

LIQUOR (AMENDMENT) ACT.

Act No. 42, 1919.

George V, An Act to extend the period during which licensed
No. 42. and registered premises shall be closed at six
o'clock ; to suspend local option ; to reduce
the number of publicans' licenses, and to
provide for compensation ; to submit to a
referendum the question of prohibition with
compensation, and the question of the hour
at which licensed and registered premises
shall be closed ; to give effect to such referen-
dum ; to limit the duration of agreements
providing for an abatement of rent ; to amend
the Liquor Act, 1912, the Liquor (Local
Option) Amendment Act, 1913, the Liquor
Referendum Act, 1916, and the Liquor
(Amendment) Act, 1916 ; and for purposes
consequent thereon or incidental thereto.
[Assented to, 23rd December, 1919.]

BE

BE it enacted by the King's Most Excellent Majesty, George V, 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:—

1. (1) This Act may be cited as the "Liquor (Amendment) Act, 1919," and shall be read and construed with the Liquor Act, 1912, hereinafter called the Principal Act.

Short title
and division.

(2) This Act is divided into Parts, as follows:—

PART I.—EXTENSION OF THE PERIOD OF SIX O'CLOCK CLOSING OF LICENSED AND REGISTERED PREMISES—s. 2.

PART II.—REDUCTION OF THE NUMBER OF PUBLICANS' LICENSES—ss. 3–36.

Preliminary—ss. 3–7.

DIVISION 1.—Licenses Reduction Board—ss. 8–19.

(1) *Constitution of the board—s. 8.*

(2) *Jurisdiction and procedure of the board—ss. 9–19.*

DIVISION 2.—Compensation—ss. 20–36.

PART III.—THE TAKING OF AND GIVING EFFECT TO A REFERENDUM ON THE QUESTION OF PROHIBITION WITH COMPENSATION AND ON THE QUESTION OF THE HOUR AT WHICH LICENSED AND REGISTERED PREMISES SHALL BE CLOSED—ss. 37–93.

(1) *The taking of a vote by ballot—ss. 37–55.*

(2) *Effect of prohibition with compensation—ss. 56–57.*

(3) *Compensation, if prohibition with compensation is carried—ss. 58–73.*

(4) *Principles upon which compensation is to be assessed—ss. 74–77.*

(5) *Settlement of claims for compensation—ss. 78–93.*

PART IV.—LIMITING THE DURATION OF AGREEMENTS PROVIDING FOR AN ABATEMENT OF RENT—s. 94.

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PART I.

EXTENSION OF THE PERIOD OF SIX O'CLOCK CLOSING
OF LICENSED AND REGISTERED PREMISES.

Extension of
six o'clock
closing.

2. Subject to the provisions of Part III of this Act relating to prohibition with compensation, the period during which, in pursuance of the referendum taken under the Liquor Referendum Act, 1916, all licensed premises and registered clubs shall be closed at the hour of six o'clock is hereby extended until a closing hour therefor has been certified and published in the Gazette in pursuance of the referendum to be taken as hereinafter provided.

PART II.

REDUCTION OF THE NUMBER OF PUBLICANS' LICENSES.

Preliminary.

Date of
commence-
ment and
duration.

3. This Part of this Act shall come into force on the first day of January, one thousand nine hundred and twenty; and, subject to the provisions of Part III of this Act relating to prohibition with compensation, shall remain in force for a period of three years from such date.

Suspension of
local option.

4. During such period the operation of Part IV of the Principal Act as amended by the Liquor (Local Option) Amendment Act, 1913 (except subsections three and four of section eighty, in so far as they relate to registered clubs, and section ninety-three), is hereby suspended.

Restrictions on
grant of new
publican's or
colonial wine
license.

5. No new publican's or colonial wine license (for which application has not been made prior to the twenty-sixth day of November, one thousand nine hundred and nineteen) shall be granted after the commencement of this Part except in pursuance of special authority granted under the following section.

Increase in
number of
licenses on
ground of
increase of
population.

6. Where a petition is presented to the Governor asking that a license may be granted for certain specified premises, and such petition is signed by a majority in number of the adult residents living in an area within a
radius

radius of one mile from the said premises, and it is shown by such petition that— George V,
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- (a) there has been a large increase of population in the said area since the first day of January, one thousand nine hundred and nineteen, and that such increase of population is likely to be permanent;
- (b) there are insufficient licensed premises to meet public requirements within such area; and
- (c) no transfer of an existing license to the premises specified in the petition has been applied for,

the Governor shall refer such petition for inquiry in open court by a licensing court.

If, on such inquiry and after hearing evidence, the said court is of opinion that the petition should be granted, it shall make a recommendation to that effect to the Governor.

On the receipt of such recommendation, the Governor may grant the petition, and shall so declare in the Gazette; and thereupon a license or a transfer of a license may be granted for the said premises.

7. In this Part of this Act, unless the context or subject-matter otherwise requires,— Interpreta-
tion.

“The Board” means the Licenses Reduction Board to be constituted under this Act.

“Elector” means person qualified to vote at a general election in the electorate.

“Electorate” means each electoral district for the election of members to serve in the Legislative Assembly.

“General election” means parliamentary general election for the return of members pursuant to writs issued upon the dissolution or expiry of the Legislative Assembly.

“Minister” means the Attorney-General or other the Minister for the time being charged with the administration of this Act.

“Mortgagee” includes a mortgagee of the land upon which any licensed premises are erected or of any estate or interest therein, and also the holder of any bill of sale or assignment by way of
of

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of mortgage of the lease, license, or goodwill of licensed premises, or of the stock in trade or furniture or other chattels thereon or belonging thereto.

“Owner” of licensed premises includes a cestui que trust and means the person for the time being entitled to receive either on his own account or as mortgagee or other incumbrancer in possession any rent or profits of such premises, or if he is absent from New South Wales means the attorney or agent of such person capable of giving a valid receipt for such rent or profits.

DIVISION 1.—*Licenses Reduction Board.*

(1) *Constitution of the board.*

Appointment
and constitu-
tion.

Act No. 2,683
(Vic.), s. 271.

8. (1) (a) For the purposes of this Part of this Act there shall be appointed and constituted on or before the first day of January, one thousand nine hundred and twenty, a board to be called the Licenses Reduction Board.

(b) Each member of the board shall receive such remuneration and allowances as the Governor shall fix, and shall not, save with the sanction of the Governor, engage in any business or employment other than the duties of his office as a member of the board.

(c) The remuneration and allowances of the board and of the secretary and other officers hereafter mentioned shall be a charge upon and paid out of the compensation fund, hereafter provided for.

Number of
members.

(2) Such board shall consist of three members who shall be appointed by the Governor and shall not be subject to the provisions of the Public Service Acts during their tenure of office.

Quorum.

(3) Any two members of the board shall form a quorum, and may, as a majority, exercise all or any powers of the board:

Provided, however, that all of the members of the board shall be present when any determination is made having the effect of closing any licensed premises.

Illness, &c.,
of member.

(4) In the event of the illness or incapacity or absence of any member, the Governor may appoint another

another person to act as a member of the board during such illness, incapacity or absence, and such person shall have all the powers of and perform all the duties of such member. George V,
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(5) The Governor may at any time remove any member or acting member of the board, and may fill up any vacancy occurring in the board from any cause whatsoever. Removal and
vacancies.

(6) There shall also be appointed by the Governor, on the recommendation of the Public Service Board, a secretary to the board and such other officers as the Governor thinks necessary, who shall hold office during the pleasure of the Governor. Such secretary and other officers shall receive such remuneration and allowances as shall be fixed by the Public Service Board, and shall be subject to the provisions of the Public Service Acts during their tenure of office. Officers.

(2) *Jurisdiction and procedure of the board.*

9. It shall be the duty of the board during the aforesaid period of three years and subject as hereinafter provided,— Duties of
board.
cf. *Ibid.* s. 271
(4).

- (a) to reduce the number of publicans' licenses in New South Wales to the extent that the moneys to the credit of the compensation fund hereinafter provided will allow of compensation being paid thereout to the owners, lessees, sublessees, and licensees of licensed premises which under this Part are deprived of a license and are the subject of compensation;
- (b) to determine which of the licensed publican's premises in any district shall be so deprived of a license; and To select
houses to be
closed.
- (c) to assess in accordance with this Part the amount of compensation payable in respect of any licensed premises deprived of a license by the board in pursuance of this Part. To fix com-
pensation.

