

(b) that he did not know and could not reasonably be expected to have known of the circumstances rendering the consumption of liquor in that place unlawful.

(4) In this section—

“prescribed entertainment” means—

(a) a dance;

(b) any other entertainment declared by regulation to be a prescribed entertainment for the purposes of this section.

132. (1) A person who, in a public place—

(a) consumes liquor;

or

(b) has possession of liquor,

in contravention of a prohibition imposed by regulation is guilty of an offence.

(2) A prohibition imposed for the purposes of subsection (1)—

(a) may relate to a specified public place or to public places of a specified kind;

(b) may be absolute or conditional;

Unlawful consumption of liquor.

Control of consumption, etc., of liquor in public places.

(c) may operate continuously or at specified times.

(3) In this section—

“public place” means a place (not being licensed premises) to which the public has access (whether or not admission is obtained by payment of money).

DIVISION III—OFFENCES AND PROCEDURE

Penalties.

133. If a person is guilty of an offence against this Act for which no penalty is specifically provided, he shall be liable—

(a) if he is, or was at the time of the offence, a licensee, a manager of licensed premises or a director of a body corporate that holds a licence—to a fine not exceeding \$5 000;

(b) in any other case—to a fine not exceeding \$1 000.

Recovery of financial advantage illegally obtained.

134. (1) If a person, by contravention of, or non-compliance with, a provision of this Act or a condition of a licence gains any financial advantage, the Court may, on the application of the Commissioner, assess the amount of that advantage and the amount so assessed may be recovered from that person as a debt due to the Crown.

(2) This section applies whether or not the contravention or non-compliance referred to in subsection (1) has been prosecuted as an offence.

Offences by bodies corporate.

135. Where a body corporate is convicted of an offence against this Act, then—

(a) each director of the body corporate;

and

(b) the manager of any premises in respect of which the offence was committed,

shall each be guilty of an offence and liable to the same penalty as is prescribed for the principal offence.

Evidentiary provision.

136. (1) In proceedings for an offence against this Act, an allegation in the complaint—

(a) that a substance referred to in the complaint was liquor;

(b) that a person named in the complaint is, or was on a specified date, a licensed person or an unlicensed person;

(c) that premises referred to in the complaint are, or were on a specified date, licensed premises,

shall be accepted as proved in the absence of proof to the contrary.

(2) In any legal proceedings, a document apparently certified by the Commissioner to be a licence, certificate or other document issued under this Act, or to be a copy of a licence, certificate or other document issued under this Act, shall be accepted as such in the absence of proof to the contrary.

Summary offences.

137. (1) The offences constituted by this Act are summary offences.

(2) Subject to subsection (3), a prosecution for an offence against this Act must be commenced within 1 year after the date on which the offence is alleged to have been committed.

(3) A prosecution for an offence relating to the recording of a transaction involving the sale or purchase of liquor may be commenced within 1 year after the expiration of the assessment period in which the offence is alleged to have been committed.

DIVISION IV—GENERAL

138. (1) A notice or other document may be served on a licensee— Service.

(a) personally;

(b) by leaving it at the licensed premises, in an envelope addressed to the licensee, with a person apparently employed or engaged in the business conducted in pursuance of the licence;

or

(c) by sending it by post to the licensee addressed to him at the licensed premises.

(2) A notice or other document sent by post to a licensee under subsection (1) (a) shall be conclusively presumed to have been served on the licensee at the time when it would, in the ordinary course of post, reach the address to which it was posted.

139. (1) An officer engaged in the administration or enforcement of this Act incurs no liability for anything done by him in good faith and in the exercise or purported exercise of his official powers or functions. Immunity from liability of officers.

(2) Any liability that would, but for subsection (1), attach to an officer, attaches instead to the Crown.

140. In the case of conflict between the provisions of this Act and those of any other Act or law dealing with the sale, supply or consumption of liquor, the latter prevail. Interaction between this Act and other laws governing sale of liquor.

