

graph (b) of subsection (1) of section nine, or any equipment thereof, other than nets and other engines, is liable to forfeiture under this Division, but any such nets and other engines are so liable to forfeiture notwithstanding that they belong to, are found on, or are used in connection with, such a boat.

“(2) For the purposes of this section, ‘equipment’, when used in relation to a boat, means any other boat connected or used therewith, and the tackle, rigging, furniture, stores, appurtenances, and other apparatus thereto belonging or being thereon.”.

LICENSING (FEES).

No. 42 of 1965.

AN ACT to amend the *Licensing Act* 1932 with respect to the fees to be paid for licences and other authorities under that Act to sell or supply liquor, to make provision with respect to matters incidental thereto, and to repeal the *Liquor Tax Act* 1932. [3 December 1965.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Licensing (Fees) Act* 1965. Short title and citation.

(2) The *Licensing Act* 1932, as subsequently amended, is in this Act referred to as the Principal Act.

Interpre-
tation.

2 Section three of the Principal Act is amended—

(a) by inserting in subsection (1) thereof, after the definition of “bar”, the following definition:—

“‘brewer’ means a person who makes, for the purposes of sale, beer, ale, stout, porter, or any other fermented malt liquor made from sugar or other saccharine matter;”;

(b) by inserting in that subsection, after the definition of “owner”, the following definition:—

“‘percentage fee’ means a fee calculated on a percentage basis that is payable by virtue of the provisions of—

- (a) paragraph (e) of subsection (1) of section twenty-four;
- (b) subsections (1A) and (1B) of that section; or
- (c) subsections (2) and (3) of section seventy-nine;”;

(c) by adding at the end thereof the following subsections:—

“(3) The gross amount for the purposes of the specified provisions (as defined in subsection (4) of this section) does not include a charge paid or payable in respect of any liquor—

- (a) in respect of freight from a port or place in this State to any other port or place in this State; or
- (b) in respect of any special packing of the liquor rendered necessary by any circumstance connected with the delivery thereof, where the charge is in addition to the price usually charged for the liquor when not so packed.

“(4) In subsection (3) of this section, ‘the specified provisions’ means the provisions of—

- (a) subsections (1A) and (1B) of section twenty-four;
- (b) paragraph (c) of subsection (2A) of section twenty-four;
- (c) paragraph (a) of subsection (2B) of section twenty-four;
- (d) paragraph (a) of subsection (2C) of section twenty-four;
- (e) subsections (2E) and (2J) of section twenty-four;
- (f) subsection (5) of section twenty-four;
- (g) paragraph (a) of subsection (2) of section twenty-four A;
- (h) paragraph (b) of subsection (6) of section twenty-four A;

- (i) paragraph (a) of subsection (5) of section thirty-five;
- (j) paragraph (a) of subsection (6) of section thirty-five;
- (k) sub-paragraph (i) of paragraph (a) of subsection (2A) of section seventy-one; and
- (l) subsections (2) and (3) of section seventy-nine."

3 Section twenty-four of the Principal Act is amended— Fees payable
in respect
of licences.

- (a) by omitting from subsection (1) thereof the words "in respect of" (occurring after the words "fees payable") and substituting therefor the word "for";
- (b) by omitting from paragraph (e) of that subsection all the words after the words "subsequent year", to the end of that paragraph and substituting therefor the words "the prescribed percentage fee, whichever is the greater";
- (c) by inserting after that subsection the following subsections:—

"(1A) In addition to the fees respectively prescribed in paragraphs (a), (b), (c), and (d) of subsection (1) of this section for the licences therein mentioned there is payable for each of those licences a fee comprising an amount equal to the sum of six per cent of the gross amount (including any duties thereon) paid or payable for all liquor which, during the twelve months ended on the thirty-first day of December preceding the date of the application for the grant of the licence—

- (a) was purchased for the premises, or (in the case of a packet licence) the vessel, in respect of which the licence is sought; or
- (b) in the case of a cider licence, was sold or disposed of by the applicant to persons other than persons authorized to sell liquor under this Act.