10. The board may, during the said period of three years, reduce by a number not exceeding one-fourth the publicans' licenses in force in any electorate in which there is in force a number of publicans' licenses exceeding the statutory number as hereinafter ascertained: Reduction of
licenses.

Provided

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Statutory
number.
Ibid. s. 37.

11. Subject to the last preceding section, the number of publicans' licenses in any electorate shall not exceed—

- (1) in the case of an electorate for which five members are returned to the Legislative Assembly, one for each two hundred and fifty of the first one thousand electors for the time being on the electoral roll for such electorate, and a further three for each subsequent two thousand of such electors; and
- (2) in the case of an electorate for which three members are returned to the Legislative Assembly, one for each two hundred and fifty of the first one thousand of such electors, and a further one for each subsequent five hundred thereof—

and the total number so calculated is in this Part called the statutory number for such electorate.

Surrender
and
cancellation
of publicans'
licenses by
consent.
cf. Ibid.
s. 272, *vide*.

12. The board in its discretion at the request of the owner and licensee and of the lessees, sublessees, and mortgagees (if any) of licensed premises may at any time determine that the license of such premises shall, subject to the provisions of this Part, cease to be in force, and may assess the amount of compensation in accordance with the provisions of this Part and authorise the payment of such amount out of the compensation fund hereinafter referred to, either forthwith or as soon thereafter as there is money available for the purpose.

Advances
out of
Consolidated
Revenue
Fund to
compensation
fund.

13. (1) If at any time the moneys in the compensation fund are insufficient for the payment thereof of compensation as and when the same becomes payable to any claimant under this Part, the Minister may advance out of the Consolidated Revenue Fund to the compensation fund any moneys required to enable such payments to be made.

(2) Any moneys so advanced shall be a first charge upon the compensation fund and shall be refunded thereout to the Consolidated Revenue Fund so soon as the moneys in the compensation fund are sufficient for such purpose.

14.

14. (1) For the purposes of executing any of the powers, duties, and authorities conferred upon it the board may—

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Powers and
authority of
board.

Ibid. s. 273.

- (a) summon any person to appear and give evidence, and to produce books, papers, writings, or documents, and (in case of a licensee or his executor or administrator) copies of his own income tax returns or those of the testator or intestate as the case may be, and may hear, receive, and examine evidence upon oath;
- (b) require the production or transmission to the board of any income tax returns in the custody of the Commissioner of Taxation made by or on behalf of any person who is or has at any time been the licensee of any licensed premises, which return the Commissioner of Taxation is hereby authorised and required to produce or transmit to the board, anything in any other Act to the contrary notwithstanding.

(2) The board may, if it thinks fit, hear any proceeding under this Part in camera, and shall in any event treat as confidential the contents of any income tax return or copy thereof so produced or transmitted.

Board may
sit in camera.

(3) Any person who—

- (a) wilfully misbehaves himself before the board; or
- (b) wilfully interrupts the proceedings; or
- (c) is guilty of wilful prevarication in giving evidence; or
- (d) on being summoned by any member of the board to appear before the board as a witness, and having had a reasonable sum tendered to him for his expenses, without lawful excuse refuses or neglects to appear at the time and place appointed by the summons or to produce any books, papers, writings, or documents, or to produce or transmit to the board any income tax returns or copies thereof mentioned in the summons; or
- (e) refuses to be sworn, or who refuses or neglects without lawful excuse to answer any question

Wilful mis-
behaviour,
&c.

Refusal to
obey
subpoena.

Refusal to be
sworn.

which

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which is put to him and to which an answer is required by the board,

Penalty.

shall be liable to a penalty not exceeding twenty pounds.

Right of
party to
appear by
counsel, &c.

(4) Every person appearing before the board shall have the right to be represented by his counsel or attorney.

Deprivation
sittings.
Ibid. s. 274.

15. The board shall as occasion requires hold sittings, whether within or without an electorate, for the purpose of determining which of the licensed publicans' premises situate therein shall be deprived of a license.

Considera-
tions influenc-
ing the board
in reducing
the number
of licenses.
Ibid. s. 276.

16. (1) In carrying out the reduction of the number of publicans' licenses the board, in determining what licenses shall cease to be in force, shall for the purpose of the said reduction cause a classification of licensed publicans' premises to be made as hereinafter provided.

(2) The said classification shall include licensed premises to which the following conditions, or any of them, apply:—

(a) There have within the three years next preceding the determination of the board been either two convictions for one of the following offences or one conviction for two of such offences made against the same or different licensees of the same premises, that is to say:—

- (i) selling or allowing to be sold any liquor to persons under the age of eighteen years or to prohibited persons;
- (ii) selling or allowing to be sold liquor to persons in a state of intoxication;
- (iii) allowing gaming to be carried on on the premises;
- (iv) permitting the premises, or any portion thereof, to be used for purposes of prostitution;
- (v) permitting drunkenness on the premises;
- (vi) letting or subletting any bar, or the right to sell liquor on the premises; or
- (vii) selling liquor in prohibited hours; or

(b) there has, within the said three years, been a conviction of any licensee of the premises for any one of the said offences;

(c)

- (c) it is proved that the business in the premises is so badly conducted as to be a serious inconvenience to persons requiring accommodation, or a nuisance to neighbours, or that the premises are insufficiently provided with proper sanitary conveniences.

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(3) In carrying out the said reduction the board, in determining what licenses shall cease to be in force, shall—

- (a) consider the convenience of the public and the requirements of the several localities in the electorate; and
- (b) subject to the above consideration, deal in the first place with the licenses of premises to which paragraph (a) of the last preceding subsection applies, and in the second and third places respectively with those to which paragraphs (b) and (c) of such subsection respectively apply.

17. (1) Except as provided by section twelve no licensed premises shall be deprived of their license by the board unless the licensee thereof and (if the licensee is not the owner) the owner thereof has been served with a summons, at least fourteen days before the date of hearing therein fixed, to show cause why such licensed premises should not be deprived of their license.

Owners and
licensees to
be summoned
to show
cause.
cf. *Ibid.*
s. 277.

(2) (a) An officer of the board shall serve such summons or cause it to be served, and such summons shall, until the Governor has under the powers contained in the Principal Act prescribed otherwise, be in the form or to the effect contained in Schedule One hereto, and such summons may be served by being sent in duplicate as a registered post letter to the last known address of each person to be served therewith.

Service of
summons.

(b) If the owner's address for service cannot be ascertained, service may be made upon his authorised agent; or if the name or address of such agent cannot be ascertained a copy of the summons for the owner may be left with the licensee addressed to the owner; and such licensee shall forthwith serve personally upon or send such copy as a registered post letter to the owner

Y

addressed

George V,
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and in each of such cases the summons shall be deemed
to have been duly served upon the owner.

No objection
to form of
summons.

(c) No objection shall be held good to the
form, effect, validity or sufficiency of any summons so
long as it is in the form or to the effect contained in the
said Schedule, or prescribed as aforesaid.

Service on
mortgagee.

(3) All lessees, sublessees, and mortgagees of
such licensed premises shall be served with a copy of
such summons or with a sufficient notice thereof in such
manner as the Governor may by regulation prescribe.

Board to
decide which
houses are to
be deprived
of their
licenses.

Ibid. s. 278.

18. (a) The board, after hearing what (if anything)
is alleged by or on behalf of the owner, licensee, lessee,
sublessee, and mortgagee respectively, and what (if
anything) is alleged by or on behalf of any inspector,
and if it thinks fit, after a view of such or any other
licensed premises, shall decide which licensed premises
shall be deprived of their licenses in terms of this Act.

(b) The board in any proceeding before it may
hear any matters, and the respective parties thereto,
in such order and by such method of procedure as to the
board seems fit.

Owners and
licensees to
be notified of
deprivation.

Ibid. s. 279.

