

LIQUOR (AMENDMENT) ACT.

Act No. 68, 1916.

An Act to amend the law relating to persons engaged in the sale of liquor; to provide for the abatement of rents of licensed premises and for the reduction of license fees; for the postponement of the payment of mortgages and of instalments of purchase moneys of licensed premises, and of bills of sale or other securities over the licensee's lease, license, goodwill, stock, goods, chattels, and effects in or upon or about such licensed premises; for the closing of bars and other places in licensed and registered premises during prohibited hours; to suspend the taking of the local option vote at the next general election; to amend the Liquor Act, 1912, the Liquor Referendum Act, 1916, the Billiards and Bagatelle Act, 1902, the Justices Act, 1902, and other Acts; and for purposes consequent thereon or incidental thereto. [Assented to, 6th December, 1916.]

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BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Preliminary.

1. (1) This Act may be cited as the "Liquor (Amendment) Act, 1916." It shall be read with the Liquor Act, 1912, hereinafter in this Act referred to as the Principal Act.

(2)

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Definition.
- (2) Section three of the Principal Act is amended by inserting the following words:—
- “Lease” includes every letting, whether oral, in writing, or by deed.
- “Lessor” and “lessee” mean the parties to a lease as herein defined, and respectively includes a mesne lessor and a mesne lessee.

Abatement of rent.

Establishing
of courts.

2. (1) The Governor shall, for the purposes of this Act, establish courts for every licensing district to have jurisdiction within such district. Such court shall consist of a stipendiary or police magistrate appointed by the Governor. Each such court shall sit at such times as the Governor may direct, and shall have the powers of a fair rents court, under sections seven, eight, eighteen, and nineteen of the Fair Rents Act, 1915; and the said sections shall apply to proceedings in any such court under this Act.

(2) The Governor, upon the recommendation of the Public Service Board, shall appoint registrars of such courts and such other officers as may be necessary for carrying out the provisions of this Act.

Orders by
courts.

3. (1) Upon application duly made any such court may make orders—

(a) fixing what abatement (if any) shall be made in the rent which has or may thereafter become payable in respect of any licensed premises during the period in which, in pursuance of the Liquor Referendum Act, 1916, the closing time of licensed premises shall be six o'clock;

(b) postponing to such dates as may be considered just, not being later than twelve months after the termination of the present war between His Majesty and His Majesty's enemies, the payment of the principal or any part of the principal which has or may thereafter become payable during the said period by the licensee in respect of his licensed premises on a mortgage of such premises effected before the commencement of this Act;

(c)

- (c) postponing to such dates as may be considered just, not being later than twelve months after the termination of the present war between His Majesty and His Majesty's enemies, any payments of instalments, or any part thereof, which may thereafter become payable during the said period by the licensee in respect of the purchase money of his licensed premises purchased by him before the commencement of this Act, or in respect of any bill of sale or other security over the licensee's lease, license, goodwill, goods, chattels, and effects in or upon such licensed premises :

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Provided that the court may revoke or vary any order made under this section :

Provided further that any such order shall not affect the payment of any rent, principal, or instalments the subject of any legal proceedings commenced before the making of such application.

(2) An application under this section shall be made in duplicate to the registrar in the form prescribed, within three months after the commencement of this Act, and the registrar shall forthwith serve on the lessor, mortgagee, or vendor, as the case may require, personally or by post, a copy of such application. If the lessor, mortgagee, or vendor to be so served is without the State of New South Wales, service may be made upon his authorised agent, or, if there be no such agent, or no such agent known to the registrar, the court may on the application of the applicant direct how and on what person service shall be made.

Applications,
how made.

(3) In any proceedings under this section no order as to costs shall be made.

Costs.

4. (1) An application for an order under the last preceding section shall not be entertained by the court unless the lessee, mortgagor, or purchaser has first served on the lessor, mortgagee, or vendor a notice in writing requiring him to consent to an abatement of rent or postponement of payment, as the case may be, and unless it appears to the court that the parties have, within one month after service of such notice, failed to enter into an agreement (which agreement they are hereby

Order made
only after
failure of
agreements
between
parties.

