

LICENSING AMENDMENT ACT (No. 2) 1985

No. 109 of 1985

TABLE OF PROVISIONS

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|---|---|
| <ol style="list-style-type: none"> 1. Short title. 2. Commencement. 3. Principal Act. 4. Amendment of section 2 of Principal Act (Interpretation). 5. Amendment of section 7 of Principal Act (The Chief Inspector and other inspectors). 6. Amendment of section 23 of Principal Act (Renewal of licences). 7. Amendment of section 24 of Principal Act (Transfer of licences). 8. Amendment of section 28 of Principal Act (Structural alteration of licensed premises). 9. Insertion in Principal Act of new sections 72A and 72B.
72A—Inspectors for the purposes of this Part.
72B—Powers, &c., of inspectors. 10. Amendment of section 79 of Principal Act (Determination of fees by Commissioner). 11. Insertion in Principal Act of new section 79A.
79A—Reductions, &c., and increases, of fees payable in respect of grant, restoration, or renewal of licences, &c. | <ol style="list-style-type: none"> 12. Amendment of section 80 of Principal Act (Payment of licence fees). 13. Insertion in Principal Act of new section 80A.
80A—Appeals against refusal to grant applications for approvals under section 80 (1). 14. Repeal of section 81 of Principal Act (Recovery of portion of fee from landlord). 15. Amendment of section 82 of Principal Act (Annual returns to Treasurer). 16. Amendment of section 83 of Principal Act (Quarterly, &c., returns by holders of general licences, on licences, club licences, or special wine producers' licences). 17. Amendment of section 84 of Principal Act (Quarterly returns to Treasurer by holders of off licences and special wine producers' licences). 18. Insertion in Principal Act of new sections 84A and 84B, and amendment of new section 84A.
84A—Records to be kept.
84B—False or misleading statements. 19. Amendment of section 87 of Principal Act (Offences in relation to returns, &c.). |
|---|---|

20. Insertion in Principal Act of new section 91A.

91A—Power of Treasurer and Commissioner to disclose information.

21. Transitional and savings provisions.

22. Amendment of *Licensing Amendment Act 1984*.

23. Amendment of *Tasmanian State Service (Miscellaneous Amendments) Act 1984*.



LICENSING AMENDMENT ACT (No. 2) 1985

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 No. 109 of 1985
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AN ACT to amend the Licensing Act 1976, the Licensing Amendment Act 1984, and the Tasmanian State Service (Miscellaneous Amendments) Act 1984.

[Royal Assent 21 November 1985]

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—This Act may be cited as the *Licensing Amendment Act* Short title. (No. 2) 1985.

2—(1) Where this Act receives the Royal assent on or before the day fixed under section 2 (2) of the *Tasmanian State Service (Miscellaneous Amendments) Act* 1984— Commencement.

- (a) this Act, other than sections 5 (2) and 23 and except as provided in subsections (3) and (4), shall commence on the day on which it receives the Royal assent; and
- (b) sections 5 (2) and 23 shall commence on the day fixed under section 2 (2) of that Act.

(2) Where this Act receives the Royal assent after the day fixed under section 2 (2) of the *Tasmanian State Service (Miscellaneous Amendments) Act* 1984—

- (a) this Act, other than section 23 and except as provided in subsections (3) and (4), shall commence on the day on which it receives the Royal assent; and
- (b) section 23 shall be deemed to have been repealed on the day fixed under section 2 (2) of that Act.
- (3) The several provisions of sections 15 (1) (c), 16 (5), 17 (3), 18 (2), and 18 (3) shall commence on such day or days as may be fixed by proclamation.
- (4) Section 22 shall be deemed to have commenced on 16th August 1984.

Principal Act.

3—In this Act, the *Licensing Act 1976** is referred to as the Principal Act.

Amendment of section 2 of Principal Act (Interpretation).

4—Section 2 of the Principal Act is amended as follows:—

(a) by omitting the definition of “inspector” and substituting the following definition:—

“inspector” —

(a) otherwise than in Part VI, means an inspector appointed pursuant to section 7 (1) or under section 7 (2), or a person authorized to exercise the functions of an inspector under section 7 (3); or

(b) in Part VI, means an inspector appointed under section 72A (1) or (3);

(b) by omitting “30th June” from the definition of “licensing year” and substituting “31st December”;

(c) by omitting the definition of “liquor” and substituting the following definition:—

“liquor” means—

(a) ale, beer, or any other malt liquor;

(b) wine;

(c) potable spirit;

* No. 117 of 1976. Amended by Nos. 5 and 94 of 1977, No. 4 of 1979, Nos. 10 and 99 of 1982, No. 56 of 1983, Nos. 29 and 50 of 1984, and No. 108 of 1985.