19. So soon as the board has decided which licensed
premises shall be deprived of their licenses an officer of
the board shall serve or cause to be served upon the
respective owners and licensees, lessees, and sublessees
of such licensed premises as are to be deprived of their
licenses and upon the respective mortgagees of such per-
sons a notice informing them of the decision of the board.

The provisions of section seventeen relating to the
service of a summons to show cause why any licensed
premises should not be deprived of their license shall, so
far as is practicable, apply to the service of the notice of
such decision.

DIVISION 2.—*Compensation.*

Valuation of
compensation
to be made.

Ibid. s. 281.

20. The board shall as soon as practicable assess
the maximum amount of compensation payable in
respect of each and every licensed publican's premises
deprived of a license to—

- (1) the owner of the freehold of such premises,
and any lessee or sublessee thereof (other than a
lessee

- lessee or sublessee by way of mortgage) by reason of the diminution in value of such premises owing to their being deprived of a license; and
- (2) the licensee of such premises for the annulment of his lease or agreement and the loss of his license and business.

21. (1) The compensation payable to such owner, lessee, and sublessee shall be the difference between the average net yearly rent (provided such rent was a fair rent) in the case of premises licensed before the first day of January, one thousand nine hundred and seventeen, for the three years immediately preceding the first day of January, one thousand nine hundred and twenty, or, in the case of premises licensed after the thirty-first day of December, one thousand nine hundred and sixteen, for the period not exceeding three years immediately following the grant of the license (or, if the owner was also the licensee, upon the fair net rental value during the said period, as the case may be), and the average fairnet yearly rent which could or would probably have been obtained for the premises if unlicensed :

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Compensation to
owner, lessee, and
sublessee.
Ibid., s. 281.

Provided that where any abatement of rent has been made under the provisions of the Liquor (Amendment) Act, 1916, the board shall take as such basis the difference between the yearly rent payable immediately prior to such abatement having been made (provided that such rent was a fair rent) and the fair net yearly rent which at that time could or would probably have been obtainable for the premises if unlicensed.

(2) If claims are also made by a lessee from such owner or by sublessees, or by a lessee and also by sublessees, the claims of the owner and of all lessees and sublessees in respect of the same licensed premises shall be heard together as if all such claims constituted one claim.

(3) Where by reason of the existence of a lease or by the existence of a sublease or subleases there are more claims than one in respect of licensed premises, the court shall by its award distribute, in such manner as it deems just and equitable, among the several claimants the amount awarded as compensation.

22.

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Compensa-
tion to
licensee.
Ibid. s. 281.

22. (1) The compensation payable to the licensee shall in respect of each year or part of a year of the unexpired term of his tenancy (not exceeding three years) remaining at the date of payment of compensation, be the average annual net profit received by the licensee or licensees for the time being of the premises for each of the three years immediately preceding the first day of January, one thousand nine hundred and twenty, where such premises were licensed before the first day of January, one thousand nine hundred and seventeen, or for the period not exceeding three years immediately following the grant of the license where such premises were licensed after the thirty-first day of December, one thousand nine hundred and sixteen.

(2) In determining the amount of such net profit the board shall take into consideration the income earned by any licensee of the premises during the said three years or the said period as the case may be; and for such purpose any person who is or at any time during the said three years or period was a licensee of such premises shall, as and when required by the board, furnish to the board a duplicate copy of any income tax return verified by a statutory declaration of such licensee, and it shall not be lawful for the licensee or any subsequent licensee to question or deny at any time the accuracy or truth of any statement in such verified copy. Any such licensee on applying to the Commissioners of Income Tax may inspect his own returns and make a copy thereof.

(3) If the licensee is also the owner he shall be entitled to compensation as owner and also to compensation as licensee, as if he were a tenant, but in ascertaining such net profit a fair and proper sum shall be deducted therefrom as rent.

Fair
compensation
at date of
payment.
Ibid. ss. 281,
282.

23. (1) The compensation payable as aforesaid shall, subject to the two last preceding sections, be determined by the board in every case on a fair and equitable basis, but shall in no case exceed the amount of such valuation or sum as would be a fair compensation at the date of payment.

(2)

(2) The board in determining the amount of compensation to be paid to the owner, lessee, sublessee and licensee of any licensed premises deprived of a license shall have regard also to the rights of any mortgagee whose security will be depreciated in value by such deprivation.

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Regard to be
had to
mortgagees.

24. Every determination of the board shall be final and conclusive, and shall not be questioned in or reviewed or amended by any court whatsoever.

Determination
of board to be
final.
Ibid. s. 2s2.

25. At any sittings of the board held for any purpose whatever, no objection on behalf of any person served that a summons has not been served on any other person shall be allowed.

Unnecessary to
summon owner,
&c., except
where interested
in cases before
the board.
Ibid. s. 2s3.

26. The board may at any time, if it thinks fit, rehear any matter which has been heard and determined by it.

Power to
rehear.

27. No determination, order, or proceedings under any of the provisions of this Part shall be removed or removable by certiorari or otherwise into the Supreme Court for any want or alleged want of jurisdiction, or for any error or alleged error of form or substance, or on any ground whatsoever.

No certiorari.
Ibid. s. 2s4.

28. If any question of law arises in any proceedings before the board, the board may, if it thinks fit, state a case for the determination of that question of law by the Supreme Court.

Stat ng case
for Supreme
Court.

29. (1) When any compensation is awarded by the board to the owner, lessee, sublessee and licensee, or any or either of them, six weeks' notice of the amount of the compensation shall before the same is payable be given by an officer of the board by advertisement in the Government Gazette and in some newspaper circulating in the electorate where the premises are situated.

Notice of
compensation
payable.
Ibid. s. 2s6.

(2) (a) Every mortgagee from such owner, lessee, sublessee or licensee shall have a lien upon the amount payable as compensation to the mortgagor for the amount of the mortgage debt (including interest, costs, charges, and expenses) upon giving notice in writing to the secretary of the board within one month from the date of such advertisement or within such extended time as the board shall allow, and thereupon the same shall, unless otherwise ordered by a judge of the

Mortgagee to
have lien on
compensation.

George V, the Supreme Court on application as hereinafter mentioned, be a first charge on the compensation, which shall not be paid to the mortgagor unless with the consent in writing of the mortgagee :

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Provided that where the amount of the compensation is less than the aggregate amount of the mortgage debt (including interest, costs, charges and expenses) and the capital invested by the mortgagor in the mortgaged premises and business, such compensation shall be apportioned pro rata between such mortgage debt and such capital, and the mortgagee's lien shall extend only to so much of the compensation as is apportioned to the mortgage debt.

Dispute between mortgagee and owner decided in a summary way.

(b) Upon receipt of such notice the secretary shall forthwith send a copy thereof to such mortgagor, who, if he disputes the title of the mortgagee or the amount of the mortgage debt, may within fourteen days after the service of such notice as aforesaid, and upon notice to the mortgagee, apply by summons or otherwise in a summary way to a judge of the Supreme Court for a determination of such dispute, and the judge may make such order with respect to the compensation money, or in the premises, and with respect to costs as he thinks fit.

Payment to mortgagee.

(3) If no such application by the mortgagor is made, or subject to any order that such judge may make, the payment or tender of such amount to the mortgagee shall be deemed to be payment or tender to the mortgagor.

Payment or tender of compensation.

Ibid. s. 287.

30. (1) At any time after the amount of compensation determined in accordance with the provisions of this Part is payable to the party entitled to the same, payment or tender thereof may (subject to the provisions of the last preceding section) be made to such party personally, or if it is made to appear to any member of the board that such party cannot be found, then such member may direct the compensation due to such party to be paid into the Treasury in trust for such party, his executors, administrators or assigns.

Date of closing.

(2) The license in respect of the said premises shall cease to be in force at the expiration of the current year of the period thereof or at the expiration of

six

six months after the determination of the board depriving such premises of their license (whichever shall be the longer period): George V,
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Provided that no licensed premises shall be closed in pursuance of any determination of the board until the expiration of twenty-one days after the compensation due to such party has been tendered or paid as aforesaid:

Provided also that in respect of any additional period during which such license shall continue to be in force under the last preceding paragraph a license fee and a compensation fee (as hereinafter provided), proportionate in amount to the fees paid in respect of the last preceding year, shall be payable.