"(1B) In addition to the fee prescribed in paragraph (g) of subsection (1) of this section, there is payable for a provisional certificate in respect of a hotel or public-house a fee comprising an amount equal to six per cent of the amount estimated by the court pursuant to paragraph (b) of subsection (6) of section twenty-four A as the gross amount that would, in the opinion of the court, have been payable for or in respect of liquor purchased by the holder of the certificate if the certificate had been in force during the whole of the twelve months ended on the thirty-first day of December preceding the date of the application for the certificate." ;

(d) by inserting after subsection (2) thereof the following subsections:—

“(2A) The holder of—

(a) any licence under this Act (other than a packet licence, a cider licence, a wine licence, a wholesale licence, or an importer’s licence); or

(b) any other authority granted under this Act for the sale of liquor by the grantee,

shall, on or before the first day of February in each year, furnish to the Registrar a return in the prescribed form setting forth as nearly as is practicable with regard to the period of twelve months ended on the thirty-first day of December preceding the date of the return (or, if liquor has not been purchased during the whole of that period, with regard to any shorter period preceding that thirty-first day of December during which liquor was purchased)—

(c) the gross amount (including any duties thereon) paid or payable for liquor purchased for the premises in respect of which he is the holder of the licence or authority, or any premises or place at which he is, or at any time during that period was, authorized under this Act to sell liquor; and

(d) the names and addresses of the persons from whom the liquor was purchased.

“(2B) The holder of a packet licence shall, on or before the first day of February in each year, furnish to the Registrar a return in the prescribed form setting forth as nearly as is practicable with regard to the period of twelve months ended on the thirty-first day of December preceding the date of the return (or, if liquor has not been purchased during the whole of that period, with regard to any shorter period preceding that thirty-first day of December during which liquor was purchased)—

(a) the gross amount (including any duties thereon) paid and payable for liquor purchased for the vessel in respect of which he is the holder of the licence, and the gross amount paid or payable therefor (including any duties thereon); and

(b) the names and addresses of the persons from whom the liquor was purchased.

“(2C) The holder of a cider licence shall, on or before the first day of February in each year, furnish to the Registrar a return in the pre-

scribed form setting forth as nearly as is practicable with regard to the period of twelve months ended on the thirty-first day of December preceding the date of the return (or, if liquor has not been sold or supplied by him under the authority of the licence during the whole of that period, with regard to any shorter period preceding that thirty-first day of December during which liquor was sold or supplied by him)—

- (a) the gross amount paid or payable for liquor sold or supplied by him under the authority of the licence to persons other than persons authorized to sell liquor under this Act; and
- (b) the names and addresses of the persons to whom the liquor was so sold or supplied.

“(2D) The holder of—

- (a) any licence under this Act (other than a wholesale licence, an importer’s licence, or a wine licence); or
- (b) any other authority granted under this Act for the sale of liquor by the grantee,

shall, on or before the thirtieth days of January, April, July, and October respectively in each year, furnish the Treasurer with a return in the prescribed form setting forth particulars of all liquor—

- (c) in the case of the holder of a hotel public-house, or railway refreshment room licence, purchased for any premises in respect of which he was the holder of a licence, or any premises or place at which he was authorized under this Act to sell liquor;
- (d) in the case of the holder of a packet licence, purchased for any vessel in respect of which he was the holder of a licence; or
- (e) in the case of the holder of a cider licence, sold or supplied by him to persons other than persons authorized to sell liquor under this Act,

at any time during the period of three months immediately preceding the month in which the return is required to be lodged.

“(2E) A return under subsection (2D) of this section shall set forth the names and addresses

of every person from whom any liquor was purchased, and the gross amount (including any duties thereon) paid or payable therefor.

“(2F) If the holder of a licence who is required to furnish a return under subsection (2D) of this section transfers his licence in respect of any premises to any other person, or from any cause, other than death, ceases to carry on business in or upon those premises, he shall, within seven days after so ceasing to carry on business, furnish the Treasurer in respect of the period between the beginning of the then current quarter and the time at which he so ceased to carry on business with a like return to that prescribed by that subsection.

“(2G) If the holder of a licence who is required to furnish a return under subsection (2D) of this section dies, the person to whom a permission to continue to sell liquor under that licence is granted shall, within seven days after receiving the permission, furnish the Treasurer, in respect of the period between the beginning of the quarter in which the holder of the licence died and the date of his death, with a like return to that prescribed by that subsection, and also, if no return has been furnished by the deceased holder in respect of the immediately preceding quarter, a like return in respect of that quarter.

“(2H) The amount of any percentage fee paid in respect of a period preceding the death of the holder of a licence by a person lodging a return as provided in subsection (2G) of this section is recoverable by that person from the estate of the deceased holder.