- (d) any beverage which contains not less than 2 per cent by volume in volume of alcohol or other intoxicating spirit or ingredient; or
- (e) any other liquid or substance prescribed as liquor by the regulations;
- (d) by inserting the following definition after the definition of “place” :—
- “potable spirit” means any spirit containing more than—
- (a) 35 per cent of proof spirit; or
- (b) 20 per cent of alcohol,
- by volume in volume, measured at 15·56° Celsius;
- (e) by omitting the definition of “quarter” and substituting the following definition:—
- “quarter” means a period of 3 months ending on the last day of September, December, March, or June;
- (f) by omitting the definition of “wine” and substituting the following definition:—
- “wine” includes cider, cyser, mead, and perry, but does not include any liquor containing more than—
- (a) 35 per cent of proof spirit; or
- (b) 20 per cent of alcohol,
- by volume in volume, measured at 15·56° Celsius;

5—(1) Section 7 (2) of the Principal Act is amended by inserting “other than Part VI,” after “this Act”.

Amendment of section 7 of Principal Act (The Chief Inspector and other inspectors).

(2) Section 7 (2A) of the Principal Act is amended by inserting “, other than Part VI,” after “this Act”, where twice occurring.

(3) Section 7 (3) of the Principal Act is amended by inserting “, other than Part VI,” after “this Act”.

6—(1) Section 23 (1) of the Principal Act is amended as follows:—

Amendment of section 23 of Principal Act (Renewal of licences).

(a) by omitting “April”, where twice occurring, and substituting “October”;

(b) by omitting “May” and substituting “November”.

(2) Section 23 (2A) of the Principal Act is amended as follows:—

- (a) by omitting “April ” and substituting “ October ”;
- (b) by omitting “ May ” and substituting “ November ”;
- (c) by omitting “ 30th June ” and substituting “ 31st December ”.

Amendment of section 24 of Principal Act (Transfer of licences).

7—Section 24 of the Principal Act is amended by inserting the following subsections after subsection (11):—

(12) An off licence shall not be transferred under this section unless the person proposing to transfer the licence furnishes to the Treasurer a return, in a form approved by the Treasurer, containing the particulars specified in the form with respect to the liquor sold or supplied at the licensed establishment to which the licence relates during the period commencing on 1st July immediately following the last period in respect of which that person was required to furnish a return under section 82 (2) and ending on the day on which he proposes to transfer the licence.

(13) Subsection (12) does not apply to liquor for sale or supply at some licensed establishment other than that to which the relevant off licence relates.

Amendment of section 28 of Principal Act (Structural alteration of licensed premises).

8—Section 28 (3) of the Principal Act is amended by omitting “ 28 ” and substituting “ 21 ”.

Insertion in Principal Act of new sections 72A and 72B.

9—After section 72 of the Principal Act, the following sections are inserted:—

Inspectors for the purposes of this Part.

72A—(1) The Treasurer may, by warrant under his hand, appoint any employee employed in the Treasury to be an inspector for the purposes of this Part.

(2) An employee appointed under subsection (1) may hold the office of inspector in conjunction with his position in the Treasury.

(3) The Treasurer may, at the request of the Commissioner, by warrant under his hand, appoint to be an inspector for the purposes of this Part a person who is an inspector within the meaning of paragraph (a) of the definition of that expression in section 2.

72B—(1) For the purposes of this Part, an inspector, on production of his warrant of authorization as such, may at any reasonable time and with such assistants as he considers necessary—

Powers, &c.,
of inspectors.

- (a) enter and remain in any premises or conveyance at or in which, or at or in which he reasonably suspects, a business of selling or supplying liquor is or has been carried on or which, or which he reasonably suspects, is being or has been used for the storage or custody of any record relating to the sale or supply of liquor or the purchase of liquor for the purposes of sale or supply;
- (b) request any person found in or on any premises or conveyance which, or which he reasonably suspects, are or is or have or has been used for the sale or supply of liquor or for the storage or custody of any record relating to the sale or supply of liquor or the purchase of liquor for the purposes of sale or supply or in or on which, or in or on which he reasonably suspects, liquor is or has been stored for sale or supply—
 - (i) to produce any record which relates to, or which the inspector reasonably suspects relates to, the sale or supply of liquor or the purchase of liquor for the purposes of sale or supply and which, at the time of the request, is in the possession or under the control of that person;
 - (ii) to produce a statement, written in the English language, setting out the particulars contained in any such record that are not written or not written in the English language; and
 - (iii) to answer any question with respect to any such record or statement or the sale, supply, or purchase of liquor; and
- (c) inspect, or take copies of, or make notes in respect of, any record or statement referred to in this subsection or any part of any such record or statement.

(2) A person who—

(a) prevents or attempts to prevent an inspector from exercising any power conferred on him by subsection (1);

(b) hinders or obstructs an inspector in the exercise of any such power; or

(c) fails to comply with a request of an inspector under subsection (1) (b),

is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$250 or to imprisonment for a term not exceeding 3 months, or both, and, in the case of an offence under paragraph (c), to an additional penalty not exceeding \$50 for every day during which the offence continues.