141. (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act. Regulations.

(2) A regulation may be of general or limited application and may vary in operation according to factors stated in the regulation.

(3) A regulation may provide that contravention of or non-compliance with the regulation constitutes a summary offence punishable—

(a) if the convicted person is, or was at the time of the offence, a licensee, a manager of licensed premises or a director of a body corporate that holds a licence—by a fine not exceeding \$5 000;

(b) in any other case—by a fine not exceeding \$500.

SCHEDULE

TRANSITIONAL PROVISIONS

Conversion of full publican's licence to hotel licence.

1. (1) A full publican's licence that was in force under the repealed Act immediately before the appointed day shall, on that day, become a hotel licence under this Act.

(2) Where the licensee was, under the provisions of the repealed Act, exempted from the obligation to provide accommodation, that exemption shall, subject to the provisions of this Act, continue in force as a corresponding exemption under the provisions of this Act.

(3) The conditions imposed under the repealed Act in respect of the licence relating to the Inglewood Inn shall lapse as from the appointed day.

(4) Where, immediately before the appointed day, the holder of a full publican's licence held a late night permit under section 66b of the repealed Act in respect of the licensed premises, the late night permit continues in operation for the purposes of this Act and its conditions become conditions of the hotel licence but—

(a) no such condition—

(i) imposing on the licensee an obligation to provide food or relating to any matter incidental to such an obligation;

or

(ii) requiring the holder of the licence to have his premises open for business at or between specified times,

shall have any further force or effect;

and

(b) unless and until the licensing authority otherwise determines, the licence shall be deemed to be subject to a condition that the trading hours authorized under the permit shall terminate at 3 a.m.

(5) If, at the expiration of 2 years from the appointed day, licensed premises in respect of which a late night permit continues in operation under this section are not of an exceptionally high standard, the Court may, on the application of the Commissioner, revoke the late night permit.

(6) This clause does not apply to a full publican's licence in respect of premises declared under the repealed Act to be a prescribed tourist hotel or in respect of the Rising Sun Inn.

Conversion of limited publican's licence to residential licence.

2. A limited publican's licence that was in force under the repealed Act immediately before the appointed day shall, on that day, become a residential licence under this Act.

Restaurant licence.

3. (1) A restaurant licence (not being a limited restaurant licence) that was in force under the repealed Act immediately before the appointed day shall, on that day—

(a) if the holder of the licence held a late night permit under section 66b of the repealed Act—become an entertainment venue licence under this Act;

(b) in any other case—become a restaurant licence under this Act.

(2) Where an entertainment venue licence is converted from a restaurant licence under subclause (1) (a), the condition of that licence under which the licensed premises are required to be premises of an exceptionally high standard is inoperative for a period of 2 years from the appointed day, but if after the expiration of that period the premises are not of an exceptionally high standard, the Court shall, on the application of the Commissioner, convert the licence into a restaurant licence.

(3) The conditions of a late night permit held by the holder of a restaurant licence that is converted into an entertainment venue licence under subclause (1) (a) become conditions of the entertainment venue licence but—

(a) no such condition—

(i) imposing on the licensee an obligation to provide food or relating to any matter incidental to such an obligation;

or

(ii) requiring the holder of the licence to have his premises open for business at or between specified times,

shall have any further force or effect;

and

(b) unless and until the licensing authority otherwise determines, the licence shall be deemed to be subject to a condition that liquor shall not be sold (otherwise than for consumption with or ancillary to a meal) between 3 a.m. and 9 p.m. on any day.

(4) A limited restaurant licence that was in force under the repealed Act immediately before the appointed day shall, on that day, become a restaurant licence under this Act subject to the endorsement "B.Y.O."

4. (1) A wine licence that was in force under the repealed Act immediately before the appointed day shall, on that day, become a general facility licence conferring the same rights to trade in liquor as the wine licence and the general facility licence shall, subject to this Act, remain in force (without expansion of trading rights) until a licence takes effect under subclause (8) in respect of the licensed premises, but if no such licence takes effect within 2 years of the appointed day, it shall expire at the expiration of that period. Conversion of wine licence.