“(2J) A person who is a brewer or the holder of a wholesale licence or importer’s licence shall, on or before the thirtieth days of January, April, July, and October respectively in each year, furnish to the Treasurer a return in the prescribed form setting forth—

- (a) the name and address of every holder of a licence under this Act and every registered club to whom or to which the brewer or, as the case may be, the holder of the wholesale licence or importer’s licence sold or supplied liquor during the period of three months immediately preceding the month in which the return is required to be furnished; and
- (b) the gross amount paid or payable in respect of the liquor so sold or supplied (including any duties thereon).”;

(e) by omitting subsection (3) thereof and substituting therefor the following subsection:—

“(3) The holder of a wholesale licence shall—

(a) furnish to the Registrar annually, as prescribed, a return in the prescribed form of all liquor sold or supplied by him, during the period in respect of which the return is made, to persons other than persons authorized to sell liquor under this Act; and

(b) as and when prescribed, furnish to the Registrar a return showing—

(i) all liquor purchased by him during the twelve months ended on the preceding thirty-first day of December; and

(ii) all stocks of liquor of each kind held by him at the prescribed date in each year.”; and

(f) by omitting subsections (5), (6), (7), and (8) thereof and substituting therefor the following subsection:—

“(5) In paragraph (e) of subsection (1) of this section, ‘the prescribed percentage fee’ means a fee equal to the sum of six per cent of the gross amount (including any duties thereon) paid or payable for all liquor which, during the twelve months ended on the thirty-first day of December immediately preceding the year in respect of which the licence is granted, was sold or supplied by the holder to persons other than persons authorized to sell liquor under this Act.”.

4 After section twenty-four of the Principal Act the following sections are inserted:—

“24A—(1) Subject to this section, the court shall fix finally and conclusively the amount of any percentage fee payable under this Act.

Court to fix
percentage
fee.
Cf. No. 6293
(Vic.), s. 20.

“(2) Subject to this section, the court shall fix such sum as it thinks reasonable in any case where—

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

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

“(3) When the court grants a licence, the court shall cause to be inserted in the licence the amount (if any) of the percentage fee in respect of the licence, and, if the court has

authorized the payment of the fee in instalments shall also cause to be inserted in the licence the dates on which each instalment becomes payable.

“(4) For the purpose of enabling the court to fix percentage fees payable under this Act—

- (a) the Treasurer may, by order in writing, require any person who is a brewer or the holder of a wholesale licence or importer’s licence to state in such form as may be prescribed the name and address of every person authorized to sell liquor under this Act and of every registered club to whom or to which the brewer or the holder of the licence, as the case may be, sold or supplied liquor during the twelve months ended on the preceding thirty-first day of December; and
- (b) the Treasurer or an officer of the Treasury authorized by him in that behalf shall, as and when necessary, furnish the court with such particulars and information relating to the purchase, or sale or supply, of liquor, by persons liable to pay percentage fees under this Act, as may be available from the records kept in the Treasury.

“(5) A statement under paragraph (a) of subsection (4) of this section shall be furnished to the Registrar and shall show the quantity and nature of liquor sold or supplied in each case by the person furnishing the return during the period to which the return relates and the price paid or payable therefor.

“(6) In fixing the amount of any percentage fee payable under this Act, the court—

- (a) shall have regard to—
 - (i) the particulars and information contained in any return furnished to the Registrar pursuant to this Act in relation to purchases of liquor for, or (as the case may be) the sale and supply of liquor from, the premises or vessel in respect of which the licence or provisional certificate for which the fee is payable is sought and in any statutory declaration by which the application therefor is accompanied;
 - (ii) any particulars and information furnished to the court pursuant to paragraph (b) of subsection (4) of this section; and
 - (iii) such other matters as the court may consider relevant; and
- (b) may, in the case of an application for a new licence, fix the amount of the fee on an estimate by the court of the gross amount that would, in the opinion of the court, have been payable for

or in respect of liquor purchased, or (as the case may be) sold or supplied, by the holder of the licence if the licence had been in force during the whole of the twelve months ended on the thirty-first day of December preceding the date of the application therefor.

“(7) Where in a case to which paragraph (b) of subsection (6) of this section relates the court authorizes the payment of the percentage fee by instalments, the court shall fix the amount of the first instalment at a sum that bears the same proportion to the total amount of the instalments payable during the twelve months immediately following the date of the granting of the licence as the number of days from and including that date to the first quarter day following that date bears to three hundred and sixty-five.