(3) Notwithstanding any covenant or agreement to the contrary when any licensed premises are under the provisions of this section deprived of their license, and the owner thereof is not also the licensee, the term of the lease or agreement under which the licensee or any intermediate lessee or sublessee holds the same shall, if either the owner or the licensee, within three months after the license has ceased to be in force under the provisions of this Part, by written notice to the other so elect, be deemed to have been determined by effluxion of time as from the date of such notice. Cancellation
of lease or
tenancy.

Determina-
tion of term.

31. (1) For the purposes of this Part any member of the board, or any person authorised by it in writing, may enter any licensed premises at any time by day or night. Admission to
licensed
premises by
board or
authorised
person.

(2) If admittance to such premises be refused, or unreasonably delayed, after demand made by such member or person as aforesaid, the licensee of such premises, and every person who wilfully refuses or delays such admittance, shall be liable to a penalty not exceeding fifty pounds. *Ibid.* s. 290.

Compensation fund.

32. (1) To provide for the payment of the compensation (if any) which may be granted by the board to the owners, lessees, sublessees, or licensees of licensed publicans' premises deprived of licenses by the board, a special trust fund, to be called "The Compensation Fund," shall be formed in the Treasury. Compensa-
tion fund to
be estab-
lished.
Ibid. s. 308.

(2)

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Compensa-
tion fee to
be paid
annually.

(2) Besides paying the license fee payable annually under the provisions of section twenty-one of the Principal Act on or before the due date for such payment, every person who was the holder of a publican's license on the first day of January in any year shall, on or before the thirty-first day of March in that year, pay to the Colonial Treasurer or officer authorised to receive fees under the Principal Act a compensation fee, which shall be placed to the credit of the said compensation fund.

Amount
thereof.

(3) The said compensation fee shall consist of a sum equal to three pounds per centum on the gross amount (including any duties on liquor) paid or payable for all liquor delivered upon or purchased for the licensed premises during the twelve months ended on the last day of December preceding the said thirty-first day of March. The amount of the said compensation fee shall be fixed by the board at a sitting to be held, if practicable, not later than the last day of February in each year:

Provided that the board shall have power to adjourn the date of any such sitting, and to extend the time for receipt of the information hereinafter specified, and to extend the time for payment of the said compensation fee to such date as the board may in its discretion determine.

Compensa-
tion fee: how
assessed
where
insufficient
information
available.

(4) In the event of no information or insufficient information being produced to the board to enable the board to fix the amount of such compensation fee, the board shall finally and conclusively fix the amount thereof at such sum as the board thinks fair and reasonable.

Licensee to
bear one-
third only of
compensation
fee.
Ibid. s. 339.

33. Any licensee paying any such compensation fee, if he is not the owner of the premises in respect of which such sum is so paid, shall, notwithstanding any agreement to the contrary, whether made before, on, or after the first day of January, one thousand nine hundred and twenty, be entitled to deduct from any rent payable by him in respect of such premises, or to recover from his lessor in any court of competent jurisdiction, a sum equal to two-thirds of the compensation fee paid by him; and notwithstanding any such agreement, where such sum is so deducted from such
rent

rent or paid by or recovered from such lessor, such lessor may in like manner deduct from any rent payable by him or may recover as aforesaid a sum equal to the amount so deducted or paid or recovered, and so on until the lessor to whom the rent is payable is not himself a lessee of another person.

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34. Any lessee under a building lease, or assignee of such lease, of land upon which licensed premises are erected, shall be deemed to be the owner of such premises, and such lessee or assignee, as the case may be, shall be liable to be called upon to pay the compensation fee provided by this Part, and shall upon such payment be entitled to any compensation payable to the owner of such premises under any determination of the board:

Lessee of
building
lease or
assignee
thereof to be
deemed
owner.

Provided that the lessor under such building lease may at his option elect to make the payments provided by this Part in lieu of such lessee or assignee, and to receive such compensation, and thereupon shall for the purposes of this Part be deemed to be the owner of such premises.

35. (1) Every person who is a licensee on the first day of January in any year shall during that month forward to the board a statutory declaration or statutory declarations setting forth with regard to the twelve months ended on the preceding thirty-first day of December as nearly as practicable, or if liquor has not been delivered or purchased during the whole of such period then with regard to any shorter period preceding the last-mentioned date during which liquor has been delivered or purchased—

Licensee to
furnish
particulars
of liquor
purchases.
Ibid. s. 310.

- (a) the gross quantity of liquor of various kinds delivered upon or purchased for the licensed premises of which he was on the first day of January the licensee and the total amount paid or payable therefor, including any duties thereon;
- (b) the quantity of each of the said various kinds of liquor and the amounts paid or payable therefor respectively, whether purchased in New South Wales or elsewhere; and
- (c) the names and addresses of the persons or firms who sold such various kinds of liquor.

(2)

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Transferor to
furnish
transferee
with
statutory
declarations.

(2) For the purposes of subsection one of this section every transferor of a publican's license shall furnish his transferee (if so required by him) with a statutory declaration or with statutory declarations made by such transferor and by the preceding licensee or licensees (if any) of the licensed premises during the period commencing on the preceding first day of January setting forth with respect to the said period all of the particulars required by the said subsection.

Cancellation
of license for
non-payment
of compensa-
tion fee.

(3) Where the compensation fee payable in respect of a licensee's premises is not paid on or before the date herein before provided and no extension of time for such payment has been granted by the board, then the license of such premises shall, at the discretion of the board, be declared to be cancelled and shall thereupon become null and void :

Provided that the board shall not exercise its powers under this section without giving fourteen days' previous notice to the owner of such premises, or, if such owner cannot be found, to any intermediate lessee thereof. Such owner or lessee may pay to the Minister or officer authorised as aforesaid the compensation fee and thereupon such cancellation shall not take place.

(4) Upon payment of the compensation fee by the owner or lessee under the last preceding subsection, such owner or lessee may, in any court of competent jurisdiction, recover from the licensee one-third of the amount so paid.

(5) No licensed publican's license shall be transferred under section thirty-seven of the Principal Act by the person who held such license on the preceding first day of January unless evidence is furnished to the licensing magistrate to whom the application for transfer is made that all compensation fees payable in respect of the licensed premises have been paid or unless the consent in writing of the board to such transfer is produced.

Power of
board to
obtain
statements
from
merchants
and brewers.
Ibid., s. 311.

36. For the purpose of enabling the board to fix the said fee the board may at any time by order in writing require any spirit merchant or brewer or person or firm carrying on business in New South Wales to state, in such form as may be prescribed by regulations, the
name

name and address of every licensed publican to whom such merchant or brewer or person or firm sold liquor during the twelve months ended on the preceding thirtieth day of December.

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Such statement shall show the quantity and nature of liquor so sold in each case and the price paid or payable therefor.

Every such spirit merchant or brewer or person or firm who fails within fourteen days after such order to furnish such statement, shall be liable to a penalty not exceeding one hundred pounds for every such failure.

PART III.

REFERENDUM ON THE QUESTIONS OF PROHIBITION WITH COMPENSATION AND OF THE HOUR AT WHICH LICENSED AND REGISTERED PREMISES SHALL BE CLOSED.

(1) *The taking of a vote by ballot.*

37. (1) On a day to be proclaimed by the Governor, being a day not later than one year and six months after the coming into force of this Act there shall be taken a vote by ballot on the two following questions—

Appointment
of a day for
the vote.

(a) whether prohibition with compensation shall come into force throughout New South Wales; and

(b) at what hour licensed premises and registered clubs shall be closed.

(2) For such purpose the Governor shall issue a writ returnable on a day not later than the eighty-eighth clear day after the issue thereof and directed to the chief electoral officer for the taking of such vote by ballot. Such writ shall appoint a day not more than fifty-three days after the issue of such writ for the taking of such vote.

38. On the day of such vote no licensee or secretary of a registered club shall keep his premises open for the sale of liquor, or shall sell any liquor or permit the same to be consumed on the said premises within the meaning of the Principal Act, and if any licensee or secretary offends against the above provision he shall be liable to the same penalty as for an offence against section fifty-seven of the said Act.

Licensed
premises to
close on
voting day.

39.