(2) A person who held a wine licence under the repealed Act immediately before the appointed day may, within 6 months after that day, apply to the Court for any one of the following licences:

- (a) a restaurant licence;
- (b) an entertainment venue licence;
- or
- (c) a general facility licence.

(3) A person who applies for a licence under subclause (2) is, subject to subclauses (4) and (5), entitled to be granted a licence of the class for which the application is made.

(4) On an application under subclause (2) for a licence of a particular class, the Court may, if it thinks fit, grant to the applicant a licence of a different class, being a licence of a class for which an application could have been made under that subclause.

(5) An entertainment venue licence shall not be granted under this clause except in relation to premises of an exceptionally high standard.

(6) Before granting a general facility licence under this clause, the Court shall take into account the probable effect (if any) of the grant of such a licence on the trade conducted from other licensed premises in the relevant locality.

(7) A general facility licence granted under this clause shall confer the same rights to trade in liquor as the wine licence unless the applicant proves that an extension of trading rights is necessary to provide for the needs of the public.

(8) A licence granted on an application under subclause (2) shall take effect on a date fixed by the Court.

5. (1) A cabaret licence that was in force under the repealed Act immediately before the appointed day shall, on that day, become an entertainment venue licence under this Act. Conversion of cabaret licence to entertainment venue licence.

(2) Where an entertainment venue licence is converted from a cabaret licence under subclause (1), the condition of the licence under which the licensed premises are required to be premises of an exceptionally high standard is inoperative for a period of 2 years from the appointed day, but if after the expiration of that period the premises are not of an exceptionally high standard, the Court shall, on the application of the Commissioner, convert the licence into a restaurant licence.

6. (1) A vigneron's licence that was in force under the repealed Act immediately before the appointed day shall, on that day, become a producer's licence under this Act. Conversion of vigneron's licence to producer's licence.

(2) Subject to subclause (5), the premises—

- (a) in which the licensee makes wine or brandy;
- and
- (b) in which the licensee was authorized by the repealed Act to sell wine or brandy,

shall, for 12 months after the appointed day, constitute the licensed premises (notwithstanding that, in consequence of this subclause, there may be two or more licences in force in respect of the same licensed premises over that period).

(3) Within 6 months from the appointed day, the licensee must submit for the approval of the licensing authority plans (in the prescribed form) of premises that are to constitute the licensed premises.

(4) The licensing authority shall, if satisfied that the premises are used by the licensee for the production of wine or brandy or are adjacent to such premises, approve those premises.

(5) Upon approval of premises by the licensing authority, those premises shall become the licensed premises from which the licensee is authorized by this Act to sell liquor.

(6) An endorsement on a vigneron's licence under section 26 (1d) of the repealed Act that was in force immediately before the appointed day shall, on that day—

- (a) in the case of an endorsement under section 26 (1d) (a)—become a condition under section 41 (1) (b) of this Act;
- (b) in the case of a condition under section 26 (1d) (b)—become a condition under section 41 (1) (c) of this Act.

(7) Where—

- (a) before the appointed day a person purchased, or assumed the conduct of, a business conducted in pursuance of a vigneron's licence;

and

(b) that person holds a producer's licence that is converted from a vigneron's licence under this clause.

that person may sell liquor that was, at the time he purchased or assumed the conduct of the business, part of the trading stock of the business as if it had been produced by him.

Conversion of
wholesale
storekeeper's
licence to
wholesale liquor
merchant's
licence.

7. (1) A wholesale storekeeper's licence that was in force under the repealed Act immediately before the appointed day shall, on that day, become a wholesale liquor merchant's licence.