“(8) In this section—

‘new licence’ means a licence or a provisional certificate in respect of any premises or vessel in respect of which a licence has not been in force within the twelve months immediately preceding the date of the lodging of the application for the licence or certificate;

‘quarter day’ means the last day of the month of March, or of the month of June, or of the month of September, or of the month of December in any year.

“24B All percentage fees payable under this Act shall be paid to the Treasurer to the credit of the Consolidated Revenue by the persons by whom they are respectively payable.

Provision for the payment of percentage fees by instalments.

“24C—(1) The court may, on the application of a person applying for the grant of a licence or certificate for which a percentage fee is payable, authorize the payment of that fee by instalments .

Payment of percentage fees.

“(2) Where the court, pursuant to subsection (1) of this section, authorizes the payment of a percentage fee by instalments—

(a) the holder of the licence or certificate for which the fee is payable shall, subject to paragraph (c) of this subsection, pay that fee, by equal quarterly instalments, on or before the last days of the months of March, June, September, and December in each year;

(b) the date for the payment of any such instalment may, in the discretion of the Treasurer in any particular case, be extended to such later date as the Treasurer may determine (in this paragraph referred to as ‘the extended date’) and, in such a case, the payment of the instalment on the extended date shall, for all the purposes of this Act, be deemed to be payment on the date prescribed by paragraph (a) of this subsection;

- (c) there shall be deducted from each instalment payable by a person pursuant to this section an amount equal to the same proportion of the amount of the fee (not being a percentage fee) payable by him under subsection (1) of section twenty-four in respect of his licence as the period in respect of which the instalment is payable bears to a full year, and where the amount of the deduction equals or exceeds the amount of the instalments otherwise payable, the Treasurer shall notify that person that no instalment is payable in respect of that period; and
- (d) the Treasurer shall cause a copy of each notification under paragraph (c) of this subsection to be lodged with the Registrar.”.

Reduction of
fees in
certain cases.

5 Section twenty-five of the Principal Act is amended—

- (a) by omitting from subsection (1) thereof the words “the fee” and substituting therefor the words “any fee (not being a percentage fee)”;
- (b) by inserting in subsection (4) thereof, after the word “fees”, the words “(not being percentage fees)”, and by omitting from that subsection the words “annual fee” and substituting therefor the words “fee (other than a percentage fee)”;
- (c) by inserting in subsection (5) thereof, after the word “fee”, the words “(not being a percentage fee)”.

New
licences.

6 Section thirty-three of the Principal Act is amended by adding at the end thereof the following subsection:—

“(5) The applicant for a provisional certificate shall, at the time of the application, furnish to the court all particulars available to enable the court to estimate the probable extent of the annual purchases of liquor for the house to which the application relates.”.

Mode of
application.

7 Section thirty-five of the Principal Act is amended by adding at the end thereof the following subsections:—

“(5) An application under this section (other than an application for a transfer of any of the said licences or for a permission in respect thereof or for a provisional certificate) shall be accompanied by a statutory declaration made by the applicant or by any other person who, at any time during the twelve months ended on the thirty-first day of December preceding the date of the application, was the holder of a licence in respect of the premises or vessel to which the application relates and setting forth as nearly as is practicable with regard to the period of twelve months ending on that thirty-first day of December (or, if liquor has not been

purchased during the whole of that period, with regard to any shorter period preceding that thirty-first day of December during which liquor was purchased)—

- (a) the gross amount (including any duties thereon) paid or payable by or on behalf of the holder of the licence for liquor purchased for the premises or vessel to which the application relates; and
- (b) the names and addresses of the persons from whom the liquor was purchased.

“(6) An application for a transfer of any of the said licences shall be accompanied by a statutory declaration, made by the person who at the date of the application is the holder of the licence or of a permission in respect thereof, setting forth as nearly as is practicable with regard to the period from the date on which the licence was granted up to the date of the application—

- (a) the gross amount (including any duties thereon) paid or payable by or on behalf of the holder of the licence for liquor purchased for the premises or vessel to which the application relates; and
- (b) the names and addresses of the persons from whom the liquor was purchased.”.

8 Section thirty-six of the Principal Act is amended—

Conditions to be fulfilled by applicants.