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No. 42.
Who may
vote.

39. The persons entitled to vote at such ballot shall be those entitled to vote at an election of members of the Legislative Assembly, and no others :

Provided that any returned sailor or soldier, as defined by section two of the Returned Sailors and Soldiers Voting Act, 1919, shall be entitled to vote at such ballot, if he is free from all the disqualifications mentioned in subsection twenty of the Parliamentary Electorates and Elections Act, 1912 (and the provisions of that subsection shall, mutatis mutandis, apply to the qualification for voting under this Part) :

Provided further that any such sailor or soldier, who shall not have returned to New South Wales before the day of such vote by ballot and who is free from the disqualifications aforesaid, may vote at such ballot in accordance with regulations to be made by the Governor in that behalf.

Electoral
officers and
polling-
places.

40. The chief electoral officer and all returning officers and other officers and persons appointed under the Parliamentary Electorates and Elections Act, 1912, as amended by the Parliamentary Elections (Amendment) Act, 1918, shall act in the taking of the vote under this Part.

Polling-places under the abovenamed Act shall be polling-places for the purposes of this Part ; but additional polling-places may be appointed by the Governor.

Hours of
voting.

41. Such polling-places shall be open for voting under this Act from eight o'clock in the morning until seven o'clock in the afternoon :

Provided that if at seven o'clock in the afternoon any elector is in the polling-place and desiring to vote, his vote shall be taken, for which purpose the polling-place shall not close until such elector has voted.

Provision as
to voting.

42. The provisions of sections ninety-seven and ninety-eight, and sections one hundred and fifteen to one hundred and twenty inclusive (absent voters) of the Parliamentary Electorates and Elections Act, 1912, as amended by the Parliamentary Elections (Amendment) Act, 1918, shall apply, mutatis mutandis, to voting under this Part.

Penalty for
voting twice.

43. If any person votes more than once at a poll under this Part he shall be liable on summary conviction to a penalty not exceeding one hundred pounds, or to three months' imprisonment.

44.

44. There shall be two voting-papers marked "A" and "B" respectively, and in the form set out in Schedule Two to this Act, but voting papers for absent voters shall be headed "absent voters" voting-paper.

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No. 42.

Voting-
papers.

45. An elector shall vote under this Act as follows:—

Method of
voting.

- (1) He shall insert in the voting-paper marked "A" and opposite to the word "Yes" or to the word "No" a cross (thus, X), thereby indicating whether he is in favour of or against prohibition with compensation.
- (2) He shall insert in the voting paper marked "B" and opposite to the words "Six o'clock" or to the words "Nine o'clock" a cross in similar manner, thereby indicating the hour at which he desires that licensed and registered premises should be closed.

46. The returning officer or his deputy who takes the poll under this Part at any booth may appoint for such booth two scrutineers—one to act for licensed publicans and one to act for temperance organisations; and shall in making such appointments first consider any nominations made to him by such publicans and organisations within the electorate.

Scrutineers.

Every such scrutineer shall be entitled to be present in that part of the polling-booth at which voting-papers are received.

Every scrutineer, before acting as such at any polling-booth, shall make and sign before the returning officer a declaration in the form prescribed by regulations under this Part.

47. The returning officer of each electoral district shall, after the close of the voting in that district, examine the voting-papers for the district, and his deputies shall, after rejecting all invalid voting-papers,—

Counting of
votes.

- (1) take the voting-papers marked "A" and count the number of votes given for "Yes" and for "No" respectively;
- (2) take the voting-papers marked "B" and count the number of votes given for "Six o'clock" and for "Nine o'clock" respectively; and

(3)

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- (3) seal up all voting-papers in packages, in accordance with the provisions of Schedule Three to this Act, and forward them with a statement of the result of such counts to the chief electoral officer.

Method of
dealing with
voting-
papers.

48. The chief electoral officer shall examine such voting-papers, and shall deal with them as provided in Schedule Three.

Invalid
voting-
papers.

49. Any voting-paper shall be invalid—

- (1) from which any initial letter or mark required to be written, printed, or punctured thereon is absent or has been erased, obliterated, or torn; or
- (2) in which a cross is not placed opposite, or substantially opposite, to the word "Yes" or to the word "No," or to one of the two specified closing hours, as the case may be.

Certificate of
chief electoral
officer.

50. On so dealing with the voting-papers the chief electoral officer shall certify—

- (1) the number of valid votes cast for "Yes" and of those cast for "No" respectively; and
- (2) the number of valid votes cast for "Six o'clock" and of those cast for "Nine o'clock" respectively—

and shall forward his certificate to the Governor, who shall thereupon publish the same in the Gazette.

Determina-
tion in favour
of
continuance.

51. If an absolute majority of votes is thereby shown to have been recorded for "No," the determination of the electors shall be deemed to be in favour of continuance, and the trade in alcoholic liquor shall continue to be regulated under the Principal Act and any Acts amending the same.

Determina-
tion in
favour of
prohibition
with
compensa-
tion.

52. If an absolute majority of votes is shown to have been recorded for "Yes," the determination of the electors shall be deemed to have been in favour of prohibition with compensation, and shall come into force on a day to be proclaimed by the Governor, being a day not later than six months next after the day on which such vote is taken, and shall take effect throughout New South Wales in accordance with the provisions hereinafter contained.

53. The closing hour for which an absolute majority of votes is shown to have been recorded shall be the hour at which, under and subject to the said Acts, all licensed premises and registered clubs shall be closed, and such closing hour shall come into force upon the publication in the Gazette of the aforesaid certificate :

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Closing hour
for licensed
premises and
registered
clubs.

Provided that if the determination of the electors shall be in favour of prohibition with compensation this section shall take effect only until such determination comes into force as aforesaid.

54. The provisions of the Parliamentary Electorates and Elections Act, 1912, and any Act amending the same, and all regulations thereunder relating to rolls of electors and to elections to the Legislative Assembly shall so far as applicable, mutatis mutandis, but subject to the provisions of this Part, apply to the referendum under this Part and all proceedings thereat :

Application
of Electoral
Act.

Provided that in lieu of the corresponding provisions of the said Act the supplemental roll for a district shall be exhibited at the offices of the registrar and deputy registrars for seven days after the issue of the writ, during which time objections may be lodged.

The list of the names of persons against whom objections have been so lodged shall be exhibited at the said offices within ten days after the date of the issue of the writ.

The revision court shall in each district be held not sooner than twelve nor later than twenty-one days after the issue of the writ.

55. The Governor may, subject to this Part, make such regulations as he may think necessary for the purpose of carrying out the provisions of this Part, and in particular for—

Regulations.

- regulating the printing, marking, and supplying voting-papers ;
- prescribing the manner in which votes may be given ;
- providing for the disposal of the voting-papers ;
- prescribing the duties of officers ; and
- prescribing the forms to be used.

The Governor may in such regulations impose any penalty not exceeding twenty pounds for any breach thereof.

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(2) *Effect of prohibition with compensation.*

Effect of
prohibition
with compen-
sation.

cf. 1918, No.
11 (N.Z.),
s. 20.

56. (1) On the coming into force of a determination in favour of prohibition with compensation all licenses of any description shall lapse, unless sooner forfeited or determined in due course of law.

(2) While any such determination remains in force it shall not be lawful to grant or renew in any part of New South Wales any publican's license, certificate of registration of any club, colonial wine license, brewer's license, spirit merchant's license, packet license, license to sell liquor at a railway refreshment room or stall, distiller's license, booth or stand license, or any other description of license.

Offences with
respect to
manufacture,
sale, or
possession of
liquor while
prohibition
in force.

cf. *Ibid.* s. 21.

57. (1) At all times, while no licenses exist in New South Wales by virtue of such determination, it shall be unlawful for any person to have in his possession, or to import into New South Wales, or to manufacture or sell alcoholic liquor of any description.

(2) Nothing in this section shall extend or apply to the importation, manufacture, or sale, or possession, in accordance with regulations made by the Governor in that behalf, of alcoholic liquor for medicinal, scientific, sacramental, or industrial purposes, exclusively.