(2) A wholesale liquor merchant's licence that results from the conversion of a wholesale storekeeper's licence under subclause (1) is, until 30 June 1987, subject to the following condition instead of the condition stipulated by section 40 (1) (b):

The proportion of the licensee's aggregate turnover derived from the sale of liquor to liquor merchants in each of the two assessment periods ending on 30 June 1986 and 30 June 1987 must be not less than the corresponding proportion of aggregate turnover derived from the sale of liquor to liquor merchants in the assessment period ending on 30 June 1985.

Conversion of
brewer's
Australian ale
licence to
wholesale liquor
merchant's
licence.

8. A brewer's Australian ale licence that was in force under the repealed Act immediately before the appointed day shall, on that day, become a wholesale liquor merchant's licence under this Act.

Conversion of
distiller's
storekeeper's
licence.

9. (1) Except as provided in subclause (7), a distiller's storekeeper's licence that was in force under the repealed Act immediately before the appointed day shall, on that day, become a general facility licence conferring the same rights to trade in liquor as the distiller's storekeeper's licence and the general facility licence shall, subject to this Act, remain in force (without expansion of trading rights) until a licence takes effect under subclause (6) in respect of the licensed premises, but if no such licence takes effect within 2 years of the appointed day, it shall expire at the expiration of that period.

(2) A person who held a distiller's storekeeper's licence under the repealed Act immediately before the appointed day may, within 6 months after the appointed day, apply to the Court for either or both of the following licences:

(a) a wholesale liquor merchant's licence;

(b) a producer's licence.

(3) A person who applies for a licence or licences under subclause (2) is, subject to subclause (4), entitled to be granted the licence or licences.

(4) A producer's licence shall not be granted on an application under subclause (2) unless the Court is satisfied that the applicant produces liquor in the premises for which the licence is sought or in premises adjacent to those premises.

(5) Where both a wholesale liquor merchant's licence and a producer's licence are granted on an application under subclause (2), those licences must be granted in respect of different premises or different parts of the same premises.

(6) A licence granted on an application under subclause (2) shall take effect on a date fixed by the Court.

(7) A distiller's storekeeper's licence in respect of which an endorsement under section 25 (4) (a) of the repealed Act was in force immediately before the appointed day shall, on that day, become a general facility licence conferring the same rights to trade in liquor as the distiller's storekeeper's licence.

Conversion of
twenty litre
licence.

10. (1) A 20 litre licence that was in force under the repealed Act immediately before the appointed day shall, on that day, become a general facility licence conferring the same rights to trade in liquor as the 20 litre licence and that licence shall remain in force (without expansion of trading rights)—

(a) for 6 months after the appointed day;

and

(b) if an application is made under subclause (2) within that period of 6 months—until that application is finally determined and thereafter for such further period as may be fixed by the Court in determining that application,

(notwithstanding that there may be no licensed premises to which the general facility licence can apply).

(2) A person who held a 20 litre licence under the repealed Act immediately before the appointed day may, within 6 months after the appointed day, apply to the Court for a producer's licence or a wholesale liquor merchant's licence.

(3) An application under subclause (2) must be accompanied by plans (in the prescribed form) of the proposed licensed premises.

(4) A person who applies for a licence under subclause (2) is, subject to this clause, entitled to be granted that licence.

(5) A licence shall not be granted on an application under subclause (2) unless the Court is satisfied that the proposed licensed premises are appropriate to be licensed.

(6) A producer's licence shall not be granted on an application under subclause (2) unless liquor is produced on the proposed licensed premises or on premises adjacent to those premises.

11. (1) A retail storekeeper's licence that was in force under the repealed Act immediately before the appointed day shall, on that day, become a retail liquor merchant's licence.

Conversion of retail storekeeper's licence to retail liquor merchant's licence.

(2) An exemption in force under section 135 of the repealed Act immediately before the commencement of this Act shall, subject to this Act, continue in force as an exemption under section 38 (5) of this Act.