- (a) by omitting from paragraph (b) of subsection (1) thereof the words “the fee, if any,” and substituting therefor the words “any fee (not being a percentage fee) that is”; and
- (b) by omitting sub-paragraph (iv) of paragraph (c) of that subsection and substituting therefor the following sub-paragraph:—

“(iv) a certificate from the Treasurer certifying that the percentage fee (if any) payable under this Act by the applicant, or by the holder of the licence for the transfer of which or for a permission in respect of which the application is made, has been paid in accordance with the provisions of this Act up to the latest date to which, pursuant to this Act, it is payable;”.

9 Section forty-one of the Principal Act is amended by omitting paragraph (a) of subsection (2) thereof and substituting therefor the following paragraph:—

Determination of applications.

- “(a) unless the court is satisfied that the percentage fee (if any) payable by the applicant, or by the other person (if any) by whom it is payable, has been paid in accordance with the provisions of this Act up to the latest date to which, pursuant to this Act, it is payable;”.

Objections.

10 Section fifty-three of the Principal Act is amended—

(a) by omitting paragraph (i) of subsection (2) thereof and substituting therefor the following paragraph:—

“(i) that the percentage fee (if any) payable by the applicant pursuant to this Act, or any part of that fee, remains unpaid.”;

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

“(2A) An objection under this section may be made by the Treasurer on the ground that the percentage fee (if any) payable under this Act by the applicant or by the other person (if any) by whom it is payable in relation to the premises that are the subject of the application, or any part of that fee, remains unpaid.”; and

(c) by omitting from subsection (3) thereof the word “aforesaid” and substituting therefor the words “referred to in subsection (1) of this section”.

When permission may be granted.

11 Section sixty of the Principal Act is amended by omitting subsection (3) thereof and substituting therefor the following subsection:—

“(3) No such permission shall be granted unless the court is satisfied that the person to whom it is to be granted is a fit and proper person to hold it, and that the percentage fee (if any) payable by the applicant, or by the other person (if any) by whom it is payable, has been paid in accordance with the provisions of this Act up to the latest date to which, pursuant to this Act, it is payable.”.

Wholesale and importers' licences.

12 Section sixty-seven of the Principal Act is amended by inserting after subsection (2) thereof the following subsection:—

“(2A) An application for a wholesale licence made by a person who, immediately before the date of the application, was the holder of such a licence shall be accompanied by a certificate from the Treasurer certifying that any percentage fee payable by the applicant pursuant to this Act has been paid in accordance with the provisions of this Act up to the latest date to which, pursuant to this Act, it is payable.”.

Notification of intention to apply for licence: Lodging and hearing of objections thereto.

13 Section sixty-seven A of the Principal Act is amended by inserting after subsection (2) thereof the following subsection:—

“(2A) The Treasurer may object to the granting of an application for a wholesale licence or importer's licence on the ground that any percentage fee payable pursuant to this Act by the applicant, or any part of that fee, remains unpaid.”.

14 Section seventy A of the Principal Act is amended by inserting after subsection (3) thereof the following subsection:—

Provisional registration of clubs.

“(3A) On an application under this section, the secretary of the club shall furnish to the court all particulars available to enable the court to estimate the probable extent of the annual purchases of liquor for the club.”.

15 Section seventy-one of the Principal Act is amended by inserting after subsection (2) thereof the following subsection:—

Applications for registration and renewal thereof.

“(2A) An application under this section shall be accompanied by—

(a) a statutory declaration, made by the secretary of the club, setting forth as nearly as is practicable with regard to the period of twelve months ended on the thirty-first day of December preceding the date of the application (or, if liquor has not been purchased during the whole of that period, with regard to any shorter period preceding that thirty-first day of December during which liquor was purchased)—

(i) the gross amount (including any duties thereon) paid or payable for liquor purchased for the club; and

(ii) the names and addresses of the persons from whom the liquor was purchased; and

(b) a certificate from the Treasurer certifying that any percentage fee payable by the club pursuant to this Act has been paid in accordance with the provisions of this Act up to the latest date to which, pursuant to this Act, it is payable.”.

16 Section seventy-three of the Principal Act is amended by adding at the end thereof the following subsection:—

Who may object.

“(2) An objection may be lodged by the Treasurer against the granting of an application for a certificate of registration or a renewal thereof on the ground that any percentage fee payable by the club pursuant to this Act, or any part thereof, remains unpaid.”.