(3) A person is not guilty of an offence under subsection (2) (c) by reason of his failure to answer any question referred to in subsection (1) (b) (iii) if he proves to the satisfaction of the court before which he is prosecuted for the offence that he did not know, and could not with reasonable diligence have ascertained, the answer to the question.

(4) A person is not excused from answering any question if required to do so under subsection (1) (b) on the ground that the answer might tend to incriminate him or make him liable to a penalty, but the information provided by him is not admissible against him in any proceedings, civil or criminal, except in proceedings for an offence under subsection (2) or section 84B.

(5) Where an answer to a question referred to in subsection (1) (b) (iii) or any information whatever is given to an inspector by an officer of a corporation within the meaning of the *Companies (Tasmania) Code* which is carrying on or has carried on a business of selling, supplying, or purchasing liquor for the purposes of sale or supply, the answer and information are, for the purposes of any proceedings against the corporation under any of the provisions of this Act, binding on and admissible in evidence against the corporation, unless it is proved that the answer or information was given in relation to a matter in respect of which the officer had no authority to bind the corporation.

(6) The provisions of subsection (5) are in addition to any rule of law relating to the binding effect and admissibility in evidence of statements made by an officer or employee of a corporation.

(7) In this section, “record” includes book, account, deed, writing, or document and any other source of information compiled, recorded, or stored in written form, or on microfilm, or by electronic process, or in any other manner or by any other means.

10—Section 79 (1) of the Principal Act is amended by inserting “, subject to section 79A,” before “final”.

Amendment of section 79 of Principal Act (Determination of fees by Commissioner).

11—After section 79 of the Principal Act, the following section is inserted:—

Insertion in Principal Act of new section 79A.

79A—(1) In this section, “appropriate person”, in relation to—

Reductions, &c., and increases, of fees payable in respect of grant, restoration, or renewal of licences, &c.

(a) the fee payable under this Part in respect of the grant, renewal, or restoration of a licence, means the person responsible for paying that fee; or

(b) the additional fee payable under section 21 of the *Licensing Amendment Act (No. 2) 1985*, means the person responsible for paying that additional fee.

(2) After the Commissioner has determined under section 79 the fee payable in respect of the grant, renewal, or restoration of a licence or has determined under section 21 of the *Licensing Amendment Act (No. 2) 1985* the additional fee payable under that last-mentioned section in respect of a licence, the Commissioner —

(a) shall, if he is satisfied, on his own motion or on application in writing by the appropriate person, that—

(i) there has been an overstatement or over-estimation of the value of the liquor in relation to which the fee or additional fee was determined under the relevant section; or

- (ii) there has been a miscalculation or mistake of fact in the determination of the fee or additional fee under the relevant section,

as a result of which the fee or additional fee so determined was higher than the fee or additional fee so payable, make a further determination for the purpose of reducing the fee or additional fee by an amount equal to the overstatement or over-estimation, being such amount as is specified in the determination; or

- (b) where the appropriate person has paid all or part of that fee or additional fee, may make a further determination that the appropriate person is entitled to a refund of such amount, being all or part of that fee or additional fee, as the Commissioner thinks fit and as is specified in the determination if—

- (i) the licence was or is cancelled during the relevant licensing year; or

- (ii) after the hearing of a reference under section 26 on the application of the appropriate person or a review of the licence under section 30, the Board is satisfied that the licensed establishment to which the licence relates was, or is, during the relevant licensing year, unfit for use as such an establishment because of fire or other occurrence beyond the control of the appropriate person.

(3) For the purposes of subsection (2) (b), “relevant licensing year”, in relation to a licence continued in force pursuant to section 21 (2) of the *Licensing Amendment Act (No. 2) 1985* or to the licensed establishment to which such a licence relates, means the period commencing on 1st July 1985 and ending on 31st December 1986.

(4) Where the Commissioner makes a further determination under subsection (2) (a) relating to a fee or additional fee that has not been paid in full by the appropriate person concerned, the determination shall provide that the amount

specified in the determination will, as set out in the determination, be deducted from the amount of that fee or additional fee or from any instalment or instalments of that fee or additional fee due from that appropriate person and that the surplus (if any) will be refunded to him by the Treasurer.

(5) Where the Commissioner makes a further determination under subsection (2), he shall—

- (a) serve a copy of the determination on the appropriate person to whom it relates; and
- (b) forward a copy of the determination to the Treasurer.

(6) The Treasurer shall, on receipt of—

- (a) a copy of a determination under subsection (2) (a), cause to be paid to the appropriate person concerned the amount of any surplus specified in the determination; or
- (b) a copy of a determination under subsection (2) (b), cause to be paid to the appropriate person concerned the amount of the refund specified in the determination.