(3) Any person who in breach of this section imports, manufactures, sells, or has in his possession any alcoholic liquor, or who attempts to commit any such offence, or who aids, abets, or procures the commission of any such offence, shall be liable on summary conviction to a fine not exceeding one hundred pounds in the case of a first offence, and to a fine not exceeding two hundred pounds or imprisonment for any term not exceeding three months or both in the case of a second or any subsequent offence against this section, whether of the same or of a different kind. Where the defendant is a body corporate the penalty shall be a fine not exceeding two hundred pounds in the case of the first offence, and a fine not exceeding one thousand pounds for a second or any subsequent offence.

(3)

- (3) *Compensation, if prohibition with compensation is carried.* **George V,
No. 42.**

58. In this Part of this Act, if not inconsistent with the context,—

Interpreta-
tion
cf. *Ibid.*, s. 23.

“Employee” means a person who for a period of not less than three years before the date of the said vote by ballot was regularly employed in or upon the premises of his employer.

“Minister” means the Colonial Treasurer.

“Prescribed” means prescribed by this Part or any regulation thereunder.

“Termination of trade” means termination of trade in alcoholic liquor or in materials used in the manufacture thereof.

59. (1) If there is a determination as aforesaid in favour of prohibition with compensation, then the persons and classes of persons hereinafter named (but no others) shall be entitled to compensation, to be assessed in the manner and subject to the limitations defined in this Part by a court constituted as hereinafter provided, and to be paid by the Minister out of moneys to be appropriated by Parliament for that purpose.

Compensa-
tion to be
paid out of
Liquor Trade
Compensa-
tion Account.
f. *Ibid.*, s. 24.

(2) The Minister, with the approval of the Governor, may at any time after such determination borrow, on the security of and charged upon the public revenue of New South Wales, such sums of money as may be necessary for the purposes of this Part.

Authority to
Minister
to borrow
for purposes of
compensa-
tion.

(3) All moneys raised under the authority of this section shall be paid by the Minister into a special account of the public account to be known as the Liquor Trade Compensation Account.

Liquor Trade
Compensa-
tion Account.

(4) All moneys standing to the credit of the Liquor Trade Compensation Account may, without further appropriation than this section, be expended for any of the following purposes:—

Purposes for
which moneys
in such
account may
be expended.

(a) For the payment of compensation as herein provided for in the event of a determination in favour of prohibition with compensation.

(b) For the payment of interest and other charges in respect of moneys borrowed under the authority of this section.

(5)

George V.
No. 42. (5) (a) The Governor shall as soon as practicable after the commencement of this Act appoint a board to be called the Compensation Assessment Board.

(b) The provisions of section eight shall apply as nearly as may be to the constitution of the board and the appointment of a secretary and other officers.

(c) The board shall proceed forthwith to hold an inquiry for the purpose of determining the amount which, in its opinion, will be required for the payment of compensation under this Part.

(d) Such inquiry shall be held either in open court or in camera, or partly in open court and partly in camera, as the board shall think fit.

(e) The board shall have the powers of a commissioner under the Royal Commissioners Evidence Act, 1912.

(f) Upon the conclusion of such inquiry the board shall forthwith send to the Governor a report containing a summary of the evidence taken in the course of such inquiry and the finding of the board as to the sum which in its opinion will be required for the payment of such compensation.

(g) The Governor shall thereupon publish in the Gazette the said finding of the board.

Classes of persons entitled to compensation.

Brewers.

Compensation
to brewers.
cf. *Ibid.*
s. 25 (1). **60.** Brewers shall be entitled to claim and to have assessed compensation in respect of the following subject-matters, but not otherwise :—

- (a) Depreciation of the value of the lands and buildings occupied and used as a brewery including lands adjacent to the brewery and used in connection therewith.
- (b) Depreciation of the value of machinery, plant, and fittings in and upon a brewery or land used in connection with a brewery.
- (c) Termination of their trade.

Maltsters.

*Maltsters.*George V,
No. 42.

61. Maltsters shall be entitled to claim and have assessed compensation in respect of the following subject-matters, but not otherwise :—

Compensa-
tion to
maltsters.

- (a) Depreciation of buildings, plant, and machinery owned by them and used for the manufacture of malt for mercantile purposes within the period of two years preceding the date of the said vote by ballot; and
- (b) termination of trade.

Distillers.

62. Distillers shall be entitled to claim and to have assessed compensation in respect of the following subject-matters, but not otherwise :—

Compen-
sat on to
dis illers.

- (a) Depreciation of the value of the lands and buildings occupied and used as a distillery including lands adjacent to the distillery and used in connection therewith.
- (b) Depreciation of the value of machinery, plant, and fittings in and upon a distillery or land used in connection with a distillery.
- (c) Termination of trade.

Winemakers.

63. Winemakers shall be entitled to claim and to have assessed compensation in respect of the following subject-matters, but not otherwise :—

Compensa-
tion to
winemakers.
cf. *Ibid.* s. 25
(7).

- (a) Depreciation of the value of the lands and buildings occupied by the claimant for wine-making, including adjacent lands and buildings used in connection therewith.
- (b) Depreciation of the value of plant, machinery, and fittings used by the claimant for wine-making within a period of one year preceding the date of the said vote by ballot.
- (c) Termination of trade if the winemaker has manufactured wine for sale within a period of one year preceding such date.

(d)

Liquor (Amendment) Act.

- George V.
No. 42.
- (d) Depreciation (if any) of the value of all stocks of wine owned or held by the winemaker at such date.

Owners of the freehold and lessees and sublessees of licensed premises.

Compensation to owners and lessees of hotel premises.
cf. *Ibid.* s. 25 (2).

64. Owners of the freehold of the premises of licensed publicans and lessees of such premises, and sublessees from a lessee or sublessee of such premises (but not lessees or sublessees by way of mortgage), shall be entitled to claim and to have assessed compensation in respect of the following subject-matters, but not otherwise :—

- (a) Depreciation of the value of the estate or interest owned by the claimant in the land and buildings constituting the premises.
- (b) Depreciation of the value of plant, fixtures, and fittings in and upon the premises according to the interest of the claimant therein.

Owners, lessees, and sublessees of vineyards.

Compensation to owners of vineyards.
cf. *Ibid.* s. 25 (9).

65. Owners of the freehold and lessees and sublessees (other than lessees or sublessees by way of mortgage) of vineyards the grapes produced on which have been used principally for the purposes of the manufacture of wine within the period of two years preceding the date of such vote by ballot shall be entitled to claim and have assessed compensation only in respect of depreciation of the value of the freehold of the vineyard.

Licensed publicans.

Compensation to licensed publicans.
cf. *Ibid.* s. 25 (4).

66. Licensed publicans shall be entitled to claim and have assessed compensation in respect of termination of trade of the licensed premises, but not otherwise.

HOLDERS OF COLONIAL WINE LICENSES, PACKET LICENSES, AND SPIRIT MERCHANTS' LICENSES.

Compensation to owners of certain licenses.

67. Holders of colonial wine licenses, packet licenses, and spirit merchants' licenses shall be entitled to claim and have assessed compensation in respect

respect of the termination of trade, and for depreciation in value of machinery, plant, and fittings used for the purposes of their trade in alcoholic liquor, but not otherwise. George V,
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68. Employees, as defined by section fifty-eight, of— Compensation to employees.
cf. *Ibid.* s. 25 (11).

- (a) brewers;
- (b) distillers;
- (c) winemakers;
- (d) maltsters;
- (e) owners (including lessees and sublessees) of vineyards;
- (f) licensed publicans;
- (g) colonial wine licensees;
- (h) packet licensees; and
- (i) licensed spirit merchants—

shall be entitled to claim and have assessed compensation in respect only of loss of opportunity of occupation.

Claimants in several capacities.

69. The limitation aforesaid of subject-matters for assessment of compensation to each class of persons shall not operate to prevent persons of one class separately claiming and being allowed compensation as being also persons of another class or classes. For example, a brewer who is also the owner of licensed premises may claim and be allowed compensation in respect of the subject-matters defined for brewers, and may also (but by separate claims) claim and be allowed compensation in respect of the subject-matters defined for owners of licensed premises. Claims may be made by claimants in several capacities.
cf. *Ibid.* s. 26.

Stocks of alcoholic liquor may be exported.