George V, hereby authorised to enter into) as to the amount of abatement or period of postponement, as the case may be.

(2) Such notice may be served personally or by post on the lessor, mortgagee, or vendor, or on his authorised agent or on the person authorised by him to receive on his behalf the payment of the rent, principal, or instalments the subject matter of the application.

Matters to be considered by court.

5. (1) In determining any application under paragraph (a) of subsection one of section three of this Act the court shall have regard to all the circumstances of the case, and in particular to—

- (a) the loss of trade (if any) directly attributable to the restriction of trading hours imposed by reason of the vote taken under the Liquor Referendum Act, 1916;
- (b) the reduction (if any) in the expenses of the applicant in carrying on his business on the licensed premises the subject matter of the application consequent on the said restriction of trading hours;
- (c) any sum paid or payable by the lessee making the application to his lessor as a bonus or premium on the granting of the lease, or any extension thereof.

(2) In determining any application under paragraph (b) or paragraph (c) of the same subsection the court shall have regard to all the circumstances in the case, and in particular the matters set forth in paragraphs (a) and (b) of subsection one of this section.

Notice in case of mesne lessee.

6. If any lessor who is respondent to an application under paragraph (a) of subsection one of section three of this Act is himself a lessee of the premises the subject matter of the application, the court, on the application of the said respondent, shall cause to be served on his lessor notice of the first-mentioned application, and a further notice that on the hearing of such application the respondent intends, in the event of an order being made abating the rent to be paid to him, to apply to the court for an order abating the rent payable by him to the lessor on whom such notice is to be served.

On

On the hearing of the first-mentioned application the court, if it makes an order abating the rent in respect of which the said application is made, shall proceed to determine what abatement (if any) shall be made in the rent which has or may thereafter become payable by the respondent in the said application to his lessor.

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In making such determination the court shall have regard to all the circumstances of the case, and in particular the amount by which the rent payable to the respondent in respect of the said premises has been abated, and any sum paid by the respondent to his lessor as a bonus or premium on the granting of the lease or any extension thereof.

Abatement of licensing fees.

7. A licensing court, in fixing the amount of the license fee for any premises, may take into consideration any diminution of trade on such premises which has resulted, or is likely to result, from the alteration of the closing-hour in pursuance of the vote under the Liquor Referendum Act, 1916.

Abatement
of licensing
fees.

In any case where a license has been granted or renewed before the commencement of this Act a licensing court may on application made to it by the licensee fix what refund or abatement (if any) should be made in the fee paid or payable in respect of the grant or renewal of the license. Any refund so fixed shall be made out of the Treasury.

Sale of liquor on Good Friday and Christmas Day.

8. Paragraph (b), subsection one, of section fifty-seven of the Principal Act is amended by omitting all the words after "Christmas Day".

Amendment
of s. 57 (1) (b)
of Principal
Act.

Closing of bars, &c.

9. (1) The holder of a publican's license shall on every day except on such days and during such times as licensed premises may lawfully be open for the sale of liquor close and keep closed to the public every bar on such premises.

Closing of
bars.

(2)

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(2) The holder of a colonial wine license or of a brewer's or spirit merchant's license, and the holder of a certificate of registration of a club shall, on every day except on such days and during such times as licensed premises may lawfully be open for the sale of liquor, close and keep closed to the public that part of any counter or place at or in which liquor is usually sold in pursuance of such license or certificate.

(3) Provided that nothing in this section shall prevent the sale or consumption of liquor to the persons and in the manner provided by subsection two of section fifty-seven of the Principal Act.

(4) If the holder of any such license or certificate fails to carry out any of the requirements of this section he shall be liable to a penalty not exceeding one hundred pounds.

Amendment
of s. 60 of
Principal
Act.

10. Section sixty of the Principal Act is amended by omitting the word "twenty" and inserting in lieu thereof the words "twenty-five".

Sale of non-
intoxicating
drinks.