(7) After the Commissioner has determined under section 79 the fee that is payable in respect of the grant, renewal, or restoration of a licence or has determined under section 21 of the *Licensing Amendment Act (No. 2) 1985* the additional fee payable under that last-mentioned section in respect of a licence, the Commissioner shall, if he discovers that—

- (a) there has been an understatement or underestimation of the value of the liquor in relation to which the fee or additional fee was determined under the relevant section; or
- (b) there has been a miscalculation or mistake of fact in the determination of the fee or additional fee under the relevant section,

as a result of which the fee so determined was lower than the fee so payable, make a further determination for the purpose of increasing that fee by an amount based on the value of the liquor so understated or underestimated, being such amount as is specified in the determination.

(8) Where—

(a) at the time when the Commissioner makes a further determination under subsection (7) in relation to the fee or additional fee payable, as mentioned in subsection (2), by an appropriate person in relation to a licence—

(i) that fee or additional fee, being payable otherwise than by instalments, has been paid in full; or

(ii) there are no instalments of that fee or additional fee owing, in any other case; and

(b) at that time—

(i) the premises or conveyance to which the licence related are or is no longer a licensed establishment; or

(ii) the licensee is not the same person as the appropriate person,

responsibility for the payment of the amount of the increase of that fee or additional fee, as specified in the further determination, may be apportioned by the Commissioner, as specified in the further determination, as he thinks fit between—

(c) the appropriate person;

(d) the persons who, at the time when that fee or additional fee became payable, or, as the case may be, an instalment of that fee or additional fee became payable, were directly or indirectly interested in the business, or the profits of the business, carried on under the licence at that time; and

(e) the person who made any understatement or underestimation as mentioned in subsection (7),

or any 2 of them.

(9) An amount apportioned under subsection (8) is a debt due to the Crown by the person to whom the amount is so apportioned and may be recovered in a court of competent jurisdiction by a person employed in the Treasury who is authorized by the Treasurer for that purpose.

(10) Where the Commissioner makes a further determination under subsection (7) (not being a further determination under that section that contains apportionments pursuant to subsection (8)), the determination shall, if the fee or additional fee to which the determination relates—

- (a) was payable on the grant, renewal, or restoration of the licence, or as provided in section 21 (9) (b) of the *Licensing Amendment Act (No. 2) 1985*, or by instalments all of which have been paid, provide that the appropriate person shall pay to the Treasurer the amount of the increase on or before the day or days specified in the determination; or
- (b) is payable by instalments any of which is, or all of which are, still unpaid, provide that the appropriate person shall pay to the Treasurer an instalment, or, as the case may require, instalments, of such increased amount as is, or of such increased amounts as are, specified in the determination.

(11) Where the Commissioner makes a further determination under subsection (7), he shall—

- (a) serve a copy of the determination on the responsible person to whom it relates; and
- (b) forward a copy of the determination to the Treasurer.

(12) A further determination may be made under this section in relation to—

- (a) the fee payable under this Part in respect of the grant, renewal, or restoration of a licence, at any time within 2 years after the date on which the Commissioner determines that fee under section 79; or
- (b) the additional fee payable under section 21 of the *Licensing Amendment Act (No. 2) 1985*, at any time within 2 years after the date on which the Commissioner determines that additional fee under that section.

(13) A further determination under this section in relation to a fee payable under this Part with respect to the grant, renewal, or restoration of a licence or in relation to an additional

fee payable under section 21 of the *Licensing Amendment Act* (No. 2) 1985 with respect to a licence is, subject to any further determination made under this section in relation to that fee or additional fee, final and conclusive.

Amendment of
section 80 of
Principal Act
(Payment of
licence fees).

12—(1) Section 80 (1) of the Principal Act is amended by omitting “the licensee elects to pay the fee by instalments” and substituting “the Commissioner approves of the payment of the fee by instalments”.

(2) Section 80 of the Principal Act is further amended by omitting subsection (2) and substituting the following subsections:—

(2) An application for an approval under subsection (1) shall be in writing and shall accompany the application for the grant, renewal, or restoration of the relevant licence.

(2A) On receipt of an application for an approval under subsection (1), the Commissioner shall—

(a) grant the application if—

(i) in the case of an application to pay a fee by instalments in respect of the renewal or restoration of a licence, he is satisfied, after taking into account the applicant’s past record in relation to the payment of the fee payable under that licence; and

(ii) he is satisfied, after taking into account the applicant’s present financial commitments,

that the applicant will be likely to pay instalments of the relevant fee on the respective dates on which they are payable under this section; or

(b) if he is not so satisfied, refuse to grant the application.

(2B) Where the Commissioner grants an application referred to in subsection (2), he shall issue to the applicant an approval in writing authorizing him to pay the relevant fee by instalments of the respective amounts specified in the approval.

(2C) An approval under subsection (2B) continues in force—

(a) until the end of the licensing year in respect of which the relevant licence is held; or

(b) until the Commissioner, on the written application of the holder of the approval, cancels the approval, whichever first happens.