17 Section seventy-four of the Principal Act is amended by inserting therein, after the word “objection”, the words “(not being an objection by the Treasurer)”.

Grounds for objection.

18 Section seventy-nine of the Principal Act is amended by adding at the end thereof the following subsections:—

Fees payable for certificates.

“(2) In addition to any fee payable pursuant to subsection (1) of this section, there is payable for a certificate of registration of a club or the renewal thereof a fee comprising

an amount equal to the sum of six per cent of the gross amount (including any duties thereon) paid or payable for all liquor which, during the twelve months ended on the thirty-first day of December preceding the date of the application for the grant or renewal of its certificate of registration, was purchased for the club.

“(3) In addition to the fee prescribed in paragraph (c) of subsection (1) of this section, there is payable for a provisional certificate of registration of a club a fee comprising an amount equal to six per cent of the amount estimated by the court pursuant to paragraph (b) of subsection (6) of section twenty-four A as the gross amount that would, in the opinion of the court, have been payable for or in respect of liquor purchased for the club if the certificate had been in force during the whole of the twelve months ended on the thirty-first day of December preceding the date of the application for the certificate.

“(4) The provisions of subsections (2A), (2D), (2E), and (2F) of section twenty-four and of sections twenty-four A, twenty-four B, and twenty-four C, so far as they are applicable and as modified by subsection (5) of this section, apply to and in relation to registered clubs and clubs in respect of which provisional certificates of registration are in force as if they were premises in respect of which licences are in force.

“(5) In the application to a club of the provisions mentioned in subsection (4) of this section—

- (a) a reference to a licence or other authority to sell liquor shall be construed as if it were a reference to a certificate of registration or a provisional certificate of registration;
- (b) a reference to the holder of a licence shall be construed as if it were a reference to the secretary of the club;
- (c) a reference to a new licence shall be construed as a reference to a provisional certificate of registration;
- (d) a reference to premises shall be construed as a reference to the premises of the club;
- (e) a reference to a person by whom an instalment is payable shall be construed as if it were a reference to the secretary of the club;
- (f) paragraph (c) of subsection (2A) of section twenty-four has effect as if the words “, or any premises or place at which he is, or at any time during that period was, authorized under this Act to sell liquor,” were omitted therefrom;
- (g) paragraph (c) of subsection (2D) of that section has effect as if the words “, or any premises or place at which he was authorized under this Act to sell liquor” were omitted therefrom; and
- (h) subsection (2F) of that section has effect as if the words “ transfers his licence in respect of

any premises to any other person, or” and the words “, other than death” were omitted therefrom.

“(5) If it appears to the court, on a report of the Treasurer lodged with the Registrar, that any percentage fee payable by a club pursuant to this Act has remained unpaid for not less than six months after the due date for payment thereof, the court may, after notice in writing to the club and after affording the club an opportunity to be heard, by order, declare the certificate of registration of the club, or, as the case may be, the provisional certificate of registration of the club, to be forfeited or may suspend the certificate until the payment in full of the amount of the fee so remaining unpaid.”.

19 After section seventy-nine of the Principal Act the following section is inserted:—

“79A—(1) The secretary of a club is liable for the payment of any percentage fee payable by the club under this Act, and the fee may be recovered, at the option of the Treasurer, from the secretary or from the governing body of the club.

Recovery from a club of a percentage fee.

“(2) A secretary of a club who has paid any sum by way of a percentage fee under this Act may recover the sum in a court of competent jurisdiction from any person who was a member of the club when the fee became payable.”.

20 After section ninety-eight of the Principal Act the following sections are inserted in Part XIV:—

“98A—(1) No person shall—

- (a) fail to furnish to the Registrar or to the Treasurer a return that is required by any of the provisions of this Act to be furnished to the Registrar or to the Treasurer;
- (b) omit from such a return any particulars or information required by this Act to be included therein; or
- (c) deliver such a return which is false or misleading in any particular.

Offences in relation to the furnishing of returns.

Penalty: Minimum, one pound; maximum, one hundred pounds.

“(2) Proceedings in respect of an offence against subsection (1) of this section may be commenced at any time within twelve months after the commission of the offence.

“(3) It is a defence in proceedings in respect of an offence against paragraph (c) of subsection (1) of this section to prove that the particulars contained in the return were furnished, or the information given therein was given, in good faith and without negligence.

Fraudulent offences in relation to the payment of percentage fees.