(3) Where a retail storekeeper's licence is converted into a retail liquor merchant's licence under this clause—

(a) trading hours fixed under section 22 (1) of the repealed Act continue in operation subject to this Act as if fixed under section 37 (2) of this Act;

and

(b) a day fixed under section 22 (6) (b) of the repealed Act as a day on which late trading is permitted continues, subject to this Act, as a day on which late trading is permitted as if fixed under section 37 (3) (b) of this Act.

12. (1) A club licence that was in force under the repealed Act immediately before the appointed day shall, on that day, become an unrestricted club licence under this Act.

Club licenses and permits.

(2) Any condition of a club licence to which subclause (1) applies restricting the sources from which the club may purchase liquor lapses as from the appointed day.

(3) A permit under section 67 of the repealed Act that was in force immediately before the appointed day shall, on that day, become a restricted club licence under this Act.

(4) Where a club licence to which this clause applies is not held by an association incorporated under the Associations Incorporation Act, 1956, then, subject to a determination to the contrary by the Commissioner, the following provisions apply:

(a) the club must become incorporated under the Associations Incorporation Act, 1956;

(b) the Commissioner may, on the application of the club and without formality, vest the licence in the incorporated association;

and

(c) if the licence is not so vested before 1 July 1986, the licence shall lapse.

(5) In calculating a licence fee for a licence to which subclause (1) applies in respect of a licence period commencing before 1 January 1986, an amount expended in the retail purchase of liquor shall be disregarded.

13. (1) The following licences, namely:

(a) the licence held under section 15 of the repealed Act by Flinders Ranges Tourist Services Pty. Ltd.;

(b) the licence held under section 16 of the repealed Act by the Electricity of South Australia in respect of Leigh Creek South;

(c) any licence held under section 16b of the repealed Act by a prescribed authority as defined in that section;

(d) the licence held under section 16c of the repealed Act by the Adelaide Festival Centre Trust in respect of the Adelaide Festival Centre;

(e) the licence held under section 16d of the repealed Act by a nominee of the British Sailors' Society (at home and abroad) Incorporated,

(f) any packet licence under section 28 of the repealed Act;

(g) a theatre licence under section 33 of the repealed Act;

(h) a tourist facility licence under section 33a of the repealed Act;

(i) a reception house permit under section 66a of the repealed Act;

(j) a full publican's licence in respect of premises declared under section 192a of the repealed Act to be a prescribed tourist hotel,

(k) the full publican's licence in respect of the Rising Sun Inn,

shall, on the appointed day, become general facility licences under this Act.

(2) The licence fees, or the basis for assessing licence fees, in respect of the licences referred to in subclause (1) shall be determined by regulation in relation to each such licence or class of licences.

(3) Subject to this Act, the rights conferred by the licences referred to in subclause (1), and the conditions to which they are subject, shall *mutatis mutandis* remain the same as under the repealed Act.

(4) A general facility licence converted from a reception house permit under subclause (1) (i)—

Conversion of certain licences to general facility licences.

(a) is subject to a condition that liquor may be sold or supplied in pursuance of the licence only at a wedding reception, banquet or other similar gathering and not to the general public;

but

(b) is not subject to the conditions referred to in section 66a (2) (a) and (b) of the repealed Act.

(5) A statutory requirement to provide meals or accommodation that existed under the repealed Act and affected any of the licences referred to in subclause (1) continues in operation, subject to this Act, as a condition of the licence as if it had been imposed in pursuance of section 50 of this Act.

Conversion of booth certificates and function permits to limited licences.

14. A certificate under section 65 of the repealed Act, or a permit under section 66 of the repealed Act, that was in force immediately before the appointed day becomes, on that day, a limited licence under this Act conferring the same rights to trade in liquor as the certificate or the permit.

Entertainment permits.

15. A permit in force under section 131 of the repealed Act immediately before the appointed day continues in operation until the date on which it was due to expire as a consent under section 113 of this Act.

Conditions to continue in force.