(2D) Where, pursuant to subsection (2c) (b), the Commissioner cancels an approval under subsection (2B) issued to a licensee, the fee, or, as the case may be, the balance of the fee, payable under this section by the licensee becomes payable by him to the Treasurer on the date on which the cancellation takes effect.

(2E) Where the Commissioner refuses to grant an application referred to in subsection (2), he shall, immediately, by notice in writing served on the applicant, inform him of the refusal and of the ground on which the refusal is based.

(3) Section 80 (3) of the Principal Act is amended by omitting “Where under this section a licensee has elected to pay a fee by instalments those instalments” and substituting “Where a licensee holds a subsisting approval under subsection (2B), the instalments to which the approval relates”.

(4) Section 80 (4) of the Principal Act is amended as follows:—

(a) by omitting “All the instalments of a fee referred to in subsection (3) are instalments of equal amount, except that the” and substituting “The”;

(b) by omitting “paragraph (b) thereof” and substituting “subsection (3) (b)”.

(5) Section 80 (7) of the Principal Act is amended by omitting “30” and substituting “7”.

(6) Section 80 of the Principal Act is further amended by inserting the following subsection after subsection (11):—

(12) A reference to a fee or an instalment of a fee in subsections (5) to (11) includes a reference to a fee or an instalment of a fee, or to an additional fee or instalment of an additional fee, that has been reduced or increased pursuant to section 79A.

13—After section 80 of the Principal Act, the following section is inserted:—

80A—(1) A licensee who is aggrieved by the refusal of the Commissioner to grant an application made by him for an approval under section 80 (1) may appeal to the Board.

Insertion in
Principal Act
of new
section 80A.

Appeals against
refusal to
grant applica-
tions for
approvals under
section 80 (1).

(2) An appeal under this section shall be instituted by a licensee within a period of 21 days after the service on him of a notice under section 80 (2E).

(3) On the hearing of an appeal under this section, the Board, unless it dismisses the appeal, may direct that the Commissioner shall issue to the appellant an approval under section 80 (2B) authorizing him to pay the relevant fee by instalments.

(4) Where a licensee brings an appeal under this section, the licensee is not required to pay the relevant fee to the Treasurer as provided by section 80 (1) until the determination or abandonment of the appeal.

Repeal of section 81 of Principal Act (Recovery of portion of fee from landlord).

14—Section 81 of the Principal Act is repealed.

Amendment of section 82 of Principal Act (Annual returns to Treasurer).

15—(1) Section 82 (1) of the Principal Act is amended as follows:—

(a) by omitting “1st February” and substituting “1st August”;

(b) by omitting “31st December” and substituting “30th June”;

(c) by inserting the following paragraph before paragraph (a):—

(aa) the quantity of the liquor so purchased;

(2) Section 82 (2) of the Principal Act is amended as follows:—

(a) by omitting “, as and when prescribed,” and substituting “, on or before 1st August in any year,”;

(b) by omitting “Commissioner”, where twice occurring, and substituting “Treasurer”;

(c) by omitting “31st December” and substituting “30th June”.

(3) Section 82 (3) of the Principal Act is amended as follows:—

(a) by omitting “Commissioner”, where twice occurring, and substituting “Treasurer”;

(b) by omitting from paragraph (a) “31st December” and substituting “30th June”.

16—(1) Section 83 (1) of the Principal Act is amended by omitting “ Commissioner ” and substituting “ Treasurer ”.

Amendment of section 83 of Principal Act (Quarterly, &c., returns by holders of general licences, on licences, club licences, or special wine producers’ licences).

(2) Section 83 (2) of the Principal Act is amended by omitting “ Commissioner ” and substituting “ Treasurer ”.

(3) Section 83 (3) of the Principal Act is amended by omitting “ Commissioner ” and substituting “ Treasurer ”.

(4) Section 83 (4) of the Principal Act is amended by omitting “ Commissioner ” and substituting “ Treasurer ”.

(5) Section 83 (5) of the Principal Act is amended by inserting the following paragraph before paragraph (a):—

(aa) the quantity of the liquor so purchased;

17—(1) Section 84 (1) of the Principal Act is amended as follows:—

Amendment of section 84 of Principal Act (Quarterly returns to Treasurer by holders of off licences and special wine producers’ licences).

(a) by omitting “ Commissioner ” and substituting “ Treasurer ”;

(b) by inserting “ and for sale or supply to establishments that, by the liquor licensing laws of another State, or a Territory, of the Commonwealth, are required to be licensed or registered ” after “ establishments ”.

(2) Section 84 (3) of the Principal Act is amended by omitting “ Commissioner ” and substituting “ Treasurer ”.

(3) Section 84 (4) of the Principal Act is amended by inserting the following paragraph before paragraph (a):—

(aa) the quantity of the liquor so sold;

18—(1) After section 84 of the Principal Act, the following sections are inserted:—

Insertion in Principal Act of new sections 84A and 84B, and amendment of new section 84A.