“98B—(1) No person shall—

(a) with intent to defraud—

(i) deliver a return required by any of the provisions of this Act to be furnished to the Registrar or to the Treasurer that is false or misleading in any particular; or

(ii) omit from any such return any particulars or information required by this Act to be included therein; or

(b) by any wilful act, default, or neglect, or by any fraudulent act, contrivance, or device, evade, or attempt to evade, payment of any percentage fee payable under this Act.

Penalty: Minimum, fifty pounds; maximum, five hundred pounds.

“(2) A person who is convicted of an offence against this section, in addition to the penalty prescribed in subsection (1) of this section, may be ordered to pay an amount not exceeding three times the amount of the fee the payment whereof he has evaded or attempted to evade.

“(3) Proceedings in respect of an offence against this section may be commenced at any time within three years after the commission of the offence.

“(4) Payment of a penalty, other than a penalty imposed as provided by subsection (2) of this section, does not relieve a person from payment of any percentage fee that is payable by that person under this Act.

“(5) In proceedings in respect of an offence against this section, or for the recovery of any percentage fee payable under this Act, an allegation in the complaint, plaint, or writ of summons (other than an allegation as to the intent of the defendant) is evidence of the matters alleged.”.

Power of court to forfeit licences in certain cases.

21 Section one hundred of the Principal Act is amended—

(a) by omitting from subsection (1A) thereof the words “tax payable under the *Liquor Tax Act 1932*” and substituting therefor the words “percentage fee payable pursuant to this Act”; and

(b) by omitting from that subsection the word “tax” (second occurring) and substituting therefor the words “the fee”.

22 After section one hundred and twenty-one c of the Principal Act the following section is inserted:—

Deduction from rent of proportion of percentage fee.

“121CA—(1) Where a person (in this section referred to as ‘the tenant’) has paid, in respect of any period, a percentage fee payable under this Act or any part of such a fee or has been relieved from payment thereof under paragraph (c) of subsection (2) of section twenty-four c, he may deduct

from the rent payable by him in respect of the premises in relation to which the fee is payable a sum equal to three-tenths of the fee so paid by that person or so much thereof as related to any period during which he was a tenant of those premises, or may recover that sum in a court of competent jurisdiction from the landlord of those premises.

“(2) The sum that may be deducted or recovered as provided in subsection (1) of this section shall be calculated on the full amount of the fee payable by the tenant pursuant to this Act in respect of the relevant period before any deduction is made therefrom as provided by paragraph (c) of subsection (2) of section twenty-four C.

“(3) A landlord who is himself the tenant of any premises to which subsection (1) of this section relates is entitled to deduct from the rent payable by him in respect of the premises, or to recover from his landlord any sum that has been deducted as provided by, or that has been recovered from him under, that subsection.

“(4) In any lease of, or agreement relating to, premises in respect of which a licence or a certificate of registration under Part X is in force at the date of the commencement of this section, a reference (however expressed) to liquor tax payable under the *Liquor Tax Act 1932* shall, by force of this subsection, be construed as a reference to a percentage fee (within the meaning of this Act) payable for the licence or certificate of registration.

“(5) This section has effect, notwithstanding any term, covenant, condition, or other provision (whether express or implied) of, or contained in, any lease or agreement (whether made or entered into before or after the date of the commencement of this section).”.

23 Section one hundred and twenty-nine of the Principal Act is amended—

Application and appropriation of fees.

- (a) by omitting from subsection (1) thereof the words “received in respect of” and substituting therefor the words “(not being percentage fees payable under this Act for”;
- (b) by inserting in subsection (2) thereof, after the word “fee”, the words “(not being a percentage fee)”; and
- (c) by inserting in subsection (3) thereof, after the word “fees”, the words “(not being percentage fees)”.

24 The *Liquor Tax Act 1932* is repealed.

Repeal.

25—(1) Notwithstanding anything in the foregoing provisions of this Act—

Transitory provisions.