16. Subject to this schedule, terms and conditions fixed or imposed by the Licensing Court of South Australia in respect of licences, certificates, permits and authorities that are converted into licences under this Act continue in force subject to this Act as if they had been fixed or imposed under this Act.

Council or other official approval not required in respect of grant of licence under this schedule.

17. (1) No approval of a council or other authority is required in respect of the grant of a licence under this schedule.

(2) Before the licensing authority grants a licence under clause 4, 6 or 10 of this schedule, it shall allow the relevant council a reasonable opportunity to make submissions on the matter and shall take into account any submissions so made.

Transitional provisions with regard to licence fees.

18. (1) The Governor may, by regulation, make transitional provisions—

(a) fixing, or providing for the assessment and reassessment of, licence fees in respect of licences of any class that come into operation by virtue of this schedule;

(b) providing for the payment of such licence fees.

(2) Such a regulation shall have effect notwithstanding that it is inconsistent with a provision of this Act.

Proceedings part heard under the repealed Act.

19. (1) If, on the appointed day, an application for a licence had been made under the repealed Act but had not been determined, the proceedings based on that application may be continued and completed under this Act as if the application were an application for a licence of the corresponding class under this Act.

(2) Subject to subclause (3), a decision under section 42 (1) (b) of the repealed Act that a licence will be granted in respect of premises shall, on the appointed day, become a certificate under section 64 of this Act in respect of a licence of the corresponding class under this Act.

(3) Where, immediately before the appointed day—

(a) a decision was in force under section 42 (1) (b) of the repealed Act to the effect that a full publican's licence would be granted in respect of premises referred to in the decision;

(b) those premises were declared under section 192a of the repealed Act to constitute a prescribed tourist hotel,

a general facility licence shall, on application to the Court by the person in whose favour the decision was made, be granted in respect of the premises.

(4) A licence under the repealed Act corresponds to a particular class of licence under this Act if the licence would, if in force immediately before the appointed day, have been converted into a licence of that class by this schedule.

(5) If, on the appointed day, an application (not being an application for a licence) had been made under a provision of the repealed Act but had not been determined, the proceedings based on the application may be continued and completed as if the application were an application under the corresponding provision of this Act.

Proceedings for reassessment of licence fees.

20. (1) The provisions of the repealed Act relating to the reassessment of licence fees under that Act and the recovery of fees in accordance with the reassessment continue to apply, notwithstanding the repeal of that Act, in respect of licence fees under that Act.

(2) The provisions referred to in subclause (1) shall be read subject to the following modifications:

(a) a reference to the Court shall be read as a reference to the Court as constituted under this Act;

(b) a reference to the clerk of the Court shall be read as a reference to the Commissioner;

and

(c) a reference to the Superintendent of Licensed Premises shall be read as a reference to the Commissioner.

21. Where, but for this clause, a person would, in consequence of the provisions of this schedule, become the holder of a licence contrary to section 51 (3) of this Act, that person is exempted from that provision for a period of 6 months from the appointed day. Temporary exemption from section 51 (3).
22. A licensee is, for a period of 2 months from the appointed day, exempt from the requirements of sections 116, 117 and 120 of this Act provided that, during that period, the licensee complies with the corresponding requirements of the repealed Act. Requirements as to notices and signs.
23. (1) A delineation or definition of licensed premises made for the purposes of the repealed Act continues in operation, subject to this Act, as a delimitation of the licensed premises. Continuation of previous definition, etc., of licensed premises.
- (2) An area fixed or declared under the repealed Act as an area in which liquor may be sold or supplied with or ancillary to *bona fide* meals continues, subject to this Act, as a designated dining area for the purposes of this Act.
- (3) At any time within 12 months after the appointed day, the Commissioner may apply to the Court for redefinition of licensed premises, or a designated dining area, to which this clause applies in order to bring the licensed premises or the designated dining area into conformity with the requirements of this Act.

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

D. B. DUNSTAN, Governor