84A—(1) The holder of a general licence, an on licence, a club licence, or, where the Treasurer so directs, a special wine producer’s licence, in respect of a licensed establishment shall—

Records to be kept.

(a) keep in such form and manner as the Treasurer directs records containing particulars of—

(i) the price paid for the liquor purchased by him for the licensed establishment;

- (ii) the date on which each such purchase was made;
 - (iii) the name and address of each person from whom the liquor was purchased; and
 - (iv) the address of the place to which the liquor so purchased was delivered; and
 - (b) preserve each of those records for a period of 5 years after the last entry was made in it.
- (2) The holder of an off licence or a special wine producer's licence in respect of a licensed establishment shall—
- (a) keep in such form and manner as the Treasurer directs records containing particulars of—
 - (i) the price paid for the liquor sold or supplied by him pursuant to that licence for sale or supply at other licensed establishments;
 - (ii) the date on which each such sale or supply by him was made;
 - (iii) the name and address (if known) of each person to whom the liquor was sold or supplied by him; and
 - (iv) the address of each place to which the liquor so sold or supplied by him was delivered; and
 - (b) preserve each of those records for a period of 5 years after the last entry was made in it.
- (3) Except where the Treasurer has given approval to keep records required or directed to be kept under subsection (1), or required to be kept under subsection (2), at a place outside Tasmania, a person who is the holder of a licence referred to in subsection (1) or (2), as the case may be, shall—
- (a) keep those records in Tasmania;
 - (b) notify the Treasurer in writing of the address of the place in Tasmania at which the records are kept or proposed to be kept—
 - (i) if the person is the holder of such a licence at the commencement of the *Licensing Amendment Act (No. 2) 1985*—within 2 months after that commencement; or

- (ii) if he is not the holder of such a licence at the commencement of the *Licensing Amendment Act (No. 2) 1985*—within 2 months after he becomes the holder of such a licence; and
- (c) where the place at which the records are kept is subsequently changed to another place in Tasmania—notify the Treasurer in writing of the address of the new place at which the records are kept within 14 days after the change takes place.

(4) A person who is the holder of a licence referred to in subsection (1) or (2) shall not keep records required or directed to be kept under subsection (1), or required to be kept under subsection (2), as the case may be, at a place outside Tasmania unless the Treasurer has previously given approval in writing to that person authorizing him to keep those records at that place and the approval remains in force.

(5) The Treasurer may, by notice in writing served on the person concerned, at any time revoke an approval referred to in subsection (4), whereupon that person shall, within 14 days after the service of that notice, cause the records required or directed to be kept under subsection (1), or required to be kept under subsection (2), as the case may be, to be removed to a place in Tasmania and notify the Treasurer in writing of the address of that place.

(6) A person who—

(a) being the holder of a licence referred to in subsection (1), is required or directed to keep records under that subsection—

(i) fails to comply with that subsection or subsection (3); or

(ii) contravenes subsection (4); or

(b) is the holder of a licence referred to in subsection (2) and who—

(i) fails to comply with that subsection or subsection (3); or

(ii) contravenes subsection (4),

is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$1 000.

(7) This section does not apply so as to require the preservation of records—

- (a) in respect of which the Treasurer has notified the person carrying on the relevant business that preservation is not required; or
- (b) of a company which has gone into liquidation and which has been finally dissolved.

False or misleading statements.

84B—(1) Subject to subsection (2), a person who, in providing any information pursuant to a request under section 72B (1) by an inspector or in keeping a record as required or directed by section 84A (1) or as required by section 84A (2), makes a statement or representation that is false or misleading in a material respect is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$1 000 or to imprisonment for a term not exceeding 3 months, or both.

(2) It is a defence to a charge under subsection (1) if it is proved that, at the time the statement or representation was made, the defendant believed on reasonable grounds that it was neither false nor misleading.

(3) Proceedings for an offence under subsection (1) may be commenced at any time within a period of 3 years after the time when the offence is alleged to have been committed.

(2) Section 84A (1) (a) of the Principal Act is amended by inserting the following subparagraph after subparagraph (i):—

(ia) the quantity of liquor in each such purchase;

(3) Section 84A (2) (a) of the Principal Act is amended by inserting the following subparagraph after subparagraph (i):—

(ia) the quantity of liquor in each such sale or supply;

Amendment of section 87 of Principal Act (Offences in relation to returns, &c.).

19—Section 87 (1) of the Principal Act is amended by inserting “or directed” after “required”, where firstly and secondly occurring.

Insertion in Principal Act of new section 91A.

20—After section 91 of the Principal Act, the following section is inserted:—

Power of Treasurer and Commissioner to disclose information.

91A—(1) The Treasurer and the Commissioner may disclose information gained by them in the course of the administration of this Act to authorities vested with the administration of liquor licensing laws in other States, and in Territories, of the Commonwealth.

(2) The Treasurer may, by instrument in writing, delegate to a person who is employed in the Treasury and specified in the instrument of delegation the exercise of his power under subsection (1).