- (a) a person who, but for the repeal by this Act of the *Liquor Tax Act 1932*, would have been required by section seven of that Act to lodge with the

Collector of liquor tax returns under that section shall, on or before the thirtieth days of the months of October 1965, January 1966, and April 1966 lodge the like returns with the Treasurer as if that Act had not been repealed and as if the Treasurer were the Collector under that Act;

- (b) the returns required by the provisions of subsections (2A), (2B), and (2C) of section twenty-four of the Principal Act to be lodged with the Registrar need not be lodged in the year 1966;
- (c) subject to paragraph (d) of this section, until the thirtieth day of June 1966 each percentage fee payable under the Principal Act (as amended by this Act) is payable at the same times and in the same manner as if it were liquor tax payable under the provisions of the *Liquor Tax Act 1932* (as in force immediately before the passing of this Act) and as if that Act had not been repealed and as if the Treasurer were the Collector under that Act;
- (d) each percentage fee payable under the Principal Act (as amended by this Act) is payable—
 - (i) in respect of liquor purchased or, as the case may be, sold or supplied at any time after the passing of this Act but before the first day of April 1966, at the rate of four and one-half per cent of the gross amount paid or payable for that liquor; and
 - (ii) in respect of liquor purchased or, as the case may be, sold or supplied at any time on or after the first day of April 1966, at the rate of six per cent of the gross amount paid or payable for that liquor;
- (e) where on the first day of July 1966 a licence under the Principal Act is in force in respect of any premises or vessel, the amount of the percentage fee under that Act (as amended by this Act) that would, but for this paragraph, be payable for that licence during the period of twelve months beginning on that day shall be reduced—
 - (i) if such a licence was not in force in respect of the premises or vessel during the whole of the transitional period—
 - (A) by an amount calculated by deducting one-half of the prescribed sum from the amount of the instalment payable on or before the thirtieth day of June 1966, in a case where court has authorized the payment of the fee by instalments; or

- (B) by an amount calculated by deducting one-eighth of the prescribed sum from the total amount of the fee payable during that period of twelve months, in any other case; and
- (ii) if such a licence was in force in respect of the premises or vessel during the whole of the transitional period—
- (A) by an amount equal to one-half of the amount of the instalment payable on or before the thirtieth day of June 1966, in a case where the court has authorized the payment of the fee by instalments; or
- (B) by an amount equal to one-eighth of the total amount of the fee payable during that period of twelve months, in any other case.

(2) In sub-paragraphs (i) and (ii) of paragraph (d) of subsection (1) of this section, the expression "gross amount" has the same meaning as it has in the specified provisions (as defined in subsection (4) of section three of the Principal Act).

- (3) In paragraph (e) of subsection (1) of this section—
"prescribed sum" means the sum ascertained in accordance with the formula—

$$\frac{A}{90} \times B$$

where—

A represents the number of days during the period beginning on the first day of January 1966 and ending on the thirty-first day of March 1966 on which a licence is in force;

B represents the amount of the instalment payable on or before the thirtieth day of June 1966 (in a case where a percentage fee is payable by instalments) or the total amount of the percentage fee payable during the period of twelve months beginning on the first day of July 1966 (in any other case);

"transitional period" means the period beginning on the first day of January 1966 and ending on the thirty-first day of March 1966.

(4) The provisions of this section, with the necessary adaptations and modifications, apply to and in relation to registered clubs and clubs in respect of which provisional

certificates of registration are in force, as if they were premises in respect of which licences are in force under the Principal Act, and those provisions shall be construed accordingly.

Amendments
of the
Principal Act
consequential
upon the
adoption of
decimal
currency.

26—(1) Section one hundred and twenty-nine of the Principal Act (as amended by section twenty-three of this Act) is further amended by omitting from subsection (3) thereof the words “two pounds one shilling and eightpence” and substituting therefor the words “one-twelfth of the total amount of that fee”.

(2) This section shall commence on the fourteenth day of February 1966.

PUBLIC SERVICE.

No. 43 of 1965.

AN ACT to amend the *Public Service Act 1923*.

[3 December 1965.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title
and citation.

1—(1) This Act may be cited as the *Public Service Act 1965*.

(2) The *Public Service Act 1923*, as subsequently amended, is in this Act referred to as the Principal Act.

Interpre-
tation.

2 Section four of the Principal Act is amended by omitting subsection (2).

Application
of Act.

3 Section five of the Principal Act is amended—

(a) by omitting from paragraph (f) of subsection (1) the words “the Hydro-Electric Department or in connection with the State Hydro-Electric Works, or in the Tasmanian Government Shipping Department, or”; and

(b) by omitting paragraph (g) of that subsection and substituting therefor the following paragraph:—

“(g) Officers of the Teaching Service within the meaning of the *Education Act 1932*,”.