11. A licensed publican shall not sell, supply, or permit to be sold or supplied on his licensed premises any non-intoxicating drinks other than tea, coffee, cocoa, milk, beef tea, or aerated waters served with meals at usual hours, except during such times as his licensed premises may lawfully be open for the sale of liquor :

Provided that nothing in this section shall prevent the sale of such non-intoxicating drinks to the persons and in the manner and under the conditions prescribed by subsection two of section fifty-seven of the Principal Act with respect to the sale of liquor.

If a licensed publican contravenes the provisions of this section he shall be liable to a penalty not exceeding one hundred pounds.

Retail stores on licensed premises.

Retail stores
on licensed
premises.

12. Subsection four of section nine of the Principal Act is amended by omitting all the words after "any explanation thereof" and by inserting in lieu thereof the words "Providing that if any portion of such premises shall be fitted up, or it is intended to be used as a retail store there must be no internal access from such store to the licensed premises, otherwise it shall not be lawful for the court to grant such application."

Colonial

*Colonial wine licenses.*George V,
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13. Section thirty-nine of the Principal Act is amended by inserting after "publican's license" wherever occurring the words "or colonial wine license." Removal of colonial wine licenses.

Licensing courts.

14. Section five, paragraph two, of the Principal Act is amended by omitting the words "subject to the provisions of sections one hundred and forty-eight to one hundred and fifty-one inclusive of the Justices Act, 1902," and inserting in lieu thereof the words "subject to the provisions of the next succeeding section." Amendment of s. 5 (2) of Principal Act.

15. The following section is inserted next after section five of the Principal Act:— New section 5A.

5A. (1) In any police district or part thereof to which the provisions of Part III of the Justices Act, 1902, have been extended, on and after the expiration of thirty days from the day on which such provisions apply to such district or part, and until such provisions cease so to apply, the jurisdiction in the whole of such police district under this Act of any licensing court or licensing magistrate, constituted or appointed or deemed to be constituted or appointed under this Act, shall cease and determine. Licensing courts in places for which stipendiary magistrates are appointed.

(2) Thereupon a licensing court for a licensing district within which or within some part of which a stipendiary magistrate has jurisdiction shall be composed of three members, being the stipendiary magistrate or magistrates as official members and such other persons or person as the Governor may appoint.

(3) The stipendiary magistrate or senior stipendiary magistrate present shall preside at meetings of the licensing court; but in the absence of any stipendiary magistrate the members of the court present at any such meeting shall elect one of their number to act as chairman at and for such meeting.

(4)

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(4) Every stipendiary magistrate shall within such licensing district exercise the powers vested in, and perform the duties imposed upon a licensing magistrate by this Act, and the provisions of this Act, and of any Act amending the same shall, except as herein modified, apply to any licensing district, court, and magistrate aforesaid.

*Amendment of Justices Act, 1902.***Amendment
of Justices
Act, 1902.****16.** The Justices Act, 1902, is amended as follows:—

- (a) Section seven, subsection one, by inserting after the words “any adjoining police district” and after the words “any other police district” the words “or any part thereof”.
- (b) Section eight, by inserting in paragraphs (a) and (b) after the words “any police district” the words “or any part thereof”.
- (c) Section thirteen, by inserting in paragraph (b) after the words “any police district” the words “or any part thereof”.
- (d) Sections one hundred and forty-eight, one hundred and forty-nine, one hundred and fifty, and one hundred and fifty-one, are repealed.

*Registered clubs.***Limitation of
number of
clubs in
electorate.**

17. Section eighty of the Principal Act is amended by adding thereto the following:—“For the purposes of subsection two of this section the electorates of King, Belmore, Darling Harbour, and Darlinghurst shall be deemed to be one electorate.”

*Local option vote.***Local option
vote
suspended.**

18. The vote of electors under Part IV of the Principal Act shall not be taken in any electorate at the general election next following the commencement of this Act: Provided that this section shall not apply to a general election taking place after a period of twelve months after the commencement of this Act.

Billiard

Billiard and bagatelle licenses.

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19. Section eight of the Billiards and Bagatelle Act, 1902, is amended by omitting paragraphs (a) and (b) and inserting in lieu thereof the words “between the hours of ten o’clock in the morning and eleven o’clock at night.”

Billiard and
bagatelle
licenses.