(3) The Treasurer may, by instrument in writing, revoke wholly or in part or vary a delegation made under this section.

(4) Where the Treasurer's power under subsection (1) has been delegated under this section, that power may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

(5) A delegation under this section may be made subject to such conditions or limitations as to the exercise of the power delegated, or as to time or circumstance, as are specified in the instrument of delegation.

(6) Notwithstanding any delegation under this section, the Treasurer may continue to exercise the power delegated by him.

(7) Any act or thing done by or to a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done by or to the Treasurer and shall be deemed to have been done by or to the Treasurer.

(8) An instrument purporting to be signed by a delegate of the Treasurer in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Treasurer and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Treasurer under this section.

21—(1) In this section, “commencement day” means the day on which this Act receives the Royal assent. Transitional and savings provisions.

(2) Unless it is sooner cancelled pursuant to the Principal Act, a licence under that Act that is in force immediately before the commencement day continues in force to and including 31st December 1986, notwithstanding that the licensing year for which it is granted, renewed, or restored and which is, pursuant to section 22 of that Act, endorsed on that licence would, apart from this subsection, expire on 30th June 1986.

(3) In addition to the fee payable under the Principal Act, as in force before the commencement day, on the grant, renewal, or restoration of a licence referred to in subsection (2), there is payable by the licensee to the Treasurer an additional fee determined by the Commissioner in accordance with this section.

(4) Subject to this section, the amount of the additional fee payable under subsection (3) in respect of a licence—

(a) that is a general licence, an on licence, or a club licence—
is 8 per cent of the value of the liquor purchased during the period of 6 months ended on 30th June 1985 for sale or supply at the licensed establishment to which the licence relates; or

(b) that is an off licence or a special wine producer's licence—
is 8 per cent of the value of the liquor sold at the licensed establishment to which the licence relates during the period referred to in paragraph (a) otherwise than for sale or supply at some other licensed establishment.

(5) The provisions of section 73 (3) of the Principal Act apply to and in relation to the determination of the value of any liquor referred to in subsection (4) (a) of this section as if that determination were a determination made under section 73 of that Act.

(6) The provisions of section 74 (3) and (4) of the Principal Act apply to and in relation to the determination of the value of any liquor referred to in subsection (4) (b) of this section as if that determination were a determination made under section 74 of that Act.

(7) The provisions of section 72 (2) to (5) of the Principal Act apply, with any necessary modifications, to and in relation to the determination of the additional fee payable under this section in respect of a licence.

(8) A determination made by the Commissioner under this section is, subject to section 79A of the Principal Act, final and conclusive that the amount of the additional fee to which the determination relates has been determined in accordance with the provisions of this section.

(9) After determining the amount of the additional fee payable under this section in respect of a licence, the Commissioner shall—

(a) if the licensee elected to pay the original fee by instalments—cause to be served on the licensee a notice—

- (i) requiring him to pay the additional fee by 2 equal instalments, as specified in the notice; and
 - (ii) stating that the first instalment is payable on 1st July 1986 and the second instalment is payable on 1st October 1986; or
- (b) if the licensee did not so elect—cause to be served on the licensee a notice requiring him to pay the additional fee specified in the notice on 1st July 1986.

(10) In subsection (9), “original fee”, in relation to a licence referred to in subsection (2), means the fee payable under the Principal Act in respect of the grant, renewal, or restoration of the licence.

(11) All sums paid by way of payment of additional fees under this section shall be paid into the Consolidated Revenue.

(12) Section 80 (5) of the Principal Act applies to and in relation to an instalment of an additional fee payable under this section in respect of a licence as if for—

- (a) “subsection (3)”, there were substituted “section 21 (9) (a) of the *Licensing Amendment Act (No. 2) 1985*”; and
- (b) “any instalment”, there were substituted “an instalment referred to in subsection (9) (a) of that section”.

(13) Subject to the modifications specified in this section, subsections (6) to (11) of section 80 of the Principal Act apply to an additional fee, or an instalment of an additional fee, referred to in this section in the same way as those subsections apply to a fee, or an instalment of a fee, referred to in section 80.

(14) The holder of —

- (a) a general licence, an on licence, or a club licence that continues in force as mentioned in subsection (2); or
- (b) a special wine producer’s licence that so continues in force who has been directed to furnish returns under section 82 (1) of the Principal Act,

shall, on or before the 28th day after the commencement day, furnish the Commissioner with a return with respect to the liquor purchased for the relevant licensed establishment during the period that commenced on 1st January 1985 and ended on 30th June 1985, being a return showing the particulars specified in section 82 (1) (a) and (b) of the Principal Act.

(15) The holder of—

- (a) an off licence that continues in force as mentioned in subsection (2); or
- (b) a special wine producer's licence that so continues in force who has been directed to furnish returns under section 82 (2) of the Principal Act,

shall, on or before the 28th day after the commencement day, furnish the Treasurer with a return with respect to the liquor sold at the relevant licensed establishment, otherwise than for sale or supply at some other licensed establishment, during the period that commenced on 1st January 1985 and ended on 30th June 1985.