70. In the event of a determination in favour of prohibition with compensation no person, other than a winemaker as hereinbefore provided, shall be entitled to compensation in respect of the stock of alcoholic liquor held by him at the time when such determination comes into force; but every such licensee and every registered club shall be entitled to export from New South Wales such stock so held or any part thereof. Holders of stocks of liquor may export.
cf. *Ibid.* s. 39.

Cancellation

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No. 42.

Cancellation of lease.

Cancellation
of lease.

71. Notwithstanding any covenant or agreement to the contrary, if any license granted in respect of any licensed premises lapses by reason of the coming into force of a determination in favour of prohibition with compensation, and the owner of such premises is not also the licensee, the terms of the lease or agreement under which the licensee or any intermediate lessee or sublessee holds the same shall, if either the licensee, lessee, or sublessee, within three months after the license has so lapsed, by written notice to his lessor so elect, be deemed to have been determined by effluxion of time as from the date of such notice.

Determina-
tion of term.

Renewal of license in certain cases.

Renewal of
license in
certain cases.

72. If a license expires after the date of such vote by ballot and before the coming into force of a determination in favour of prohibition with compensation, the holder of such license may obtain a renewal of the same for such intermediate period upon payment of a proportionate part of the annual fee payable in respect of such license.

Revision of certain contracts.

Revision of
certain
contracts.

73. Where any contract for the sale or purchase of any alcoholic liquors or any materials, machinery, or plant used in the manufacture thereof or in connection with the trade in alcoholic liquors—

(a) has been entered into before the commencement of this Act; and

(b) provides for the delivery of such liquors, materials, machinery, or plant after the commencement of this Act and either before or after the coming into force of a determination in favour of prohibition with compensation;

any court of competent jurisdiction may, on the application of any party to such contract and on notice to all the parties thereto, adjust the rights of such parties on such equitable basis, terms, and conditions as to such court may seem fit.

(4) *Principles upon which compensation is to be assessed.* George V.

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74. (1) Where under this Part compensation is payable in respect of the depreciation of the value of land or of land and buildings together, including land adjacent thereto and used in connection therewith, the court shall determine the same according to the following rules:—

Compensation for depreciation of value of land and buildings.

- (a) The court shall determine the extent (if any) to which the freehold of the land, or of the land and buildings together, is reduced in selling value by reason of the same being no longer capable of being used for purposes of trade in alcoholic liquor. The court shall for this purpose take into account—
 - (i) the extent (if any) to which the land, or the land and buildings together, can be profitably used for other purposes; and
 - (ii) the extent (if any) to which the land may be increased in value by the removal of the buildings or of the machinery and plant therein.
- (b) The court may award in respect of such depreciation of value such sum as it considers just and reasonable, not exceeding in any case one half of the capital value of the land, or of the land and buildings together.

(2) The claimant shall state in his particulars of claim the maximum amount at which he values such land, or land and buildings together, when used for purposes other than trading in alcoholic liquors, and the Minister may at any time within six months after the date of such claim resume the same as for a public purpose under the provisions of the Public Works Acts at a price equal to such maximum amount.

(3) Where by reason of the existence of a lease or sublease (other than a lease or sublease by way of mortgage) there are more claims than one in respect of such land, or such land and buildings, such claims shall be heard together as if they constituted one claim; and the

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Compensation
for termina-
tion of trade.

75. (1) Where compensation is payable under this Part in respect of termination of trade, the court shall ascertain the average annual net profit received by the claimant for the period not exceeding three years before the date of the said vote by ballot, and shall award to the claimant as compensation a sum equal to but not exceeding three times the amount of such average annual net profit:

Provided that where the claimant under this section is a colonial wine licensee or the holder of a spirit merchant's license, the court may take into account the extent (if any) to which any other trade carried on by such claimant is likely to be increased by the cessation of the trade in alcoholic liquor, and may award as compensation a sum less than the sum aforesaid.

(2) In determining the amount of such net profit the court shall take into consideration the income earned by the claimant during the said period; and for such purpose the claimant, or his predecessor, if any, during any portion of such said period shall, as and when required by the court, furnish to the court a duplicate copy of any income tax return verified by a statutory declaration of such claimant or predecessor, and it shall not be lawful for either of them to question or deny at any time the accuracy or truth of any statement in such verified copy. Any such claimant or predecessor on applying to the Commissioner of Income Tax may inspect his own returns and make a copy thereof.

Rights of
mortgagees.

76. The provisions of section twenty-nine shall apply, mutatis mutandis, to a mortgagee of any claimant under the two last preceding sections.

Compensa-
tion to em-
ployees for
loss of oppor-
tunity of
occupation.
cf. Ibid. s. 37.

77. Where compensation is payable under this Part to an employee in respect of loss of opportunity of occupation the court shall ascertain and determine, by such means as it thinks fit, to what extent the claimant may be unable in the immediate future to obtain other employment at equivalent remuneration to that which

he

he received as such employee. The court in any such case may allow and award to the claimant as compensation such sum as it deems just, but not exceeding in any case a sum equal to one-half of the annual salary or wage of which the claimant was in receipt as such employee for the year before the date of the said vote by ballot:

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Provided that if for such period such employee had board and lodging from his employer in addition to salary or wage, the limit of compensation shall be a sum not exceeding the whole year's salary or wage at the rate actually received in money.

(5) *Settlement of claims for compensation.*

78. The compensation provided for by the foregoing provisions of this Part shall be recoverable from the Crown in accordance with the following provisions, and not otherwise.

Mode of
recovery of
compensation
from the
Crown.
cf. *Ibid.* s. 40.

79. (1) For the purpose of the hearing and determination of claims for compensation under this Part, other than claims by employees, there shall be established such number of courts of compensation as the Governor from time to time thinks necessary.

Governor
may
establish
courts of com-
pensation.
cf. *Ibid.* s. 41.

(2) Each such court shall be distinguished by such distinctive name as the Governor thinks fit.

(3) Each such court shall be a court of record and shall consist of a president and two assessors to be appointed by the Governor and to hold office during his pleasure.

Constitution
of courts of
compensa-
tion.

(4) In each court the president shall be a stipendiary or police magistrate. The appointment of assessors shall be so made as in the opinion of the Governor to ensure that the views of the classes of claimants and the Crown respectively shall be fairly represented on the court.

80. (1) In the event of the sickness or other incapacity of the president of the court of compensation the Governor may appoint any other stipendiary or police magistrate to act in the place of the president during his incapacity.

Temporary
appointments
to courts of
compensa-
tion.
cf. *Ibid.* s. 42.

(2)

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No. 42. (2) In the event of the sickness or other incapacity of an assessor, the Governor may appoint any other person to act in the place of that assessor during his incapacity.

(3) No such appointment and no act done in pursuance thereof shall be questioned on the ground that the occasion therefor had not arisen or had ceased, and no act done by any member of a court of compensation shall be questioned on the ground that an acting member of the court was then in office.

Registrar to be appointed for each court of compensation.
cf. *Ibid.* s. 3.

81. (1) The Governor on the recommendation of the Public Service Board may appoint in respect of each court of compensation a registrar and such other officers as he thinks necessary, who shall hold office during his pleasure.

(2) Such registrar and other officers shall be subject to the provisions of the Public Service Acts during their tenure of office.

Remuneration of members and officers of courts.

82. The members and officers of courts of compensation shall be paid out of moneys appropriated by Parliament such remuneration and allowances as the Governor shall fix.

Sittings of courts.
cf. *Ibid.* s. 46.

83. (1) A court of compensation shall sit at such times and places as may be determined by the president.

(2) The court shall not hear or determine any matter save at a sitting at which all the members are present.

Determination of the court.
cf. *Ibid.* s. 47.

84. The determination of any two members of a court shall be deemed to be the determination of the court, but if on the hearing of any claim for compensation no two members of the court agree on any determination the determination of the president shall be deemed to be the determination of the court.

Procedure of courts to be governed by regulations in that behalf.
cf. *Ibid.* s. 48.

85. The procedure of courts of compensation shall be in accordance with regulations to be made by the Governor in that behalf, and subject to such regulations and so far as they do not extend, the procedure of each court shall be such as that court thinks fit.