(16) A return under—

(a) subsection (14) shall—

- (i) subject to any necessary modifications, be in accordance with the form of the return prescribed for the purposes of section 82 (1) of the Principal Act; and
- (ii) contain the particulars required by that form;

or

(b) subsection (15) shall—

- (i) subject to any necessary modifications, be in accordance with the form of the return prescribed for the purposes of section 82 (2) of the Principal Act; and
- (ii) contain the particulars required by that form.

(17) Section 83 (1) of the Principal Act applies to and in relation to the holder of—

- (a) a general licence, an on licence, or a club licence that continues in force as mentioned in subsection (2); or
- (b) a special wine producer's licence that so continues in force who has been directed to furnish returns under section 83 (1) of that Act,

as if for “ the months of January, April, July, and October ”, there were substituted “ July 1985, October 1985, January 1986, April 1986, July 1986, and October 1986 ”.

(18) A direction by the Commissioner under section 82 (2), or 83 (1), or 84 (1) of the Principal Act that is in force immediately before the commencement day continues in force, on and after that day, as if it were a direction by the Treasurer under section 82 (2), 83 (1), or 84 (1) of that Act, as the case may be.

(19) Section 87 of the Principal Act applies to and in relation to—

(a) a return under subsection (14) or (15) of this section as if—

(i) in subsection (1) of that section, for “ this Part ”, there were substituted “ section 21 (14) or (15) of the *Licensing Amendment Act (No. 2) 1985* ”;

(ii) in subsection (1) (b) of that section, for “ by this Act ”, there were substituted “ under section 21 (16) of that Act ”;

(iii) in subsection (3) (a) (i) of that section, for “ this Part ”, there were substituted “ section 21 (14) or (15) of the *Licensing Amendment Act (No. 2) 1985* ”; and

(iv) in subsection (3) (a) (ii) of that section, for “ by this Act ”, there were substituted “ under section 21 (16) of that Act ”; and

(b) the additional fee payable under this section in respect of a licence as if—

(i) in subsection (3) (b), for “ a fee under this Part ”, there were substituted “ the additional fee payable under section 21 of the *Licensing Amendment Act (No. 2) 1985* ”; and

(ii) in subsection (3) (b), for “ a fee payable under this Part ”, there were substituted “ that additional fee ”.

(20) Notwithstanding the repeal of section 81 of the Principal Act by this Act, a person holding a tenancy of the premises to which a licence relates who is entitled, before the commencement day, to recover 30 per cent of a sum mentioned in subsection (1) of that section—

- (a) continues to be entitled, on and after that commencement, to recover, under that section, that percentage of such a sum that is paid by him during the period that the tenancy remains in force; and
- (b) is entitled, on and after that commencement, to recover, **under that section**, 30 per cent of any additional fee payable under this section during that period,
- as if that section had not been repealed.

(21) In subsection (20), “licence” means a licence that is in force immediately before the commencement day.

Amendment of
*Licensing
Amendment Act*
1984.

22—The *Licensing Amendment Act* 1984* is amended as follows:—

- (a) by omitting paragraph (b) of section 37 (2) and substituting the following paragraph:—

(b) by omitting “licence was transferred”, where firstly occurring, and substituting “general licence or on licence was transferred, or, where the Commissioner so directs, the person from whom the special wine producer’s licence was transferred,”;

- (b) by omitting subsection (4) of section 37 and substituting the following subsection:—

(4) Section 83 (4) of the Principal Act is amended by inserting “, or where the holder of a special wine producer’s licence dies and the Commissioner so directs,” after “dies”.

- (c) by omitting subsections (2), (3), and (4) of section 38 and substituting the following subsections:—

(2) Section 84 (2) of the Principal Act is amended by inserting “or a special wine producer’s licence” after “an off licence”.

(3) Section 84 (3) of the Principal Act is amended by inserting “, or where the holder of a special wine producer’s licence dies and the Commissioner so directs,” after “dies”.

- (d) by omitting “Section 87 (2)” from Schedule 1 and substituting “Section 87 (3)”.

* No. 50 of 1984.

23—Schedule 1 to the *Tasmanian State Services (Miscellaneous Amendments) Act 1984** is amended as follows:—

Amendment of
*Tasmanian
State Service
(Miscellaneous
Amendments)
Act 1984.*

- (a) by omitting from paragraph (a) of item 1 of the amendments relating to the *Licensing Act 1976* “to’;” and substituting “to’; and”;
- (b) by omitting from paragraph (b) of that item “to’;” and substituting “to’.”;
- (c) by omitting paragraph (c) of that item.

* No. 29 of 1984. Amended by No. 90 of 1984 and Nos. 4, 63, 72, and 83 of 1985.