No appeal from determination of court of compensation.
cf. *Ibid.* s. 49.

86. The determination of courts of compensation shall be final, and no appeal therefrom shall lie to any other court, nor shall the proceedings of any such court be removed into the Supreme Court by writ of certiorari or otherwise.

87. (1) If any question of law arises on the hearing of a claim for compensation the court of compensation shall, if any party so desire state a case for the determination of that question of law by the Supreme Court.

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Court of compensation may state case for determination of questions of law by Supreme Court.

(2) The determination of the Supreme Court shall be binding on the court of compensation.

cf. Ibid. s. 50.

88. (1) A claim for compensation under this Part shall be instituted by transmitting to the Under Secretary of the Attorney-General and of Justice at Sydney a notice of the claim in such form and containing such particulars as the Governor may prescribe.

Institution of claims.

cf. Ibid. s. 51.

(2) Every such claim shall be instituted within sixty days after the date of the coming into force of the determination in favour of prohibition with compensation, and any claim which is not instituted within the time so limited shall be absolutely barred and extinguished.

89. (1) Every claim so instituted shall be referred by the Attorney-General to such court of compensation as he thinks fit, and the court to which any claim has been so referred shall thereupon have jurisdiction to hear and determine the same.

Reference of claims to courts of compensation.

cf. Ibid. s. 52.

(2) Notwithstanding any such reference to a court of compensation, the Attorney-General may at any time before the court has commenced the hearing of the claim, transfer the claim to any other court of compensation which in his opinion may more conveniently hear and determine the claim, and the court to which the claim is so transferred shall thereupon have jurisdiction to hear and determine the same accordingly.

90. (1) Any sum awarded by a court of compensation as compensation under this Part shall be payable without further appropriation than this Act out of the Liquor Trade Compensation Account constituted by this Act:

Payment of compensation awarded by court.

cf. Ibid. s. 53.

Provided that claimants shall be entitled to receive immediately only sixty per centum of such amount as may be awarded by the compensation courts, and the remaining forty per centum of each amount awarded may be withheld until the total aggregate amount awarded in respect of all claims shall have been ascertained.

(2)

George V,
No. 42. (2) No costs shall be awarded or allowed by a court of compensation to the claimant or to the Crown, or to any other person or party.

Offences with respect to claims.
cf. *Ibid.* s. 54.

91. (1) Every person who in respect of any claim to compensation under this Part (whether made or to be made by himself or by any other person) wilfully deceives or attempts to deceive, or does any act with intent to deceive, a court of compensation, or any member or officer of any such court, or corruptly gives or offers, or does any act with intent to give or offer any bribe or other inducement or reward to any member or officer of any such court, or to any other person, and every person who corruptly accepts or offers or agrees to accept, or does any act with intent to obtain any such bribe, inducement, or reward, shall be guilty of an indictable offence, and shall be liable to imprisonment with hard labour for any term not exceeding five years, or to a fine not exceeding one thousand pounds, or to both such imprisonment and such fine.

(2) Nothing in this section shall be so construed or shall so operate as to bar a prosecution for any offence committed under any other Act, save that no person shall be twice punished for the same offence.

Powers of a court of compensation.

92. (1) A court of compensation shall have power to—

- (a) summon any person to appear and give evidence, and to produce books or documents, and may hear, receive, and examine evidence upon oath;
- (b) require the production or transmission to the court of any income tax returns in the custody of the Commissioner of Taxation made by or on behalf of any claimant under this Part, which returns the said Commissioner is hereby authorised to produce or transmit to the court anything in any other Act to the contrary notwithstanding.

Court may sit in camera.

(2) The court may, if it thinks fit, hear any claim under this Part in camera, and shall in any event treat as confidential the contents of any income tax returns so produced or transmitted.

Wilful misbehaviour, &c.

- (3) Any person who—
- (a) wilfully misbehaves himself before the board;
 - or
 - (b)

- (b) wilfully interrupts the proceedings; or George V,
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- (c) is guilty of wilful prevarication in giving evidence; or
- (d) on being summoned by any member of the board to appear before the board as a witness, and having had a reasonable sum tendered to him for his expenses, without lawful excuse refuses or neglects to appear at the time and place appointed by the summons or to produce any books, papers, writings, or documents, or to produce or transmit to the board any income tax returns or copies thereof mentioned in the summons; or Refusal to
obey
subpoena.
- (e) refuses to be sworn, or who refuses or neglects without lawful excuse to answer any question which is put to him and to which an answer is required by the board, Refusal to be
sworn.

shall be liable to a penalty not exceeding twenty pounds.

(4) Every person appearing before the board shall have the right to be represented by his counsel or attorney. Right of party
to appear by
counsel.

93. Claims for compensation by employees shall be heard and determined by a magistrate alone without assessors, and in respect of such claims a stipendiary or police magistrate shall constitute the court of compensation. Magistrate to
hear claims
for compen-
sation by
employees.

PART IV.

DURATION OF AGREEMENTS PROVIDING FOR ABATEMENT OF RENT.

94. All orders made and agreements entered into in pursuance of the Liquor (Amendment) Act, 1916, shall, in so far as they provide for an abatement of the rent payable in respect of any licensed premises, continue to be in force until a closing hour has been fixed in pursuance of a referendum as aforesaid. Duration of
certain
agreements.

SCHEDULES.

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SCHEDULES.

SCHEDULE ONE.

Summons to deprive of a license.

In the Licensing District of _____, in the Electorate
of _____, Owner.
To _____, the owner of _____ licensed
premises known as the _____ Hotel.

WHEREAS it has been made to appear to the Licenses Reduction Board that the total number of publicans' licenses at present in force in the above district is not below the statutory number: and whereas it is the duty of the said Board to determine under the provisions of the Liquor Amendment Act, 1919, which of such licensed publicans' premises shall be deprived of a license in the year 19 ____ . You are therefore summoned to appear before the said Board at
on _____, the _____ day
of _____, 19 ____, at the hour of _____ o'clock in
the _____ noon to show cause why the licensed premises owned
by you, and of which _____ is the licensee, and known as
the _____ Hotel, should not be deprived of its license.

Given under my hand and the seal of the said Board this
day of _____, 19 ____ .

Secretary to the said Board.

Summons to deprive of a license.

In the Licensing District of _____, in the Electorate
of _____, Licensee.
To _____, the holder of a publican's license and the
licensee of licensed premises known as the _____ Hotel.

WHEREAS it has been made to appear to the Licenses Reduction Board that the total number of publicans' licenses at present in force in the above district is not below the statutory number: and whereas it is the duty of the said Board to determine, under the provisions of the Liquor Amendment Act, 1919, which of such licensed publicans' premises shall be deprived of a license in the year 19 ____ . You are therefore summoned to appear before the said Board at
Board at _____, on _____ the _____ day
of _____, 19 ____, at the hour of _____ o'clock in
the _____ noon to show cause why your said licensed premises
should not be deprived of its license.

Given under my hand and the seal of the said Board this
day of _____, 19 ____ .

Secretary to the said Board.

SCHEDULE

SCHEDULE TWO.

Form of Voting-paper "A."

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Are you in favour of prohibition with compensation?

<input type="checkbox"/>	Yes.
<input type="checkbox"/>	No.

Indicate your vote by placing a cross (thus, X) in one of the above squares.

Form of Voting-paper "B."

At which of these two hours do you wish licensed premises and registered clubs to be closed?

<input type="checkbox"/>	Six o'clock.
<input type="checkbox"/>	Nine o'clock.

Indicate your vote by placing a cross (thus, X) in one of the above squares.

SCHEDULE THREE.

1. The returning officer of each electoral district shall take the voting-papers marked "A," and shall seal up in one parcel all those in which the vote is cast for "Yes," and in a separate parcel all those in which the vote is cast for "No," rejecting all invalid voting-papers.

2. Such returning officer shall then take the voting-papers marked "B," and shall seal up in one parcel all those in which the vote is cast for "Six o'clock," and in a separate parcel all those in which the vote is cast for "Nine o'clock," rejecting all invalid voting-papers.

3. The chief electoral officer shall in manner aforesaid deal with all the voting-papers of all the electoral districts.

PUBLIC